BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Complaint by BellSouth Tele-Communications, Inc., Regarding The Operation of a Telecommunications Company by Miami-Dade County in Violation of Florida Statutes and Commission Rules	)	DOCKET NO. 050257-TL

DEPOSITION OF NANCY SIMS (VOL. I)
DATED DECEMBER 2, 2004

FINAL EXHIBIT NO. 21

10 of 29

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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

-vs-

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

_____)

COPY

DEPOSITION

OF

NANCY SIMS

VOLUME I

Miami International Airport
Terminal Building, Concourse A
Fourth Floor

Miami, Florida

Thursday, December 2, 2004
9:00 a.m. - 4:30 p.m.

Final Exhibit
No. 21

APPEARANCES

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I N D E X

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Nancy Sims		
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THEREUPON:

NANCY SIMS,

was called as a witness on behalf of the Defendant, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOPE:

Q. Good morning, Miss Sims.

A. Good morning.

Q. Before I start, let me just give you some instructions about what is going to take place today.

You are about to be deposed in the action of BellSouth Telecommunications, Incorporated vs Miami-Dade County.

I'm going to go through a series of questions I'm going to ask you and present to you a series of documents that I'm going to ask you to identify or ask you questions about. At all times, give me the best answer that you have. If you don't know something, state that you don't know it. If you are just speculating, let me know that you're speculating.

If indeed I ask you a question later on which might conceivably contradict or give you

more information as to a previous answer, then stop me and tell me that you need to go back and either embellish, or correct, or substitute a previous answer.

If I'm speaking too quickly or if there's something that I say that you don't understand, stop me and let me know so I can either have the court reporter read it back or I can explain more simply what my question is.

Are you okay with that?

A. Yes.

Q. Your counsel is here. You are represented by counsel. Counsel has the right to object. He will give you instructions. If he objects to form, you are going to have to answer. If he gives you a privilege objection and instruction, you can follow his instructions. Do you understand that?

A. Yes.

MR. GOLDBERG: Can you just work into the record at some point about the notice and we produced two people, George Hill, and we excused him.

MR. HOPE: I'll do that now.

Pursuant to Re-Notice of Taking

Deposition, there were approximately 10 subject areas that were requested in the Notice for Corporate Representative. BellSouth Telecommunications has produced two corporate reps. Nancy Sims, who is in front of us right now, it's been told to me this morning that she will speak to nine of the ten subject areas. Actually, she's going to speak to numbers i through vi and viii through x.

George Hill who was here earlier and has now been released is going to speak specifically to subject area number vii, which deals with similar services.

It was asked by his counsel that he be able to go first, but given the order of things that I wanted to do, I asked that that not happen. So Mr. Hill has been released for today. He will come back and he will be deposed starting at 9 o'clock tomorrow morning.

If indeed Miss Sims still has more information and more questions to answer, then we will suspend her deposition after today, take Mr. Hill's at 9 o'clock, and

recommence her deposition after he answers the specific questions dealing with similar services.

MR. GOLDBERG: Thank you.

MR. HOPE: You're welcome.

Q. Please state your name.

A. My name is Nancy H. Sims.

Q. What is your work address?

A. My work address is 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301.

Q. I'm presenting to you a copy of the Re-Notice of Deposition. I'd like to mark that as Exhibit 1.

(Thereupon, Re-Notice of Deposition was marked as Defendant's Exhibit 1 for Identification.)

Q. Are you here today pursuant to the Re-Notice of Deposition?

A. Yes, I am.

Q. Have you been designated as one of the corporate representatives pursuant to that Re-Notice of Deposition?

A. Yes, I have.

Q. And you've been designated as the corporate representative with the most knowledge

of certain subject matters identified in the Re-Notice of Deposition?

A. Yes.

Q. As I previously stated, you've been identified to speak to subject areas one through six and eight through ten?

A. That's correct.

Q. How was the determination made that you would appear as the corporate representative to speak to those identified subject matters?

A. There was discussions with my counsel about the issues involved in the case. And the decision was made that because of my work involvement and so forth, that I would be the best candidate to represent the company.

Q. When you say discussions with counsel, do you mean in-house counsel, general counsel, outside counsel; which counsels are you speaking of?

A. In-house and outside counsel.

Q. Did you therefore, after discussions with your counsel, determine that you were the best person seated to be the corporate representative, or were there other BellSouth people involved with that determination?

A. I believe it was mainly just between me and counsel to make the decision, um-hum.

Q. But was anyone else involved in the conversations?

A. Not that I can remember.

Q. You're represented today by both your in-house telecommunications counsel and also outside counsel, Lash & Goldberg?

A. Yes, that's correct.

Q. Did you speak with your counsel in preparation for this deposition?

A. Yes, I did.

Q. How long did you speak with counsel? Don't tell me what you talked about, but just how long and when?

MR. GOLDBERG: I'm going to instruct her based on privilege not to answer the question. I think the length of any communications she has with counsel violates the attorney/client privilege. So I'm going to respectfully instruct you not to answer that question.

Q. Did you speak with anyone other than your attorney about this deposition?

MR. GOLDBERG: You can answer that

question.
A. I spoke briefly with Wayne Tubaugh.
Q. When did you speak with Mr. Tubaugh?
A. Probably after his deposition. I don't remember the exact date, but after his deposition.
Q. What did you discuss with Mr. Tubaugh?
A. Just briefly discussed his deposition, and some of the issues in the case. That was it.
Q. Did you discuss any potential questions that might be asked in this deposition?
A. Not that I can remember. We just discussed generally the issues.
Q. At the time that you spoke with Mr. Tubaugh, had the determination already been made that you would be appearing today as the corporate representative?
A. I don't know that the final determination had been made. It was probably a foregoing conclusion.
Q. Is Mr. Tubaugh the only person besides counsel with whom you had conversation about the deposition?
A. I probably spoke briefly to one of my managers, Stan Greer.
Q. Do you remember what you spoke to

Mr. Greer about?

A. Just informally. He was sitting in the room when I spoke with Wayne Tubaugh. Informally about the issues.

Q. Did you review any documents in preparation for this deposition?

A. Yes, I did.

In fact, what I wanted to do was make sure that you had a copy of this, I guess for better word, support binder that we put together. It's mainly consisting of some discovery issues, information you've probably already got. And it's divided up by the particular issues by section. So I'm going to use this to refer to and I have already referred to it, of course, in preparation.

Q. Okay. That's fine. Thank you.

MR. GOLDBERG: Can we mark that?

MR. HOPE: We'll mark this as Plaintiff's A.

(Thereupon, Support Binder was marked as Plaintiff's Exhibit A for Identification.)

Q. Besides the voluminous document binder that you've given me that we've now marked as Plaintiff's Exhibit A, were there any other documents that you reviewed in preparation for the

deposition today?

A. I looked at -- well, I reviewed the actual videos of the depositions of Maurice Jenkins, read the Complaint, deposition of Pedro Garcia, and looked at a white paper that Rick Moses had prepared.

Q. What is the white paper that you're referring to? Is that something that is in this binder?

A. I don't believe the white paper is in this binder.

Q. Who is Rick Moses?

A. Rick Moses is a Florida Public Service Commission staffer that was deposed. I also read his deposition.

Q. When you reviewed the deposition of Pedro Garcia, are you speaking of both the deposition that he appeared individually, as a corporate rep, and also the continuation deposition of Maurice Jenkins?

MR. GOLDBERG: Let me object to form. If you understand the question, you can answer.

A. I only reviewed one of Maurice Jenkins. But there were two depositions of Pedro

Garcia. I read the entire first deposition and I only read pieces of the second deposition.

Q. Thank you.

Did you review any notes in preparation for this deposition?

A. Not that I'm aware of. Mainly this information.

Q. What is your current position at BellSouth?

A. I'm Director of Regulatory Relations for BellSouth for Florida.

Q. How long have you been Director of Regulatory Relations?

A. About 10 years.

Q. As Director of Regulatory Relations, what are your job responsibilities?

A. Well, my main job responsibility is to be liason for the company with the Florida Public Service Commission.

I also handle more complicated customer complaints. When I say customer, that encompasses not only our retail users, but also wholesale competitors that may have complaints or issues with the company.

I also do make interpretations of the

tariffs that we have on file. Often interpretations for our business units for applications for the business marketing strategies and so forth.

Also have interfaced with the Office of Public Counsel. Interface sometimes with the legislature, depending on if the issues bleed over into a regulatory issue.

Q. Okay. Let me take you back to one of the responsibilities where you talked about handling customer complaints. And specifically, one of the things that you talked about is complaints of competitors. What do you mean when you say you handle complaints that competitors might have?

A. Well, a competitor. For instance, we have several different types of competitors. We have since 1996. In fact, in 1995 in Florida the telecommunications environment was opened up to local competition. Therefore, we have competitors that actually compete with us for local service. They can provide local exchange service much like we do in our territories.

And so when they file -- they can file a complaint with the Commission if they feel that

there's some problem dealing with BellSouth. Because they lease our facilities, or they resell our facilities in order for them to provide their end of the service.

And so, if there is a complaint involving that interconnection or their dealings with BellSouth, they can go to the Commission and then the Commission will usually, if it was an informal type complaint, the Commission will usually come to my office to get a response. So I'm a point person.

Q. They will come to you. They, the PSC representative person? Is this a staff PSC person?

A. The Complaint will be filed with the Commission and there's a division at the Commission that handles complaints. In fact, there's two divisions that handle complaints. They will funnel the Complaint to my office. Then we, in turn, will make sure that it gets responded to.

Q. Is this a formal type of process where it's given some sort of docket number, or am I going down the wrong path?

A. It can be docketed. Depends on how the

competitor files the Complaint.

If they file it formally with the clerk's office, it's usually given a docket. If they file it informally, it's just handled as a Complaint per se. And there are certain rules that you follow in order to respond to an informal complaint. It's like a 15 day turnaround.

Then if there's any further action that needs to be done, it can result in a docketed activity if it's not resolved and if the complainant wants to move forward and is not satisfied with the response.

Q. When you first explained to me in terms of a complaint being formed and then someone from the PSC who is handling it comes to your office for a response, is that the process for a formal complaint, or an informal complaint?

A. With an informal complaint they usually come straight to our office.

With a docketed complaint, it's noticed and then there's a formal response filing that is made by, you know, our legal division. Then it goes through a process with the Commission much like -- it could result in a hearing and it will actually go in front of the Commission for some

kind of resolution.

Whereas, an informal complaint will come to us directly, we'll get a response, and it's handled more informally.

Q. Do you specifically handle the responses to the complaints, or do you have staff that handles that for you?

A. It can be handled both ways. Depends on the type of complaint.

If it's a -- sometimes with the Complaints we actually have an appeals group also in Miami that handles mainly end user complaints, retail end user complaints. But they will occasionally get some of the Complaints -- they will occasionally funnel some of the Complaints on competitors also.

But if it's one that came through my office, sometimes it will go to that appeals group for them to respond to me. Sometimes it will go to one of our business units for them to respond to me. Sometimes it will go to one of my managers for them to respond. It just depends on the type of Complaint.

Q. Okay. Who is in charge of the appeals group in Miami?

A. It's John Merlino.

Q. Do you have an address for him?

A. 150 West Flagler Street, Miami. Museum Tower.

Q. Do you know how long he's been in charge of that group?

A. Several years. But I don't know exactly how long.

Q. Does that group only handle, as you said, retail based customer complaints?

A. That is probably 95 percent of their responsibility is retail end user complaints.

In fact, they're set-up to receive -- if an end user calls the Commission directly through their 800 number, John Merlino's group takes the warm transfers.

The Commission call center will answer the customer, and if the customer says they wish to talk to the company, the Commission call center group will send that warm transfer, that call, directly to one of John Merlino's representatives. They will handle the complaint.

It's basically geared towards end user billing disputes and service complaints and so forth. It's just basically a normal end user type

complaint group.

Q. Although the appeals group is located in Miami, they service -- is it true that they service complaints from throughout the State of Florida, or is it regional in nature?

A. It's throughout the State of Florida for the BellSouth serving area.

Q. Is this appeals group function that BellSouth has, do your competitors have something similar to that?

A. I'm not sure.

Q. How many people do you supervise?

A. Three.

Q. Is it segregated into certain regulatory areas?

A. Not really.

Both the managers are assigned dockets as they come in to handle. One or the other may be more oriented toward certain types of issues than the other. But they both basically can do interchangeable functions. Then I have one administrative assistant type person.

Q. What are the names of your two managers?

A. Stan Greer and MaryRose, which is one words, Sirianni. That's S-I-R-I-A-N-N-I. I can

write it, but I can't spell it.

Q. How long has Mr. Greer been one of your managers?

A. A little over five years.

Q. And Miss Sirianni?

A. About five years.

Q. Previous to your position as Director of Regulatory Relations, what position did you hold?

A. I was Director in Atlanta handling pricing tariffing issues.

Q. Also with BellSouth?

A. Yes.

Q. Was this with Telecommunications, or was it with corporate?

A. It was with BellSouth Telecommunications.

Q. How long did you hold the position in Atlanta?

A. I became director in '87. So it was from '87 to '94 when I came to Tallahassee.

Q. Prior to '87, what position did you hold?

A. I was a manager and handled, still handled pricing regulatory issues and tariffing issues, which I had that position from 1983 to

'87.

Q. Also in Atlanta?

A. Yes.

Q. Any other positions with BellSouth previous to the manager position?

A. Well, I was with -- I was hired by Southern Bell in '73, which was in Charlotte. Then I was with AT&T on loan -- we were still one company -- for about four and a half years.

Q. What's your educational background?

A. I have a Bachelor's of Science degree in animal science and a minor in mathematics at North Carolina State.

Q. Do you have any certifications?

A. No.

Q. Are you a member of any board or trade organizations?

A. No, I'm not.

Q. Hold any licenses besides a driver's license?

A. No.

Q. In the State of Florida, what is a telecommunications company?

A. Well, by definition it is a company that provides two-way telecommunication service for

hire.

Q. Now, when you say two-way telecommunication service for hire, what constitutes two-way telecommunication service?

A. In my opinion, it constitutes being able to originate and/or terminate the telephone call.

Q. Now, does that mean the entity that controls the origination or termination, versus someone who originates a call by picking up and placing a call, or terminates a call by hanging up the phone?

A. Well, I believe it would be the former.

In other words, if I can, like BellSouth, BellSouth has switches, has facilities where we can provide service to someone to make a call. We can also receive incoming calls and terminate those incoming calls to an end user. And we can do that through interconnections with our other switches, or we can do it through interconnections with our competitors' switches. Or we can do it through the resale of our services to other competitors also.

Q. Now, when you speak of the ability to originate a call, start the process in terms of call origination, what does that entail?

MR. GOLDBERG: Object to form.

Do you understand the question? You can answer.

A. If you mean how do you originate a call, I guess that's what you're asking me, on basic telephone service you're going to have some type of equipment on the end user's end. They're going to pick up this equipment, use this equipment.

There's going to be some type of a facility connected to a switching arrangement. And the switching arrangement, once the number is dialed, the switching arrangement will transmit that signal to possibly another switch, possibly directly to another end user.

That's a simplistic way of describing it. It's a lot more complicated than that, but I'm not a real completely technical person other than understanding the basics of the call.

Q. Okay. So a person who has telephone service picks up their telephone. The dial tone that they hear is produced by BellSouth?

A. It can be produced by some type of switch, whether it's BellSouth's switch, whether it's a competitor's switch. It can be -- a PBX is a switch. It doesn't have to be BellSouth that

produces it.

Q. Dial tone is produced by some type of switch, whether it's BellSouth's or someone else's. At what point, does that dial tone now become controlled or operated or directed by BellSouth's facilities?

MR. GOLDBERG: Object to form. Lack of foundation.

A. I'm not really the technician. So you know, I can't really tell you exactly how the call completes, other than, you know, I think you can walk through -- probably your own employee walks through the way a call goes through the switch and so forth better than I do.

Pedro Garcia goes through a whole scenario on dial tone in his deposition.

Q. Okay. That's fair.

Who at BellSouth would be someone that could also walk me through that? Would George Hill conceivably walk me through that?

A. George Hill would probably be a good source of that.

Q. That's fair.

Going back to the definition of telecommunications company, you stated that it was

someone that provides two-way telecommunications for hire. When you say telecommunications for hire, and I think the exact definition is two-way telecommunications to the public for hire pursuant to the Florida statute, what does the portion "to the public for hire" mean?

MR. GOLDBERG: Objection to form.

A. To me, that means that the company that is providing the telephone service is providing access to their end user, to the public switch network, and they are charging their end user for the service.

Q. What's the public switch network?

A. Public switch network is made up of a combination of interconnection of various facilities which interconnects in order to allow for calls to be made throughout the nation, throughout the world.

In other words, it's basically the gateway to all the end users of telecommunication services. It's a combination of networks that are interconnected together. Very complicated network that's interconnected.

It's not just BellSouth's network. BellSouth connects to other telephone companies to

interexchange carriers to other competitors. And all those together comprise the public switch network.

Q. Are there different types of telecommunications companies?

MR. GOLDBERG: Object to form.

A. Yes. There are different types of telecommunications companies.

Q. What type of telecommunication company is BellSouth?

A. BellSouth is considered a local exchange company. Sometimes referred to as an incumbent local exchange company.

Q. How many types of local exchange companies are there?

A. Well, if you stick to the strict definition of what a local exchange company is in the statute, the statute defines, I believe, the local exchange company as any company certified by the Commission to provide local telephone service in the state on or before June 30, 1995.

I think there's about 10 in the state that are considered either local exchange companies, or they're often referred to as incumbent local exchange companies. These were

those that were there prior to local competition being in existence, true local competition being in existence.

Q. An after 1995, when competition was opened up, those are your competitive local exchange companies?

A. That is true.

They used to, when they were first established, they were called alternative local exchange companies. Then the name changed to competitive local exchange company, mainly out of convenience. Because that's the terminology that the FCC uses to describe the new competitors in the marketplace.

Q. What are the responsibilities of a local exchange company in terms of the provision of service?

A. That's a pretty broad question. The responsibilities are basically laid out in the Florida statutes, as well as in the rules, Public Service Commission rules. They have guidelines for the provision of service, guidelines for the provision of billing. And these rules mainly apply to the local exchange company or incumbent local exchange company.

The competitive local exchange company does not have the same degree of regulation per se. Their rules are more relaxed in order to initially stimulate competition.

Q. Are local exchange companies regulated?

A. Yes, they are.

Q. What body regulates them?

A. The Florida Public Service Commission.

Q. Is that the only body that regulates them?

A. Well, we're also subject, of course, to the state statutes. But we're mainly under the purview of the Florida Public Service Commission.

And I shouldn't leave out the FCC. Almost left them out.

Q. How does a company become a local exchange company?

MR. GOLDBERG: Object to form.

A. I'm going to rephrase your question. I shouldn't rephrase your own question, but if you use local exchange company in the strictest definition, you can't become the same as a local exchange company. You can become a competitive local exchange company.

Q. So when you -- in the strictest form,

when you're talking about local exchange companies, you're talking about all of those 10 companies that existed prior to 1995. What is now termed as "incumbent local exchange companies"?

A. Right.

Q. So go ahead.

A. So if you want to say how do you become a telecommunications company, or how do you become a competitive local exchange company, which is what most are referred to now, if someone comes in to the marketplace today, they normally go to the Commission, file an application to become a competitive local exchange company.

Now, there are other degrees of competitors. You don't have to become a competitive local exchange company. You can become a shared tenant service provider. You can become what they call an alternative access vender. You can become an operator service provider. You can become an interexchange carrier.

So there's all different types of certificates, depending on what you want to do. You can become a pay phone provider and get a certificate. So there's various levels of

competition, of competitors.

And so there's probably -- there's not -- you can't become an incumbent local exchange company anymore. Those were established prior to 1995.

Q. Let me walk you through the different types of competitors. If you can explain to me the major differences between them, so I can understand the different things.

MR. GOLDBERG: Let me just interpose this objection and ask for a response on the record.

I'm not sure if this background about competitive local exchange companies is an area that was noticed in the deposition. You're basically taking her individual deposition, maybe, about her knowledge in her individual capacity in her job. I don't have this area noticed in the deposition.

MR. HOPE: Point number one of the Notice talks about BellSouth's provision of two-way telecommunications service.

So in the State of Florida, two-way telecommunications, the deponent already

talked about telecommunications and what that encompasses.

Part of the lawsuit is an allegation that we are -- we, Miami-Dade County -- is competing with BellSouth, which has also been part of what was noticed here, and that we are operating as a telecommunications company.

It is well within this Notice, therefore, to understand the different levels of competition that is there and where Miami-Dade County fits into that mix.

MR. GOLDSTEIN: Okay. I totally disagree with the characterization of the Notice.

You can ask about BellSouth's operation as a telecommunication company, what they may be certificated as, what type of telecommunications company they may be. I think that's fine. That's Noticed. That is area number one of your Notice. But to, you know, use her to get, you know, some knowledge from the FPSC viewpoint about all the different types of

companies is outside the Notice.

I would ask you to reign yourself back in to focus on BellSouth, and you know, what you've noticed in point number one, being BellSouth's operations of a telecommunications company.

Q. When you broke out the competitors that compete with BellSouth in terms of the different types of competitors, you've already stated that the competitive local exchange companies basically do the same thing, but they have less responsibilities in order to make it easier for them to initially compete; is that a fair recounting of what you stated, incumbent versus competitive?

MR. GOLDBERG: Objection to form.

A. Well, yes.

In a simplistic form, a competitive local exchange company can perform the same functions as BellSouth. They can provide end to end local exchange telephone service. That is what they are certificated to do.

They can provide long distance service. They can provide -- practically anything that we provide, they can provide. They're certificated

and licensed as a telecommunications company to provide local exchange service. But they do have lesser regulation than the incumbents.

Q. Now, you also spoke of a group of competitors, interexchange company, alternative access vender, pay telephone, shared tenant services, and I think you might have mentioned one other.

An interexchange company, what is the difference between an interexchange company and incumbent local exchange company?

MR. GOLDBERG: I'm going to object.

Mr. Hope, you are not heeding what I thought was a respectful objection about the scope of this deposition.

We started the deposition at 9 o'clock. It's 9:50. You've already gone outside the Notice of Deposition, like you had in a prior deposition that we have identified.

I'm going to assert a standing objection to all of these questions that you're asking. I'm going to reserve my right to move to strike, you know, or preclude your use of the answers.

If it goes on for much longer, I'm going to contemplate moving to terminate the deposition and moving for a protective order.

You can answer the question.

MR. HOPE: Thank you.

Q. Go ahead and answer the question.

I asked you what is the difference between an interexchange company and an incumbent local exchange company?

A. An interexchange company basically provides only long distance service. So they're certificated to provide, interconnect and provide long distance service.

Q. What is the difference between an incumbent local exchange company and shared tenant service providers?

A. Well, a shared tenant service provider -- and we can go to the definition in the statute. There's a definition in the statute of shared tenant service. And there's also a definition, probably a more comprehensive explanation, of shared tenant service in the actual rules of the Florida Administrative Code.

This is -- this is behind tab two.

Basically, a shared tenant provider will have a property. They don't necessarily have to be the owner of the property. They don't necessarily have to be the -- they can be the landlords, but they get a certificate to provide telephone service to the tenants of the property.

And they can interconnect with BellSouth. They can interconnect with another competitor to provide the service. But basically, they will have a switch. And when I say switch, I'm using it in a very general term. A PBX can be a switch. A syntrex system can be a switch. It is usually contained on the property and it provides access to the tenants on the property.

And the providers of the telecommunications service, the shared tenant provider, will charge the tenants on the property for the telecommunication service. And this agreement, this license that they get, this certificate that they get from the Commission, allows them to do this. This is one of the first forms of local competition that was placed into existence.

But a more thorough definition can certainly be gleaned from reading the content of

the Florida rules, or reading the statute itself.

Q. When you say that the provision of shared tenant services was one of the first competitive types of provisions that were allowed, when did it become -- when were the providers authorized in the State of Florida?

A. I'm not sure of the exact date. I think it was in the early 80s, or maybe mid-80s, when shared tenant services came into existence.

Q. Okay. Pay telephone doesn't matter.

Let me ask you one more. What's the difference between an alternative access and an incumbent local exchange company?

A. There's a more complete definition for an alternative access vender on the Commission's website. But basically, an alternative access vender is another early form of competition, local competition. This is a vender who provides more or less point-to-point service.

Maybe, to give an example, maybe a bank has multiple locations and it's a self-contained type offering and it interconnects the various banks. Or maybe it's a Fed-Ex operation or UPS operation. It's usually a self-contained type point-to-point operation, private line type

operation.

It's not usually providing connections to the public switch network. It's usually a point-to-point type operation.

Q. What does the term an incumbent local exchange company like BellSouth being the carrier of the last resort mean?

A. Well, there's a definition in the statute. But basically, that means that -- well, prior to competition, BellSouth was the monopoly provider of local exchange service in its territory. That means that we were providing -- we were the -- if someone wanted telephone service, they came to BellSouth for telephone service. And we had the responsibility, even after competition, for a certain period of time.

Now the statute has a cutoff period of time in it for the carrier of last resort. It's been moved out as the years go on. It continues to move out, mainly because of waiting for the level of competition to get probably to a certain level.

But basically, the carrier of last resort means when someone asks for service, then BellSouth should make every effort possible to

provide the service to that particular customer. Now, that doesn't mean that BellSouth cannot charge for providing the service to the customer.

Q. Now, you just stated that as the "carrier of last resort," BellSouth has to make the effort to provide service to a customer in its territory. What's BellSouth's territory in the State of Florida?

A. Well, that territory basically was basically established way back when, when we first got our certificate. And our certificate is -- a copy of that is provided under tab one.

And you will see several orders behind tab one that layout the definitions of our territory. It goes into specifics, like survey language as to the areas we serve in the various parts of the state.

Now, also, these areas, the actual exchange, what they call exchange areas, which are basically dictated by our central offices, our switches, the scope of our switches, these exchanges are laid out in maps that are filed with the Public Service Commission.

If we ever change a boundary for some reason, then that change has to go in front of the

Commission, because the Commission authorizes our service boundary. They have first established it. They control that boundary. If we wish to change it, we have to go in front of the Commission to change that boundary. The maps are filed in front of the Commission.

MR. GOLDBERG: Let the record reflect that when she refers to tab two, she's referring to Exhibit A that's been marked in this deposition.

MR. HOPE: Thank you.

Q. Are exchanges synonymous with area codes?

A. No. You can have multiple exchanges in one area code.

Exchanges are just a service area dictated by the -- you can have more than one central office in an exchange. But they are basically dictated by the service area of the central office and set up often by natural boundaries, like a river, or a creek, or the boundary of a subdivision, outside boundary of a subdivision.

Q. Is BellSouth's territory as an incumbent local exchange carrier unique from the territory

of the other nine incumbent local exchange companies?

MR. GOLDBERG: Objection to the form of the question.

A. We serve -- each one of the 10 incumbent local exchange companies serve their own territory. And our territories join.

In other words, in Orlando, part of the Orlando territory is served by Sprint, or the Orlando area is served by Sprint. Part of the Orlando area is served by BellSouth. Part of the Orlando area is served by Smart City. But the boundaries all connect. They hit up against each other. We don't cross over the boundaries, but they connect to each other.

So in fact, the 10 local exchange companies serve the entire State of Florida. They have territory designated to them in Florida.

Q. I'm looking at the copy of the Florida Railroad and Public Utilities Commission Certificate of Public Convenience and Necessity, dated January 17, 1955. That's a document which you referred me to, which breaks out the territories of BellSouth in the State of Florida. And back then it was Southern Bell Telephone and

Telegraph Company.

A. There's an April 25, 1926 one.

Q. That's what I was going to ask you.

A. But the April -- the January, 1955 has the attachment of the definition of the area.

Q. You just helped me.

My question was going to be when did BellSouth start operating, or then it was Southern Bell. And it was in 1926.

A. That's when we were certificated to do business. I think there was probably a system in place before that, but that's when they first established the certificates and the franchise territories.

Q. Is BellSouth the only incumbent local exchange company that operates in Miami-Dade County?

A. Yes. The only incumbent.

Q. Are there competitive local exchange companies that operate in Miami-Dade County too?

A. Yes. There are many.

Q. Approximately how many?

A. I don't know exactly how many. But they list them in the front of the telephone book and they are -- there are probably some that operate

that aren't listed in front of the telephone book.

Q. You stated that incumbent local exchange companies, their territories can boarder one another, but they don't overlap. Competitive local exchange companies, do they have territories also?

A. They can serve any area that they wish to serve. They are not restricted to the areas that they serve. They can pick and choose.

Q. An incumbent has its territory defined by its Certificate of Public Convenience and Necessity. For a competitive who also has a certificate, would their territory be laid out in the certificate?

A. No, sir.

Q. BellSouth, as an incumbent local exchange company, is regulated by the Florida Public Service Commission, correct?

A. That's correct.

Q. When we talk about regulation, is it price regulated or rate of return regulated?

A. BellSouth is price regulated.

Q. When you say BellSouth is price regulated, what exactly does that mean?

A. That means that we, instead of being

rate of return regulated, in January 1st, 1996, we chose to go under price regulation.

This means that we have services divided up between basic service and none basic service. And these services are established in what they call baskets and have restrictions on them as to the how much you can adjust the rates. You're given a certain level of rate restrictions based on whether it's none basic or basic service. And we have no guaranteed rate of return.

We are a little more free to market our services, to price our services, but we're still restricted in the amount that we can adjust the rates. We're restricted by the amount of revenue in the basket.

For instance, if you have a basket that has, let me say, ancillary services of residents, like call forwarding, call waiting, you have a total amount of revenue in that basket. You can only increase the level of that revenue in that basket by 20 percent in one year.

Now, initially it was six percent prior to competition. Once competition came into the exchanges of BellSouth, we were allowed to go to 20 percent.

So we have more leverage within that basket to price. We have more flexibility for pricing. But basic service, it's restricted to changing inflation minus one annually until such time as we get some relief.

Q. As a price regulated local exchange company, you just spoke to basic an none basic services that BellSouth provides and how the regulations impact those two types of services.

Are there additional categories of services that BellSouth provides as a price regulated company?

A. Yes. We provide interconnection services to carriers, other carriers, other competitors. We provide, of course, pay phone service, pay phone interconnection services. We don't provide pay phone services anymore.

Now, I am strictly talking about BellSouth Telecommunications as a regulated, price regulated company. We provide transport type services, private line type services.

Q. What about network access?

A. Well, that was what I first said was interconnection services. I encompassed network access into interconnection services.

Q. What about unbundling and functions for resale?

A. That's part of interconnection services, which would include your loops, your transport. You can pick and choose the pieces that you wish to have. You can have the transport. You can have the loop. You can have the switching. You can be co-located in our central office. That's all encompassed under interconnection services.

Q. Prior to January 1st, 1996, BellSouth was rate of return regulated?

A. Yes. That is correct.

Well, let me restate that. We were under a -- let me think what the name of it was.

I can't remember the exact name. It was a program where it was almost a phase in-between rate of return and price regulation. And I cannot remember the name that it was called. But we had -- we were -- it was a sharing arrangement.

In other words, if you exceeded a certain rate of return level, then you had to return a certain percentage of anything you earned over that back to the rate payers. So it was kind of a sharing rate of return sharing arrangement.

It was an agreement we reached with the

Office of Public Counsel and the Commission in 1994, I believe. So for two or three years we were under that arrangement, a sharing type arrangement.

Q. That sharing type of arrangement that BellSouth was under for two or three years, was BellSouth the only incumbent local exchange company that was under the sharing arrangement, or were some of the other incumbents under the arrangement?

A. I believe we were the only ones. I can't really speak for sure about the others.

Q. Prior to the sharing arrangement which existed for two to three years, and then BellSouth elected to go to price regulation, was BellSouth, prior to the sharing arrangement, rate of return regulated?

A. I believe so, yes.

Q. Were the categories of service that BellSouth currently provides as price regulated the same as it provided when it was rate of return regulated?

A. Well, our services have evolved over time. Certainly, new services are rolled out at all times. So it's a revolving environment. We

try to roll out new services at all times.

But prior to 1995, which was when local competition came in, we were still providing network access, and we were providing network access to interexchange carriers and so forth.

But as far as the evolution of the unbundled network elements, the local interconnection, it really came into being after 1995 when local competition was allowed. But we offered a broad range of services prior.

Q. What's the negotiated agreement for local interconnection or unbundled features?

MR. GOLDBERG: Objection to form.

A. Once competition became a reality, the Telecommunications Act basically laid out the guidelines for the incumbent local exchange company to provide access to its network to its competitors.

One of the requirements was that you negotiate an agreement for this interconnection. Therefore, there's set guidelines in the Telecommunications Act for time frames in which to negotiate an agreement. And this agreement sets up all the parameters for how we will operate with a competitor. It lays out the general terms and

agreement. Lays out billing arrangements. It lays out all the rates for whatever services that they wish to obtain from BellSouth.

And it can be a resale type of agreement. It can be an interconnection type of agreement. It can be a co-location type of agreement. It can -- some of these agreements are well over 1,000 pages. These agreements are very intricate.

But these agreements are entered into between BellSouth and its competitors. These agreements are signed. They are filed with the Public Service Commission.

Q. So it's fair to say that BellSouth has entered into these sorts of negotiated agreements with its various competitors?

A. Hundreds of them.

Q. Is there a negotiated agreement between BellSouth and each of its competitors?

MR. GOLDBERG: Objection to form.

A. You have to go back to the definition of competitor. Because these negotiated agreements basically came into being when the CLECs came into being, which was after '95.

We did have some agreements with other

incumbent local exchange companies on other levels, like the provision of maybe operator services or directory assistance. But as far as other competitors, like let's say the shared tenant service providers, or let's say the AAV, in most cases the tariff was the contract.

So you didn't necessarily have to negotiate an agreement to provide the service to these types of competitors.

Q. So when you are speaking of hundreds of negotiated agreements that BellSouth has with its competitors, you're specifically speaking to competitors being the competitive local exchange companies, or CLECs?

MR. GOLDBERG: Objection. Asked and answered.

Q. You can respond.

A. Yes. I answered that it was CLECs.

Q. Did the negotiated agreements with the competitive local exchange companies have the same duration?

A. What do you mean, same duration?

Q. Each agreement -- can one agreement be for one year, another agreement with another company be for two years?

Since you said there are set rules that are established, is there a set period for each negotiated agreement?

A. There is a -- well, most of the agreements are two to three years.

Now, what you have to understand is that there is also -- there used to be a rule whereby a competitive local exchange company could adopt an agreement. And if they adopted an agreement, they adopted the agreement as it was.

In other words, if it only had a year remaining, that's all they got for that agreement. So it can vary, depending on whether they adopt it, or you know, whatever they negotiate. Two to three years is average.

Q. Approximately how many competitive local exchange companies compete with BellSouth and Miami-Dade County?

A. I don't know the exact number.

Q. Can you give me a range? Is it 10, is it 100?

MR. GOLDBERG: Objection. Calls for speculation.

A. I'm just guessing here that it would be probably between 15 and 20. But that's just a

guess.

Q. The January 17th, 1955 Certificate of Public Convenience and Necessity, which also has attached to it the territories, the territories here are still the territories of Bellsouth?

MR. GOLDBERG: Objection to form.

A. These areas have changed over time many times. As you can see from the attached behind that, there are various orders changing boundaries.

The boundaries can change, depending on how the development grows. You might have a subdivision that goes over into an undeveloped piece of property and that property had been split between two incumbent local exchange companies. And therefore, the two incumbents will get together and decide whether or not there should be an exchange of area or change of the boundary. That's evolved over time.

So through the years these areas have changed. But when they do change, they have to be filed. The map, the revised map has to be filed at the Commission and its on file with the Commission.

Q. As far as you know, has Miami-Dade

County been part of BellSouth's territory and BellSouth being the only incumbent local exchange company in Florida for Miami-Dade County, has that changed?

MR. GOLDBERG: Objection to the form of the question.

A. I'm not sure.

Q. How was the initial determination of BellSouth's territory made?

MR. GOLDBERG: Objection to the form of the question.

A. I really can't answer that question. That was done so long ago. I have no idea.

Q. Where I was trying to get to, was it something with the application to the PSC? Did BellSouth put it forward?

Since it was 1926, basically, you don't know?

A. I really don't know the process that was used at that time.

Q. Now, you've stated that depending on growth and movement, the territories can change. What is the process for modifying a territory?

MR. GOLDBERG: Objection to the form of the question.

A. It's usually, like I said before, usually it involves another local exchange company, for instance, or it could be maybe another one of our exchanges.

But let's say it involves another local exchange company. Let's say the subdivision, like I said before, was developing into an area that was undeveloped, and when the engineers go out, or the technicians go out, they say we can't serve that area because that belongs to Sprint. And it's very obvious for ease of service, because the facilities perhaps were there, or for the continuity of the subdivision, it would be better for that territory to perhaps be in BellSouth's territory, or if it was a Sprint subdivision it should be in Sprint's territory.

So the two companies will meet and make a decision as to should the boundary be changed. Usually enter into -- if they agree that the boundary should be changed, both companies redraw their map and then the maps are filed by both companies and they are designated to whatever serving exchange that they are going to be in. And it's placed on file with the Commission.

MR. GOLDBERG: When you get to a good

breaking point, I want to take a quick break.

Whenever you reach that. About an hour and a half. Thank you.

MR. HOPE: Okay.

Q. Can the Commission on its own initiative decide to change territorial boundaries?

A. It's my understanding that the Commission no longer has the authority to change a boundary on its own initiative.

Q. Does that mean, therefore, that at some point in time the Commission could do something like that?

A. Yes, they could.

But let me clarify that. It was usually at the request of some governmental agency or a request by the public.

There are guidelines set out in the old rules to change boundaries, if the public wished to change a boundary, or to change a serving area or so forth. So it was usually based on a demand from, you know, some type of a vote or request from a particular area.

Most of that was for local calling. They wanted to change their boundaries so they

could have local calling instead of long distance calling.

But with competition, that has -- those rules have gone away.

MR. HOPE: Now is a good time to break.

(Recess in the proceedings.)

Q. Does BellSouth track the number of customers it has?

A. Yes, we do.

Q. Is that tracking divided into residential customers and commercial customers, or how is it divided?

A. The usual breakout is by residence and business. And it's usually by access lines, not necessarily by customer.

Q. When you say by access lines, what do you mean?

A. In other words, you can -- it's sometimes difficult to determine exactly how many end users you have because of the fact you have end users that have multiple lines or accounts in different names. Therefore, most of the time the numbers that are given are in access lines.

Q. Let me give you an example to see if I

understand.

If I have service as an individual with BellSouth and I have one line, do you know that I'm a residential customer versus if I had my own law practice?

A. Well, I know what you have told us your service is.

In other words, when you signed up for telephone service with BellSouth, you will designate whether or not you're a resident or business. And then the proper class of service is put on the account.

Q. Would you happen to know the number of, since you said that it's usually in access lines, would you happen to know the number of access lines that BellSouth charges for in Miami-Dade County?

A. No. I don't have that number handy.

Q. Who at BellSouth would be able to tell me the number of access lines for commercial versus residential in Dade County, in Florida, at the airport, and information like that?

A. We file with the Commission a report. It's called Schedule 8. It's a publicly available report that breaks out the number of access lines

by residents, businesses. There's a couple of different classifications on it. And it's available to the public. It's by exchange.

So it would give you a good idea of what is available, what the number is in the Miami-Dade area.

Q. Is that Schedule 8 available via the PSC website?

A. I don't know whether it's actually posted or not.

Q. Very early on in the deposition you presented me with Plaintiff's A, which is a binder of supporting documentation. Can you tell me the tabs, the specific tabs in this binder which support or explain the statement that BellSouth provides two-way communication to the public for hire?

A. Well, this tab number one is basically the tab that I'm using to show that BellSouth is authorized and provides two-way telecommunications to the public.

Now, you can also go to the definition under the statute of the local exchange company, which of course we were certificated prior to July 1995, as a local exchange company. So therefore,

in accordance with the statute we are a local exchange company.

MR. GOLDBERG: Just for the record, were you pointing to the statute in the notebook?

THE WITNESS: Yes. There's a section in the notebook under -- it's under tab -- behind tab two. There's an excerpt from the statute.

MR. GOLDBERG: I'm sorry. Could you read the statute number?

THE WITNESS: It's Statute 364.02. Definitions.

MR. GOLDBERG: I just want to make sure she gets to write down a reference as to what you're looking at, so we all know later on. Thank you.

Q. Earlier on we talked about categories of service that an incumbent local exchange company provides and we went through the categories of service that BellSouth as an incumbent local company provides. You talked about basic, none basic, local, interconnection, unbundling and resale. And we talked about different things under those areas.

Specifically, when we talk about network access, does network access mean data network?

MR. GOLDBERG: Objection to form.

A. It can be any form of network access, basically, because of the fact that quite often when we provide network access, especially network access to one of our competitors, or to a carrier, or even to some end users, we do not know exactly how they use that network access.

It can be used for data, it could be use for internet access. Whatever equipment they attach on to the other end, or however they use the service is not necessarily named BellSouth.

Q. If you know, what are the types of data network services that BellSouth provides in Florida?

A. Well, those are listed. I believe those are listed in our tariffs, both state and federal tariffs. And I'm not an expert on all those services, so I wouldn't even begin to list all of those data services. Because there's a lot of services that we provide that involve data.

Q. Is a copy of the tariff included in Plaintiff's Exhibit A?

A. No, it's not.

Q. Is there more than one tariff that applies to BellSouth?

MR. GOLDBERG: Objection to form.

A. In the state, there is a general subscriber service tariff. There is an access tariff. There is a private line tariff.

In the FCC, I don't know quite all the tariffs that are with FCC. I know there's an FCC-1. But I don't know, I'm not familiar with all the FCC tariffs that we have in our file. I do know there's an FCC-1 for BellSouth.

Q. As far as you know, is there a general subscriber tariff for BellSouth?

A. I don't understand that. I just said that there was a general subscriber service tariff for BellSouth in the state.

Q. So when you just named those four, the general subscriber, the access, the FCC-1 -- and I have subscriber twice for some reason -- but those four tariffs that you named, those are all BellSouth tariffs?

A. Yes.

Q. Do the other incumbent local exchange companies have the same four tariffs?

A. They have similar tariffs. I don't know

whether they're all broken out exactly in the same format that ours is broken out.

Other providers don't necessarily have to file tariffs. But the other incumbents have tariffs. Very similar.

Q. What does a general subscriber tariff encompass?

A. It's a very large tariff. It encompasses mainly our retail service offerings such as your, you know, all your basic service. It includes operator services, directory assistance. Any of the adjuncts to -- a lot of the adjuncts to basic service. Your typical service offerings are encompassed into the GSST.

Now, of course, there are some services that are offered that are not tariffed offerings.

Q. What does the access tariff encompass?

A. The access tariff was set up back in 1984 to provide -- it was when divestiture came about. It provides for -- it was initially set up to provide for access to the public switch network for interexchange carriers who were providing long distance servers. It has evolved over time.

There's some aspects to the switch access tariff that can be purchased by other types

of carriers also. It's a very detailed technical tariff. This is where you can buy some trunk groups and so forth for carrier access.

I'm being very, very high level with this. Because these tariffs are very involved, very complicated, and very large.

So there's probably some services that I'm -- certainly, there are services in there that I'm not necessarily conveying to you. But I'm giving you the general gist of the tariff.

Q. When you say large, they're voluminous in nature?

A. Voluminous.

Q. What does the FCC-1 tariff entail?

A. FCC-1 is very much like the state access tariff. It provides for interstate access, basically, for carriers. An end user can subscribe to this particular tariff too. This would accommodate interstate traffic, interstate offerings also. Some of your videos and that. Because it is an interstate offering.

There are various offerings that are interstate in nature and not considered state in nature. So therefore, they have to be filed in the interstate tariff. Some of your ISP type

services are also involved.

Q. ISP, internet service providers?

A. Yes.

Q. And there was a forth tariff.

A. There's a private line tariff in the state. That, here again, that is a tariff that provides for dedicated facility type services to end users. And carriers can purchase that particular tariff also.

Q. When you say dedicated facility, what do you mean?

A. Private line type facilities. High capacity circuits.

Q. And you said besides these four tariffs that you know of, there might be some other FCC tariffs which are imposed upon BellSouth?

MR. GOLDBERG: Objection to form.

A. I wouldn't call it imposed. Usually tariffs are filed by the company. But I don't know if there's another FCC tariff or not. I'm not -- I don't work a whole lot with the FCC tariffs.

Q. What person or persons within BellSouth does work with the FCC tariffs?

A. Well, I can't recall right off-hand who

would be the main contact. Because it would be handled out of headquarters.

Q. Headquarters being Atlanta?

A. In Atlanta.

Q. The tariffs are also public record?

A. Yes, they are.

Q. Are the tariffs accessible through the Florida Public Service Commission's website?

A. I don't believe the tariffs are on-line anymore. They used to be, but I believe because of the voluminous nature they have taken them off. They are available for review at the Commission.

Q. Does BellSouth provide shared tenant services in the State of Florida?

A. BellSouth as a local exchange company provides service to the end users. And to say that they provide shared tenant service, I can't really answer that as a yes or no, because of the fact that we provide -- we provide telecommunications services to any individual.

So you could have multiple tenants in the building and we could provide the service to all those tenants in the building. Is that shared tenant service? I don't think so, because of the fact that we're not really the landlords or the

owner of the property. But we are providing telecommunications services to that building.

So basically, there's not a requirement for us to have any kind of shared tenant service type designation because we're providing telecommunication service in that situation.

Shared tenant services is an isolated type offering, or situation, that was set up to allow for someone to come in and sell telecommunication service or provide telecommunications service. We could already provide telecommunication services.

So it's really not a yes or no answer as far as my interpretation of what it is.

Q. When you say BellSouth as a local exchange company provides service to the end user, can that end user be a shared tenant service provider?

MR. GOLDBERG: Objection to form.

A. If we provide service to -- let's say a bank owns a building and we provide the service to the bank. The bank very well could have some type of a switch in that building to serve themselves, but also could be serving the rest of the tenants in the building. And we could be providing the

service to that bank as an end user, but that end user could actually be a shared tenant service provider because they're providing telecommunication services to the rest of the building, the tenants in the building, and charging them for it.

MR. HOPE: Off the record for a second.

(Recess in proceedings.)

Q. How does Miami-Dade County provide two-way telecommunication service to the public for hire?

A. It's my understanding that Miami-Dade County has entered into -- has purchased the assets of the telecommunications provider that was formerly at the airport, which was Nextira, in early 2002.

And by purchasing, my understanding is they purchased the infrastructure. From reading the actual contract, they purchased the infrastructure. And also, evidently, the customers that went along with it. And they are actually providing telecommunication services to the tenants of the airport.

Now, part of the basis for that

determination is some of the initial discovery that we have obtained. And I understand that this is just what we've gotten so far. There may be more later as the case goes on. So this may not be all that we use to support a determination that they -- that the County is providing two-way telecommunication service.

For instance, in the County's own response they admit they are providing shared airport tenant services to airport tenants at Miami International Airport.

Now, if you have, going to the statute's definition of shared tenant service, which is -- let me find it.

MR. GOLDBERG: Take your time.

A. It says shared tenant service provider provides, duplicates, or competes with local service provided by existing local exchange telecommunication company.

Then you can take that even further to the definition of a local exchange company in the statute, or a telecommunications company in the statute, which says that a telecommunications company provides two-way telecommunications service to the public for hire.

So first of all, if you have the County admitting they're providing shared tenant services to the airport, which in turn, if you track that through the definition of the statute, that basically brings you back to telecommunication service provider.

And then also, you have to go to Pedro Garcia's deposition. He talks about -- this is on his first deposition, May, 2003, page 13.

The question is asked what does STS mean, because of the fact that the County has already admitted that they are providing STS service. He answers: It means shared tenant services.

What does that mean?

His answer: Which means that provisioning of services, of telecommunication services, to tenants of the airport.

Then later on he also talks on page 15, the question was asked: Tell me how you define the term telecommunications services.

And he answers: In the industry itself, sometimes it's a grey area of what is telecommunications and what is telephone services.

To me, as far as this conversation goes,

I take telecommunications to mean voice and network transmission. If we're just talking about the voice side, it would be called voice services.

Telecommunications is both the voice service, or the telephone, and the network transmission, which is the network that goes where you plug in your PCs.

Question: My e-mails and so forth?

His answer: That's right.

Question: So you would agree with me, wouldn't you, that the County provides telecommunications services, telephone services, at these airports?

His answer is yes.

Now, he also -- there are various references to the provision of telecommunications also on page 52 of his deposition. The question was: So without the County owned equipment, its PBX, its wires, its phones, that customer would not have or not be able to receive a local phone call; is that correct?

The witness: Again, we are assuming that the receiving customer tenant is a customer of MDAD for the purpose of providing equipment, telephones, et cetera, correct.

So without the County owned equipment, this call cannot be completed.

That's his answer.

Another reference on page 66, the question was put to Mr. Garcia: But that wiring that you provide that would fall under the number four, system-other, has the capability of carrying two-way communication two-way voice communication, correct?

His answer: Yes. Inside the airport, yes.

There are several other references.

Now, I also have a reference in Mr. Jenkins, Maurice Jenkins's deposition. This was on page 152 and 153 of his deposition. The question: Okay. List on page two the cost, who was charging MDAD for the IPE, the DLC, the super loop, and the common equipment at the amounts indicated on this document?

I believe that is Nextira.

Question: What it costs to purchase Nextira equipment under the purchase agreement that was consummated in February of 2002, or January of 2002?

I believe that to be true, yes.

Question: So then you come down there for voice line cost. What is voice line?

His answer: That's telephone services.

Question: Two-way telecommunications service, correct?

He says yes, sir.

So that's -- there are a couple of other references also where the County itself has -- the County's own personnel has said they are providing two-way telecommunications services.

Q. Has the County's personnel stated that these two-way telecommunications services are to the public for hire?

A. Yes, they have.

Here again, in this initial discovery, Mr. Garcia, again, in that same deposition, page 56, the question: Let's do it this way. We've agreed earlier in the deposition that MDAD is engaged in what it hopes to be a profit-making enterprise by providing telecommunication services to tenants of the airport?

His answer: Yes.

This is his later deposition, his 2004 deposition. On page 141 he says, the question is: So MDAD is charging for the completion of the

local call, correct?

Answer: For the ability to complete the local call. We don't charge by the call.

Question: But for the ability to complete local calls?

Answer: Yes.

Question: You would agree with that?

Answer: Yes.

And towards the end of that deposition, page 150 -- well, 149 and 150. Question: So I understand you, you said there is no additional charge. But given your prior testimony here today, haven't you testified that since the County charges for the PBX, and the PBX is the piece of equipment that provides the dial tone, that the County is charging for dial tone?

His answer: The County is charging for the equipment that allows you to get the dial tone and complete the call.

Question: So you would agree it is just common sense that the County is charging for, in part, the dial tone that it provides through its own PBX? Yes.

Now, Mr. Jenkins, Maurice Jenkins, in his deposition on page 153. Question: You have

an interest carrying cost, a maintenance cost and then you add a profit, correct?

His answer: Yes, sir.

Question: And you come up with a voice line charge per month of 930; is that correct?

Answer: Yes, sir.

Then on page 164, the question is: Essentially, in this proposal, it is fair to say there's a charge for everything that's associated with providing telecommunications service to your customers, correct?

Answer: Yes, sir.

The bottom line is that your telecommunications -- Question: The bottom line is that your telecommunications business has a goal of increasing its profitability and making money for the County, correct?

His answer: Yes, sir.

Q. Okay. Now --

MR. GOLDBERG: Are you done with your answer?

THE WITNESS: No.

MR. GOLDBERG: Why don't you finish.

A. There's also, if you go back to the actual -- and this is behind tab B, which is

referring to the resolution approving the recommendations relating to the shared airport tenant services for the aviation department. This is dated September 24, 2002.

In the recommendation paragraph, part of the recommendation is to offer telecommunication and network access to "airport tenants." And in the background explanation, the third paragraph, there is the use of the word maximization of revenues in the description of the assumption of this purchase of these assets in the operation of the telecommunications facilities.

And then on the page two, the very last sentence, it says under the new non-exclusive management agreement with NextiraOne, approved by the Board on January 29th, 2002, MDAD will receive all SATS gross revenues which last year totaled $2,607,024. This revenue is expected to increase, based on new marketing initiatives presently under development.

So that leads you to believe that if you're going to have marketing initiatives, you're going to promote the services as a money making proposition.

Now, you also asked me about was the

County providing two-way telecommunication for hire to the public. In our opinion, yes. And based on, here again, some of the discovery that we have obtained.

First of all, there was --

Q. Let me stop you. You're going to deal just with the "to the public for hire" right now?

A. Yes.

Q. Okay. Let me stop you there, because I was going to ask you about that again. So instead of going through the explanation "to the public for hire," hold that. Because I want to -- since you've gone through a series of things dealing with profit and maximization, let me ask you some questions about that. Then we can go back to the public for hire.

MR. GOLDBERG: I'd like her to answer the question.

Because your first question was the whole definition of two-way telecommunication, which she answered; for hire, which she's already answered; and she was about to do the public. And I'd like her to be able to complete that. Then if you want to question her about

that.

MR. HOPE: Okay.

A. On the public, first of all, there were a couple of customer lists which indicated that there were more tenants that were being provided telecommunication service than just airport type services. Like the Cafe, the ice cream shop, the shoe shine shop, and so forth. And we have got those customer lists.

But we also had from the deposition, and this is the deposition of Maurice Jenkins, page 127 and 128, the question was: So then I'll move on and ask you this. At least you would agree with the general proposition, would you not, that John Q Public, if he meets all -- goes through the hoops and meets the requirements, he can come in and operate a concession or store at the airport, right?

Answer: As long as he's complied and submitted his bid and is awarded and approved, yes, he can.

Question: And that bid process, as far as you know, is at least open to the public, right? Anybody who wants to bid?

Answer: Yes, sir.

Question: There's no discrimination or anything along these lines? Anyone that wants to bid can bid?

Answer: Yes, sir. As long as you meet the minimum qualifications, or whatever qualifications are established that goes out with this bid.

Question: Let's assume John Q Public takes over Cafe Versaille. They're going to be able to purchase your telecommunications services, correct?

Answer: If they want to. It's entirely up to them.

Question: But if they want to, your services are available to John Q. Public, correct?

Answer: Yes, sir.

Question: And if John Q. Public wants to obtain telecommunication services from you at the airport, John Q Public is going to enter into one of these rental agreements that we discussed earlier, correct?

Answer: Yes, sir.

Question: And then John Q Public is going to pay for that telecommunications service, correct?

Answer: Yes, sir.

Question: And that telecommunications service that you offer that we discussed before includes two-way communications capabilities, correct?

His answer: Yes, sir.

Then on page 131, Question: That leads me to the next question. There's nothing that prevents Mr. Hope here, or John Q Public, or anybody else from going into the Miami International Airport to use these mall shops, or any of the other stores we have depicted here in the photographs, purchasing the products, using their services, and leaving without taking a flight or booking a flight or traveling anywhere?

Answer: Right.

Question: There's no dispute about that. They can walk in, do these things, and walk out without traveling?

Answer: Yeah. If they want to.

Question: And there's also no dispute, although your counsel is telling you not to answer certain questions, there's no dispute that you are providing service to some or all of these shops, or those types of shops at the airport, correct?

Answer: Yes, sir.

There's another one that I wanted to call your attention to. Sometimes my little -- bear with me. There was also some discussion with Maurice Jenkins in his deposition on page 129 and 130, which went through some of the shops that were being provided, which appear to be totally unrelated to the airport facilities.

And the question was: I'm just going to walk through them real quickly, if you don't mind me looking over your shoulder, just to put them on the record, because the record can't see the pictures. They are -- we're talking about the photographs that were part of the exhibits that were entered into the record with Mr. Jenkins deposition. These were photographs of specific tenants at the airport. And he said correct me if I'm wrong as I walk through these. And he mentions Cafe Versaille, Bacardi, Eddy's Ice Cream, they mention TCBY, Cinnabon, Bacardi, Burger King. Frankly Gourmet, Sunglass Hut.

There was also, we asked the question: MJ21, which was the designation of one of the photographs, is basically a mall of shops, correct?

Answer: Yes, sir.

Question: And the mall of shops includes Barber, beauty and nails, a Kleen Cleaners?

And his answer: No. That's a shoe shine.

Anyway, but that shows that there were -- there's more than just airport type facilities. In other words, there are various public type tenants in the building.

And I believe that's it.

Q. Where in the definition under Florida statutes of a telecommunications company does it deal with profit margins?

A. I'm not so sure that profit margins enter into the definition of providing telecommunications for hire. There's no guaranty that anybody going into business for telecommunications services is going to make a profit.

Q. Okay. So what is the relationship of the examples that you gave where various County employees have said either the intent of the County by providing shared tenant services is to make money, or if they want to maximize how much

money they make, or which charges are pass through versus which are eaten by the County; what relationship does that have in support of your statement that the County is providing two-way telecommunications to the public for hire?

MR. GOLDBERG: Objection to form.

A. Well, I think it's understood that when you go into business as a telecommunications company and you charge your customers -- and you are charging your customers. Because there were even examples submitted as exhibits to some of the depositions of bills to the end users. When you're charging your customers, that is for hire. In other words, you are providing telecommunications and charging for it.

Now, as to whether or not you make a profit or not doesn't make a difference as to whether or not you're a telecommunications company or not. It just means that you're charging for the service.

Now, the fact that you say you want to maximize the revenues, that means it is a money making -- you are hoping it will be a money making proposition for you. It will be a business for you. You are going to market it. That means you

actually are competing for the customers with whatever local exchange company that is out there, whether it be BellSouth or whether it be some other competitive local exchange company that can come in an serve those customers.

Q. So your examples that focus on whether or not Miami-Dade County or the Miami-Dade Aviation Department is providing these services and is charging for them, trying to maximize profit or increase profit, or get any sort of profit, goes to support your contention that the County is providing two-way telecommunications for hire?

MR. GOLDBERG: Objection to form.

A. It certainly goes to support that proposition. And certainly, like I said previously, there could be other information that we find as we go along in this discovery process that would add additional support to that.

There are also contracts that you actually have your tenants sign, which includes an agreement for the provision of telecommunication services. And as I'm reading through the depositions and so forth, the end user or the tenant can choose the telephone service that they

want. They don't have to have -- they can pick and choose what they want for their telephone service.

Q. Part of the definition of telecommunications company inserts the word public. It says two-way telecommunications services to the public for hire.

Now, when we talk about that public component, every example that you cited deals with the Aviation Department providing those services to its tenants. So what supports now the definition that the services are being provided to the public for hire?

MR. GOLDBERG: Objection to form.

A. Well, I think I have gone through this pretty thoroughly. But the telecommunications, basically, if you are an end user -- let's say you're someone who owns a business. And you own it, and the business takes up a whole building. And you're using the telecommunications services totally within your building, totally for your business, your particular business.

In other words, there's no unrelated tenants in that building. It's totally a bank building, administrative offices for the bank, and

nothing else is in that building. And the telecommunications services is being provided for that particular end user.

Let's say they have a PBX in that building, and the service is being provided to all administrative offices in that particular building for that bank. In that particular case, that bank is not providing service to the public. Telecommunications to the public, okay?

Q. Okay.

A. Now, in the case of the Miami-Dade Airport, there is a switch. The switch is this PBX. You're providing service to unrelated entities. These unrelated entities, in our mind, and based on your own employees's characterization of it, these are offered to the public. Any tenant can come in the airport and try to get space for the public.

Q. Let me --

MR. GOLDBERG: Are you finished?

THE WITNESS: No.

Q. Go ahead.

A. They can move into this facility, they can set up a business, they can get telecommunications services from the County and

provide service, have telephone service. That's providing service to the public.

That ice cream shop has access to the world through your switch, through the public switch network. The American Airlines has access to the public. Delta Airlines has access to the public. The public can call in to them. But it's all going through your switch.

Q. You gave an initial example where you talked about the bank building and if all of the services in the bank building deal with the bank building, then that is not considered to the public for hire?

MR. GOLDBERG: Object to form. Mischaracterizes. Go ahead.

A. That's not what I said.

What I said is that bank -- the only tenant in that bank building is the bank. There's one business there, the bank. That's all that's there. So there's only one end user. There may be a switch there, a PBX that serves that whole building, and it's like the loan office of the bank and so forth. It's all the bank's employees.

Q. Okay.

A. Okay. So there is no -- even though

there's a switch there and telecommunications service is being provided throughout the bank, there is no provision of service for hire to the public because there's no public tenant in that building.

Q. So your determination is made upon it being a public tenant?

A. Well, it's an unrelated, unaffiliated tenant. Unrelated, unaffiliated tenant.

Like for instance, if you're providing service just to your, maybe your County administrative office, and that was all you were doing, that's probably in our mind just service to an end user.

But the fact that you are taking your service out and providing -- even the Public Service Commission has, I mean, in the deposition of Rick Moses, and a couple of e-mails that went back and forth with Rick Moses, he even said based on what he understands that is being offered on the County's property at the airport, that there is service being provided to the public for hire. Two-way telecommunication service for hire.

Q. But Richard Moses is not a Commissioner, is he?

A. Rick Moses?
Q. Correct.
A. He's a staffer, Commission staffer.
Q. So he's not a Commissioner?
A. No. He's not a Commissioner.
Q. And therefore, any determination, PSC determination, would be made by the Commission itself and not the staff, correct?
A. The ultimate determination is made by the Public Service Commission if it goes that far.

Quite often Rick Moses, who runs also the enforcement unit, Rick Moses's group will make a determination as to who is, you know, who needs to be certified and who doesn't. But as far as classifying a telecommunications company, he's pretty much of an expert as to what a telecommunications company is, regardless of whether you're certified.

Q. And Rick Moses in his deposition also stated that he does not know the exact operation that is going on at Miami International Airport, correct?
A. I don't know if that's what he stated or not.
Q. Okay.

A. If he said that specifically.

But we do know based on Mr. Jenkins's testimony, Mr. Garcia's testimony, that service is being provide, two-way telecommunications service is being provided for hire at the airport to the public.

Q. Let's get back to your definition of what constitutes public. You just stated that public means unrelated, unaffiliated tenant; is that fair?

A. Well, I think you could encompass that into the definition of the public. Public is probably more broad than that. But certainly, unrelated, unaffiliated tenant who has -- who is purchasing telecommunication services from the County and has access to the public switch network, in our eyes, is offering it to the public.

Q. Is there anywhere in Florida statutes that supports your definition of public including unrelated, unaffiliated tenants?

MR. GOLDBERG: Objection. Calls for legal conclusion. Form of the question.

A. I don't know that I can answer that. I don't know for sure whether there is any

definition in there on public.

Q. If you know, is there any definition under the Public Service Commission rules that defines public as you've characterized it as unrelated, unaffiliated tenant?

MR. GOLDBERG: Objection. Mischaracterizes the testimony. Object to form. Move to strike the question.

A. I don't know if there's a definition or not.

Q. In your example of the bank, where you said if it's the bank operating as a bank in the building then it's not for the public for hire, in that example, if the bank subleases some space to another bank, does it then now become -- and it has a switch, and that other bank has access via its switch, does the owner bank now become someone that is providing two-way telecommunications to the public for hire?

MR. GOLDBERG: Objection to form.

A. If the original bank, the bank that -- let's say the bank owns the building. It really wouldn't make any difference, but if they own the building, they have the switch. Another tenant comes in. And if that tenant purchases

telecommunications services from that other bank, then yes, that initial bank is providing telecommunications services for hire to the public.

Q. Okay. So under that analysis, it really doesn't matter at the airport what the various tenants do.

You spoke to unrelated, unaffiliated. Under your analysis, as long as you have tenants, whether at the airport you have airlines, or concession stands, or barber shops, or cargo handling, multiple tenants means you are now providing two-way telecommunications services to the public for hire; is that a fair assessment?

MR. GOLDBERG: Objection to the form.

A. If they are unrelated tenants and they are purchasing telecommunications services from the particular whoever is providing, whoever maybe owns or leases, whatever, provides the telecommunication services there, if they're unrelated, unaffiliated, separate type entities, separate tenants, yes, I would characterize it as a shared tenant type environment.

Q. But the characterization is greater than shared tenant type. You're going so far as to

say, and correct me if I'm wrong, if they're other tenants, then that automatically means that you are providing these services to the public for hire?

MR. GOLDBERG: Objection to form.

But please answer.

A. Well, if it meets all the other criteria that they are getting their telecommunications service from that particular -- let's go back.

Like for the County, the County has their switch. They offer the telecommunications services to the tenants, to any tenant who moves in. They sign the lease and so forth. Then yes, it is two-way telecommunications services. They're offering two-way telecommunications for hire to the public.

Q. So in your definition, does it matter whether or not the County, or the Miami-Dade Aviation Department, only offers its service to tenants of its facilities?

MR. GOLDBERG: Objection to form.

A. I don't quite -- does it matter?

Oh, if you're saying does it matter whether they are limiting the offering of their services to the tenants on their property, no,

that does not matter.

Q. Why doesn't that matter?

A. Because a shared tenant service provider can pick and choose where they provide service.

In other words, they do not have to -- they can offer service in whatever designated area that they wish to serve.

In other words, if they want to serve -- if they have two or three buildings on a property and they wish to -- they want to serve that, then that's all they have to serve. If they want to serve one building, that's all they have to serve. There is no mandate that they serve anything more, anything less.

Q. Okay. So under the portion of "to the public for hire," your focus is on where they serve and not to whom they serve?

A. No.

MR. GOLDBERG: Objection to form. Go ahead.

A. No. That's not what I'm saying.

Shared tenant, by its own definition, is a limited type application. It was designed for more narrow provisioning of telecommunications services, usually in a multi-tenant type building

or area. So to the public would mean -- it wouldn't necessarily mean what type of tenants are in the building.

In other words, you could have -- the bank could be serving another bank. It's still serving the public. It's not serving just itself. It's serving someone else. It's serving the public. Yeah, the public the tenants in the building.

Q. Okay.

A. Or it could be maybe those tenants are available for anybody to come in and use it.

But I don't think it matters really what type of tenant it is. As long as it's unaffiliated or it's unrelated, it's the public.

Q. Let me give you an example. Then when I give you the example, tell me if I'm correct under your analysis.

I'm a resident of Dade County. I want telephone service. I pick up and call BellSouth and say I want residential service. As long as I can give you the required deposit that I have to give you, and based upon my credit history, can you deny me residential service?

MR. GOLDBERG: Objection to the form.

Relevance.

A. Yes. I could deny telephone service to you depending upon whether or not we had had some type of bad experience with you for some reason or another. More than likely, we would not deny you serve.

Q. Now, your caveat was if there had been a bad relationship. Let's say I had been in another area that BellSouth serves and I didn't pay my bill and I left and didn't pay my bill. That could be a reason to deny me service?

A. Right.

Q. Absent some sort of financial problem, is there any basis that BellSouth would have to deny me service if I request it and can pay for it?

MR. GOLDBERG: Objection to the form.

A. There are also instances where it could have been some type of a situation where you had -- we had found that you had used service improperly. Or there are certain provisions where if you mismanage the service or use your service illegally for some reason we could deny the service.

Q. Okay. Given your answers and my

scenario, but for a credit problem or some sort of improper or illegal usage, could you deny me service?

MR. GOLDBERG: Objection to form.

A. Probably not.

Q. That you know, can the County deny service to one of its tenants?

A. Yes. The County can pick and choose who they wish to serve. They can pick and choose who can be a tenant in their building or on their property.

Q. Okay. So you said three things. You said the County can pick and choose to whom they provide service. The County can pick and choose to whom it allows as a tenant. And the County can pick and choose to whom it allows on its property?

A. Correct.

Q. And based on one of those three, or maybe some other things, therefore, it can determine whether it provides service to someone or not?

A. I can't really speak for what the County would use as criteria for determining whether or not they would, you know, provide service to a customer, or to a tenant, or even allow a tenant

to come into the building. But the County pretty well has the ability to manage that property.

Q. So one distinction between the County service and BellSouth's service is, and correct me if I'm wrong, BellSouth is very limited as to situations where it can deny someone who can pay for the service that service that they want.

Whereas, according to you, the County has a lot of latitude, has latitude as to whether or not it can deny someone service; is that a fair characterization?

MR. GOLDBERG: Objection to form.

A. I definitely believe the County has more latitude. I'm not that closely familiar with all the governing charters and so forth of the County. But I mean, certainly you do have rules by which you have to operate, and certainly you do have to submit to the public, for instance, certain things and so forth. But there is a difference in the way you can provide telecommunication services versus the way we can provide telecommunications services.

Q. You spoke earlier about the definition of shared tenant service providers. And by definition, they're supplying services to tenants

on the property. Can a shared tenant service provider provide service to a non-tenant?

MR. GOLDBERG: Objection to form.

A. By definition, provide service to a non-tenant?

They could, as a telecommunications company. If they were providing telecommunication services, they could provide to someone else. But it would be outside the definition of a shared tenant service provider.

Q. So if I understand you correctly, to be in compliance with the definition of shared tenant service provider, that provider could only provide those telecommunications services to its tenants?

A. To its tenants.

But within the definition of telecommunications company, it would be -- they could be more broad, possibly.

Q. Earlier on, when you were describing the definition of public, besides talking about unrelated, unaffiliated, you also talked about public type tenants. What does public type tenants mean?

A. Well, I think you get into this issue somewhat of accessibility to the public. But that

doesn't necessarily, in my mind, make or break the definition of public in the interpretation of providing two-way telecommunications to the public for hire.

Q. When you say accessibility to the public --

A. For instance, the airport. The public can go in and out of the airport. That just further supports the idea that the location, the area, is serving the public. The public is there. They come in and out of the airport. Anyone can use those services.

On top of that, you have anyone can come in and open a business there. The John Q Public can use and access those businesses. So that just goes to reinforce the idea that this is a public type operation.

Q. But when you talk about someone coming in from the public and accessing the businesses, does that translate to them being able to access the telecommunications services that the department is providing to its tenants?

A. Well, I don't think that is where I'm really going.

I think what I'm saying is those

businesses serve the public. And those businesses have access and are run to serve the public. And the telecommunication services serves that business, and that business is serving the public.

The business is also operating as a separate public, you know, entity. Miami-Dade County, as a political subdivision, operates to serve the citizens of Miami-Dade County.

Q. So under that analysis, wouldn't it be correct, whether the County provides services to tenants or just to itself, that that would be serving the public?

MR. GOLDBERG: Objection to form. Go ahead.

A. Well, the County, yes, the County serves the public. But if you were just serving yourself, in other words you were not providing service to any other tenants, any unaffiliated entity or whatever, then you would basically be -- you would not be providing telecommunications for hire to the public.

In other words, you would just be providing telecommunications services to yourself. So the idea of whether or not you're providing telecommunications to the public for hire probably

wouldn't enter into it.

Q. I'm just trying to understand the distinction. Part of what you just brought in on the previous explanation was the businesses that operate at the airport, American, or some of the shops, and those being businesses that the public accesses and therefore it goes to the whole, "to the public," the County, by definition, its business operates for the public, and people come either to the Aviation Department or other departments to get help, get advice, pay fines, what have you.

So if people still come into the County, and now it's just the County, let's say it's just the Aviation Department at the airport as opposed to Aviation Department and other things, people from the outside still come in and they still use the County to do whatever they need to, how is it not, in your definition, still access to the public?

MR. GOLDBERG: Objection. Asked and answered. We've been through this.

A. Well, I have answered it.

I think going back to what I originally said was that the accessibility is just another

level. In other words, it just goes to re-enforce our definition that you've got businesses that the County is offering service to, more than just the County. It's offering to unaffiliated tenants, businesses that are unaffiliated. And those businesses are public businesses.

In other words, anybody -- it's not necessarily just the accessibility, but the accessibility enhances it.

Q. But as you just stated, when you say your, that's BellSouth's definition of the public and that is yours. Currently, you have no other support for that definition of the public?

MR. GOLDBERG: Objection.

Mischaracterization of prior testimony.

Also, objection to the form.

Go ahead an answer.

A. Well, it is based on our understanding of what the general public is. What the word public is.

Q. And by our, you mean BellSouth?

A. Public is someone else other than ourselves.

Q. By our, you mean BellSouth Telecommunications?

A. Yes. That's our interpretation.

And based on my exposure to discussions within previous type activities, everyday activities, when other shared tenant service provider type situations have arisen. The experience of what is and what is not a shared tenant type situation, or the provision of telecommunications services for hire to the public.

Miami-Dade County is not the only one that has been classified as a shared tenant service provider, or been classified as a telecommunications company.

Q. Who has classified Miami-Dade County as a telecommunications company?

A. We say that you are providing two-way telecommunications services.

Q. So your classification that you're talking about is BellSouth's allegation?

A. Right.

Q. But there's been no Florida PSC determination that Miami-Dade County is a telecommunications company?

MR. GOLDBERG: Objection to the form.

A. No formal.

MR. HOPE: Now is a good time to break.

(Recess in the proceedings.)

Q. Before lunch we had gotten into the subject area of the allegation of the County offering two-way telecommunication services to the public for hire.

And one of the things, and I just want to make sure that I got this correct, one of the things that you stated was ownership of the telecommunications facilities doesn't really matter. Was that a correct characterization of something you said?

MR. GOLDBERG: Objection to form.

A. No. I don't think that's what I said. I think I was talking about the property itself.

Q. So you mean ownership of the underlying land?

A. In other words, to be an STS provider, you don't necessarily have to be owner of the property.

Q. What about from the telecommunications facilities that are providing the services, does the STS provider have to own those facilities to be an STS provider?

MR. GOLDBERG: Objection to form.

A. Depends on what you mean by own. They could own it. They could probably lease it. But it depends on -- I mean, they should have either ownership or leasing, where somehow they are providing, they are actually providing the telecommunications services.

Q. Okay.

A. Whether they own it or lease it, they are providing it.

Q. Let's try to be a little bit more specific and see if I'm going where you are.

Let's say Company A has a switch, a telephone switch. And that's the switch that is used in their building to provide telecommunications services to them and other tenants. Does it matter whether or not they bought that switch outright from Nortel, or whomever builds switches, or if they leased the switch from Nortel or whomever builds switches?

MR. GOLDBERG: Same objection to form.

You can answer if you understand the question.

A. In that particular case, I don't think

it really matters. They are the ones that are -- a lease is more or less like an ownership agreement. I'm not an attorney. But they are providing the telecommunications services.

Q. Can you provide me with an example where there would be a difference between ownership and leasing from a provision of the telecommunications services standpoint?

MR. GOLDBERG: Objection to form.

A. No. I don't think there's a difference as far as who is providing the telecommunications service itself.

I mean, for instance, in the case of Dade County, prior to 2002, Nextira was the owner of and the provider of the telecommunications services. They owned the infrastructure and so forth.

After 2002, the County actually purchased the assets. And therefore, they became the providers of telecommunication services.

Q. Let's look at that example then. After February of 2002, the County purchased the infrastructure. Prior to that, it leased the infrastructure and Nextira, previously Williams, previously Centel, managed that leased

infrastructure for the County. Is there a distinction in your mind based upon that?

MR. GOLDBERG: Objection to the form of the question.

Are you testifying or are you asking whether those facts are correct, first?

There's not a foundation. I'm going to object to form. Lack of foundation. Assuming facts not established in evidence.

MR. HOPE: If you want, I can establish the predicate for you.

MR. GOLDBERG: I think you need to through her knowledge, if she has it.

Unless you want her to accept that as true for purposes of your question and then go on.

Q. Let's take it to the point that you currently already stated. I won't go back the three generations. I'll just go the one that you already attested to.

Prior to 2002, when the County leased the telecommunications infrastructure from Nextira, and Nextira managed that system for them, them being the County, is there a difference then

in the situation where the County is leasing the equipment and having someone manage that leased equipment for them versus outright ownership of the equipment?

A. I'm not quite sure I agree with your characterization of the way it was prior to 2002. Because it was my understanding that Nextira owned the infrastructure and Nextira was providing the telecommunications services to the County. That's my understanding of it.

Then when the County purchased it, the County actually purchased the equipment and the infrastructure.

The County -- prior to 2002, Nextira was actually receiving the money. They were actually billing the tenants and they were receiving the money. And they were only giving a commission to the County, a commission payment to the County.

Then in 2002, the County decided they were going take over the infrastructure and they retained Nextira as a manager of the system. That was my understanding of it.

And yes, I would say there's a difference there in that in one case it was Nextira providing telecommunications services, and

then after 2002 it was the County providing telecommunications services.

Q. What, if anything, in your analysis would change if the provider of the service is providing it on behalf of another entity?

MR. GOLDBERG: Objection to form. Calls for a legal conclusion. Asked and answered. Just objection to the term analysis.

A. I really don't understand your question. I think you have to restate the question. I'm not sure I understand.

Q. Okay. In your example of pre-2002 and post-2002, you're making a distinction between the County's purchase of the infrastructure versus Nextira owning and operating the infrastructure.

Does that distinction change if there's any agreement which states that prior to 2002, the owner and operator of the equipment was doing it on behalf of Miami-Dade County?

MR. GOLDBERG: Objection to form.

A. I'm not sure there's a difference.

Prior to 2002, Nextira was providing the telecommunication services and they were receiving the payments. Now, they were doing it -- the

County had contracted with them to do that, but Nextira itself was actually providing the telecommunications services.

Afterwards, the County is actually receiving the money for the provision of the telecommunications services. They actually purchased the assets.

And I mean, it said right there in the resolution that they were purchasing this infrastructure and they're going to provide telecommunications services because they feel like it can be more efficient that they do so and they can manage it better. Even though they retained Nextira as a manager of kind of overseeing and providing service, providing repair and so forth.

Q. In your distinction of the operation before the County purchased the assets and after the County purchased the assets, does it matter whether or not the County collected the proceeds?

MR. GOLDBERG: Objection. Asked and answered. But you can answer again.

A. I think it enters into it, but I don't think it's the bottom line.

The bottom line is who is providing the telecommunications services for hire to the

public. And it's very clear by the County's own admission that they are providing shared tenant services. And if you're providing shared tenant services, they're providing two-way telecommunications services for hire.

Q. Is Miami-Dade County operating as a local exchange company?

MR. GOLDBERG: Objection to form.

MR. HOPE: What's the objection?

MR. GOLDBERG: Just that your question here calls for a legal conclusion and interpretation of statutes.

So that is the objection to form.

A. Here again, they admitted they're operating as a shared tenant service provider. As I went through before, shared tenant service provider by its own definition is providing telecommunications services. If you're providing telecommunications services, you're a telecommunications company.

Now, going back to what we originally discussed, the true definition of a local exchange company by the statute were those that were in business prior to January, that were certified prior to January, '95. Those 10 incumbents.

Anybody after that that provides local exchange service, you are a telecommunications company as far as we're concerned. Well, as far as the statutes are concerned. You fit the definition of a telecommunications company and you have stated you're a shared tenant service provider.

Q. By you, you mean the County?

A. The County.

The County has admitted they're a shared tenant service provider. And if you go back and look at the definition in the statute, that's someone who is providing telecommunications services. And if you go back to telecommunications services, a company, telecommunications company, it's someone who provides two-way telecommunications for hire.

Therefore, yes, you are a local exchange company to the extent that you're providing two-way telecommunications services.

Now, you would be -- you're classified as a shared tenant service provider, which in itself provides local service. But in the strict definition of local exchange company, no.

Q. So then the answer is the County is not

a local exchange company?

A. They're not.

MR. GOLDBERG: Objection. Asked and answered.

A. They're not a local exchange company as defined by the statute.

Local exchange company in the statute -- this is 364.02. Local exchange telecommunications company means any company certificated by the Commission to provide local exchange telecommunications service in this state on or before June 30th, 1995. Now --

Q. Is there any other definition?

MR. GOLDBERG: Are you done?

THE WITNESS: No.

A. There's a definition of telecommunications company, which encompasses not only a local exchange company, but encompasses shared tenant providers, competitive local exchange company, a CLEC, a pay telephone provider; all those particular providers, operator service providers.

Telecommunications company includes -- this is 364.02 again, paragraph 13. Telecommunications company includes every

corporation, partnership and person and their lessees, trustees, or receivers appointed by any court whatsoever in every political subdivision in the state offering two-way telecommunications service to the public for hire within this state by the use of a telecommunication facility.

Then it goes on to say what is not a telecommunications company.

Q. So based on the two definitions that you have supplied, the County is not a local exchange company?

A. No. They're a telecommunications company.

Q. Are telecommunications companies regulated?

A. Yes, they are. In varying degrees, but they are regulated.

Bellsouth is a telecommunications company.

Q. Is the County regulated?

A. The County, as a shared tenant service provider, is subject to some of the regulations in the telecommunications statute and the rules, the Florida code.

I guess it's regulated by its own

charter. I'm not familiar that much with the government hierarchy, but it does have a charter that has some dictates, which is regulation to some degree.

Q. Are there any federal regulations that pertain to shared tenant service providers?

MR. GOLDBERG: Objection to form. Calls for a legal conclusion or opinion.

But to the extent you can answer, please do so.

A. There are probably some regulations under a federal law that apply to shared tenant service, as well as to other telecommunications companies. I can't name them.

I'm thinking of more broad type rules, such as electrical codes. Some of the federal safety standards that have to do with the provision of telecommunication services. There may be others.

Q. Please describe, if you know, the specific telecommunications services provided or offered by the County at Miami International Airport.

MR. GOLDBERG: Let me object.

Doesn't this question go to the area

of the Notice of Deposition specifically item number vii about similar services?

MR. HOPE: Actually, it doesn't. It can overlap that, but it goes directly to the allegation that the County offers two-way telecommunications services at Miami International Airport and in general aviation airports.

MR. GOLDBERG: Maybe I misunderstood your question. I apologize. If you could have it read back.

(Thereupon, the requested portion of the record was re-read by the court reporter.)

MR. GOLDBERG: You mean two-way telecommunications services?

MR. HOPE: Yes.

A. Give me a moment here.

Q. Sure.

MR. GOLDBERG: Do you have a copy of the entire contract?

MR. HOPE: Is it in the binder? Because I haven't marked it.

MR. GOLDBERG: After relistening to the question, I definitely think that question goes to issue number vii

identified in your Notice of Taking Deposition about, you know, what services are provided at MIA by the County and how they would be similar to any telecommunications services provided by anybody else.

I'm going to make a standing objection to any questions on that area to Miss Sims, simply because we brought this morning George Hill as the other corporate representative to specifically answer those questions.

He is prepared to answer those questions as a corporate representative. He was appearing to answer questions about the County's provision of services at airport and how they may be similar to services offered by BellSouth or other providers. And therefore, it's inappropriate to ask Miss Sims, who is not designated to respond to that area or to these questions.

I'm going to reserve all of our rights to move to strike all questions and all answers if you proceed.

MR. HOPE: Were you done?

MR. GOLDBERG: Sure.

MR. HOPE: Under vii, which refers to BellSouth's allegations in paragraph 38 -- and there's a copy of the Second Amended Complaint in Plaintiff's Exhibit A. I'll just read specifically that paragraph.

Paragraph 38 in the Second Amended Complaint says, "BellSouth, the incumbent local exchange telecommunication company in Miami-Dade County, provides similar telecommunications services to commercial tenants at MIA and other airports and has been providing such services at all times relevant subject to the regulation of Florida Public Service Commission."

I asked specifically in terms of that subject matter dealing with that allegation that BellSouth provides similar services.

So from the standpoint of George Hill, George Hill can speak to this subject matter as to the similar services that BellSouth provides. This paragraph

doesn't talk about what the County necessarily does.

The allegation that I'm referring to, which is dealing with the services here, falls under ii, which comes from paragraph VII of the Second Amended Complaint, which specifically says the County "offers two-way telecommunication service to the public for hire by use of telecommunications facilities at Miami International Airport and the other general aviation airports within Miami-Dade County, including Kendall Tamiami, Homestead and Opa Locka, defined as other airports, collectively defined as MIA and other airports".

So when we're talking about what I'm asking for here, I just asked for does she know what services are provided. And you asked whether, as point of clarification, we were talking about two-way, which I said we were at Miami International Airport.

That falls directly under paragraph VII, which is one of the things that Miss

Sims has been designated as the corporate representative to answer.

MR. GOLDBERG: I disagree.

But because of your explanation it just gives me an additional grounds to object.

That is, you've asked those questions. Asked and answered. You previously asked her about two-way telecommunications services and she reviewed with you a litany of admissions by the County's own personal that they were providing two-way telecommunications at the airport.

If you're going to go a step further and ask her about the specific services that the County offers, that goes into number vii, and my standing objection and motion to strike remains.

But I, you know, I'm not going to instruct her not to answer the questions because I can take it up at a later date on this issue.

MR. HOPE: That's fair.

I am going into specific services, if

she knows, which has not been part of the previous questions that have been asked.

MR. GOLDBERG: Just for record purposes, does your prior question still remain pending based on her own personal knowledge?

MR. HOPE: Yes, it does.

MR. GOLDBERG: Okay. You can answer, if you remember the question.

A. I don't know all the services that are provided at Miami Airport.

I do know that based on -- for instance, there was a five year marketing plan that was produced, and in that five year marketing plan it talks about the target markets and some of the types of services that are being provided, which included voice, voice and data, voice and CUTE.

CUTE is a common use terminal equipment which is used.

And also it says, we know, SATS customers, that's share airport tenant service customers, are used. Voice, data network, high end system options.

So there's evidently voice, data and the common use terminal equipment is being provided.

There's also reference to -- it continually goes over references to voice and data services.

MR. GOLDBERG: Let me know when you're done.

THE WITNESS: Okay.

A. There's also equipment, terminal type of equipment provided. You provided maintenance of the equipment.

There's also references in the actual depositions of the County's own witnesses. Like references from Pedro Garcia talking about -- this is one on page 44, talking about customer -- whether or not the customer can -- what type of service they can have. Whether they can pick and choose a service that they have. The fact that they're in competition with BellSouth and with other providers.

So they indicate in these particular pages that there are similar services being provided to what BellSouth would provide, or what another telecommunications company would provide.

Q. But my question --

A. But it's voice and data type services. Without getting into the details of the technical make-up of these services.

And in the contract itself there's a whole litany of descriptions of facilities. And part of it has to do with the Nortel switch, evidently, and PBX equipment.

MR. GOLDBERG: Just for the record, the marketing plan that you mentioned, is that in the notebook?

THE WITNESS: Oh, yes. It's in the notebook and it's behind tab 9.

MR. GOLDBERG: Thank you. Just wanted to make a record.

THE WITNESS: It's a five year marketing plan, dated February 6, 2002.

Q. Do you know who Bill Glassy is?

A. No. Other than what is listed on the front of the five year marketing plan. It lists him as NextiraOne account manager underneath it.

Q. Given this is a marketing plan, a five year marketing plan, as we spoke today, do you know what level of the voice and data services that you spoke of that are mentioned in this plan have been implemented by Miami-Dade County?

A. I don't know the level of what's been implemented.

Q. Do you know if any of the services

mentioned in the marketing plan have been implemented?

A. Well, according to this five year marketing plan, they're starting with voice and voice data, and the voice and CUTE that exist at the time. Because it shows existing customers and target market.

I've also seen, of course, a customer list that was dated a little later than this.

Plus, the testimony of the depositions of Mr. Garcia and Mr. Jenkins indicated that over and over again, that voice communications and data communications were being provided.

Now, to what level, other than seeing the customer list, I don't know.

Q. If you know, do you know the specific two-way telecommunications services provided by Miami-Dade County and its general aviation airports?

A. I'm not that familiar with the general aviation airports. I was focused on the Miami-Dade Airport.

Q. Who would know what services, two-way telecommunications services Miami-Dade County is providing in its general aviation airports?

A. There was reference in the depositions to services being provided to those airports. That is the only reference that I'm familiar with. I don't know if George has any.

Q. George Hill might be someone?

A. I don't know if he has any insight on that or not.

Q. Is there a possibility that he might be someone who knows?

A. It's a possibility.

But it's definitely stated in the depositions that two-way telecommunications service is being provided to some of the other airports.

Q. Does the County offer two-way telecommunications services outside of either Miami International Airport or its general aviation airports?

MR. GOLDBERG: Objection to the form of the question.

A. I don't know.

Q. Would that be the same answer if I asked you that question in reference to offering those services outside of the County to other areas of the State of Florida?

A. I guess. I don't know.

And in order to reinforce the previous statement that I had that it was in the depositions about serving the other airports, in Pedro Garcia's deposition dated May 21st, 2003, there was a discussion on pages 13, 14, 15 and 16 about serving the other airports. There's discussion specifically about Opa Locka and Tamiami.

And the question came up: So you would agree with me, wouldn't you, that the County provides telephone services at these airports? And the response was yes.

Q. In that question, did it ask or describe who the end user of those telephone service is at those airports?

A. It was just a discussion about the airports themselves. At least in this portion of the deposition.

Q. So there could be a possibility that the telephone services that they spoke of that's being provided at the general aviation airports are actually just telephone services being provided to County personnel located at those airports?

MR. GOLDBERG: Objection. Calls for

speculation.

A. I don't really know for sure. Maybe we will find that further as we go along in the case.

Q. If you could refer to tab B in Plaintiff's Exhibit A, which is the Second Amended Complaint.

I'm going to mark as Defendant's 2 a Second Amended, but I'll have a clean one. So we'll work off this one right now. But I'll give you Defendant's 2 when it comes.

(Thereupon, Second Amended Complaint was marked as Defendant's Exhibit 2 for Identification.)

Q. If you could turn to page two, paragraph VII, which is the section that we've been dealing with, the statement about the County's offering of services, if you could just read that?

A. Do you want me to read it aloud?

Q. No, no.

A. Oh, okay.

Q. When you're done, just let me know.

A. Okay.

Q. What documents support BellSouth's allegation in paragraph VII of its Second Amended Complaint?

A. Well, I believe it's just as I discussed. It was based on the County's own witnesses in their depositions.

Q. Just the deposition transcripts?

A. Let me look for just a minute.

I think that's all that I have seen at this point. Like I said, we are just into the discovery, so there could be something else.

Q. Does the County have a service area for the provision of its telecommunications services?

A. What do you mean? I'm not following you.

Q. Is there an area that the County either provides or can provide the telecommunications services that it currently provides?

MR. GOLDBERG: Objection to this question.

You're asking her about information within your client's own knowledge, not BellSouth's. I mean, I just don't get the whole --

MR. HOPE: BellSouth has sued Miami-Dade County and made certain allegations.

The question I'm asking is trying to

ferret out the basis for its allegations. Does it have independent knowledge of what it's alleging? Is it speculation? Is it just reaching in the air and saying we think it's this, but we don't know and we'll find out later on?

That's the basis for the question.

MR. GOLDBERG: Well, you know, obviously she's answered a lot of questions that your own personnel in discovery has admitted.

I want to make a standing objection. As she said, discovery is still ongoing. For you to ask us about information in your possession doesn't seem to be an appropriate discovery tactic.

But be that as it may, if you can answer the question, please do.

A. Can you ask it again.

(Thereupon, the requested portion of the record was re-read by the Court Reporter.)

A. The County can determine whatever area it wants to as far as to provide service. It's not restricted as far as providing telecommunications, other than of course the

accusations that we have made that it's violated its charter in providing telecommunications services, period, without having the vote of the electorate.

But as far as an area, a service area for shared tenant service providers, or any other telecommunications company other than an incumbent, is not designated. It can be as small as they want or as large as they want.

Q. Do you know of any documents that exist which depict the area to which the County provides these shared tenant services?

A. Well, you have the resolutions and the contracts that state that -- for instance, this kind of refers back to the question you were asking before in this resolution dated September 24, 2002. It talks about shared airport tenant services consists of telecommunications, voice and data network service, which MDAD offers to itself.

The contract is still required to use its best effort to maintain SATS for the County to tenants -- and I can't read that word -- and users at Miami International Airport and the general aviation airports consistent with the provisions of the Public Service Commission in

Florida, or whatever government has jurisdiction over SATS, if and when applicable and at applicable laws.

That would lead one to believe that the service is being provided that we are referring to, which you are providing is at Miami International Airport and the general aviation airports.

So that in itself defines your area. At least, the area that we're discussing in this lawsuit.

Q. Does BellSouth have any negotiated agreements with Miami-Dade County?

MR. GOLDBERG: Objection. Asked and answered.

A. Negotiated agreements in terms of a negotiated agreement such as the one we were discussing previously with an interconnection type agreement with a competitive local exchange company? Not that I know of. Its not really required. It's not required of a shared tenant service type provider. In order for a shared tenant service provider to provide telecommunications services, it's not required.

Q. Although it's not required, does

BellSouth have any negotiated agreements with any other shared tenant service providers in the State of Florida?

A. I don't believe we do. Unless that shared tenant service provider became a CLEC also, which they can do. Or most shared tenant service providers buy service directly out of the tariff, or they buy service through some type of special assembly or contract service arrangement.

In other words, they buy service just as any other retail user would buy service, or end user would buy service.

MR. HOPE: Let's go off for a second.

(Proceedings held off the record.)

Q. Let me give you what is going to be marked as Defendant's 3, which is resolution R-361-82.

(Thereupon, Resolution R-361-82 was marked as Defendant's Exhibit 3 for Identification.)

Q. I'll give you a second to look it over and tell me if you've ever seen this document before?

MR. GOLDBERG: Can I ask on the record, David, whether this was produced in discovery by you?

MR. HOPE: Produced in discovery by me?

MR. GOLDBERG: By the County.

MR. HOPE: It should have been produced in discovery, if it wasn't. It might have been.

I'll tell you where it is. It's in our cross-motion for summary judgement. And that might have been prior to your discovery request, but you do have it.

And specifically, it was Exhibit A in the County's cross-motion for summary judgement and memorandum of law in opposition for plaintiff's motion for summary judgement and defendant's motion for summary judgement.

A. I've never -- I don't believe I've ever seen this document.

Q. As you're leafing through, let me just read into the record specifically what Plaintiff's 3 is. The title is "Resolution Awarding Contract DCAD 6-T-600 for Aviation Department Telecommunications System, Miami International Airport, to Centel Communications Company; authorizing Aviation Department to negotiate final

agreement for purchase or rental of proposed system; and authorizing execution of appropriate contract documents by the County Manager."

And then the body of the resolution, and there's a back-up behind it which we'll deal with, states, "Whereas this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference, now, therefore, be it resolved by the Board of County Commissioners of Dade-County, Florida that this Board awards contract DCAD 6-T-600 for the installation of telecommunications system for the Aviation Department at Miami International Airport to Centel Communications Company, and authorizes the Aviation Department to negotiate a final agreement with Centel for the purchase or rental of the telecommunications system proposed by Centel in response to publicly advertised request for proposals; upon the preparation of the appropriate contract documents for either purchase of the system and the amount not to exceed $1,046,347, or for rental of the system for a period of four years in the amount not to exceed $1,397,812, as set forth in the attached memorandum, the County Manager is

authorized to execute the contract on behalf of the County."

Then you have the voting members that signed off on it and it was sworn to on March 16th, 1982, and witnessed on the 25th of March, 1982, by the Clerk of Miami-Dade County.

MR. GOLDBERG: Were all the documents you just read from the resolution? The resolution attached all of these documents that we see here?

MR. HOPE: Yes.

MR. GOLDBERG: So all of this was really one document being a resolution and incorporated exhibits?

MR. HOPE: Correct.

I see there are handwritten page numbers on the bottom of each page because when it was submitted it was double-sided copies. So when it was written in, those were the page numbers that would have been the double-sided.

MR. GOLDBERG: Thank you.

MR. HOPE: You're welcome.

Q. Let me turn you to the Report of Evaluation Committee on DCAD Telecommunication

Proposal, which starts on handwritten at the bottom page five. If you flip one more page, which is page six, under Summary of Evaluation, can you read the six proposers that proposed the system under this resolution?

A. Out loud?

Q. Yes.

A. Centel -- these are names of proposers. Centel Communications-Purchase. Centel Communications-Rental. Southern Bell. Burnup & Sims. General Dynamics and Florida Telcom.

Q. Can you turn to the next page, which is handwritten page seven, and can you read the explanation of the paragraph under Southern Bell Telephone and Telegraph Company.

A. "Southern Bell offered a rental plan proposal based on the preferred single switch configuration using the Western Electric-Bell System Dimension 2000. However, the Dimension switch is an analog configuration as opposed to digital, which is the stated preference. Southern Bell took numerous exceptions to other preferred terms and conditions based on either their corporate policy or tariff restrictions. During the oral presentation, questions developed as to

whether the switch room specified would be sufficient to house the switch gear and battery reserve proposed by Southern Bell, probably resulting in a significant but unknown additional cost. As reflected in Exhibit B, the eight year present value cost of this proposal, based on a number of conservative assumptions, would be approximately $2,472,042.

Q. Looking at that, two things that you just read, Southern Bell at the time, now BellSouth, was one of the five proposers. Six ultimate proposals were submitted. Centel submitted two there were five individual proposers.

Is there anyone at BellSouth that you could identify who has knowledge of this process that went on in 1982?

A. No. I know of nobody who would have known what transpired.

Q. Is it fair to say though from your perusal of the document, albeit quickly, that BellSouth participated in the solicitation which resulted in the installation of the telecommunications system at Miami International Airport?

MR. GOLDBERG: Objection. Lack of foundation. Document speaks for itself.

She already testified she has no firsthand knowledge about the document or its contents.

You can answer.

A. Well, the document says that Southern Bell participated in the bid. And it appears that this bid was for -- towards the back it says it was a bid to serve the administrative functions of the airport, and to replace the outdated mechanical switching system serving the airport hotel.

So it sounds like this is, you know, just my reading, initial reading, sounds like a bid for telephone service to an end user, more or less.

Q. Who would that end user be?

A. The airport. I mean, the aviation department.

Q. Did I hear you also mention something about the hotel?

A. It sounded like a separate system on the hotel. But that's just my initial take on it.

But Southern Bell participated in the

bid.

Q. Based upon your quick reading of this document, because you have, as you've stated, no prior knowledge, can you determine from this document whether or not after the installation of this system for MDAD and the hotel, telecommunications services were being provided at the airport?

MR. GOLDBERG: Object to form. Same objection previously incorporated.

A. I don't have really enough information here to make a definitive statement one way or the other.

Q. Okay. Now, I note that you just stated to a previous question that there's no one that you know of that has a working knowledge of this document that was around in 1982.

Can you tell me, who would be the best person at BellSouth to interpret this document in terms of BellSouth's participation?

A. I really can't. Because this is a document that is over 20 years old. Systems have changed. Services have changed. This was prior to competition. I have no way of knowing who could give a real thorough interpretation of this

document, other than maybe an attorney reading a contract.

Q. Given that answer, do you know, prior to 1982, what entity provided the two-way telecommunications services at Miami International Airport?

A. No. I can speculate that it was Southern Bell. But that's a speculation.

Q. Based on that answer, and not wanting you to speculate, is it fair to say that you also wouldn't be able to tell how the services were provided, the extent of services provided, whether data network was provided, or shared tenant services were provided prior to 1982?

A. No. I have no idea.

MR. HOPE: Let's take a 10 minute break.

(Recess in the proceedings.)

Q. I know that you've answered this previously, or something dealing with this, but I'm just trying to make sure I specifically understand.

When it comes to the provision of two-way telecommunications services to the public for hire, the underlying facilities, does it

matter whether or not that provider owns them or leases them?

MR. GOLDBERG: Objection. Asked and answered.

A. I don't believe so.

Q. As long as they're the ones that are doing the actual provision of the service?

A. To me, owning and leasing is just about the same.

I mean, if you lease, it's your facility as long as you're leasing it. And so you have to have the whole -- it encompasses the whole definition.

In other words, you're providing telecommunications, two-way telecommunications for hire to the public. All three of those need to be together.

Q. Is there any scenario whereby an entity could provide two-way telecommunications services to the public for hire without having telecommunication facilities?

MR. GOLDBERG: Objection, form.

A. I guess it depends on what you mean without having telecommunications services.

Q. Without having telecommunication

facilities.

Let me give you maybe a better example. Is there a way, just like you spoke about earlier, where some of your competitors actually access your lines, BellSouth's lines, to provide the service that they provide, is there a situation where, let's say, an STS provider could access someone else's switch to provide the services?

A. I would guess it's possible. But they would have to have some -- I'm sure, you know, they'd have to be some kind of an agreement that they are providing. They may be using that switch, but they are actually providing the services and they're getting paid for the services and it's being provided to the public. And they are basically the one that is operating and providing the services. I think it's a matter of semantics.

Q. When did the County commence operating as a telecommunications company?

MR. GOLDBERG: Objection to form. Asked and answered.

A. In 2002, when the County purchased the assets from Nextira. That's when they became a telecommunications company. And by their own

admission, they were providing two-way telecommunications services.

Now, to further expand on that, in Pedro Garcia's deposition, which was the 2003 deposition, on page 61 the question was: Let's go to the 2002 agreement. Had the County been involved in the telecommunications business, so to speak, prior to that?

Answer: The County was basically a customer of NextiraOne prior to that. We were their customers as far as they were providing us the services along with the services they were providing to other tenants of the airport.

Question: Before February of 2002, was the County providing in any way telecommunications services to other tenants at the airport?

Answer: No.

Then on page 62, the question is: Let me make sure I understand this. Up until 2002, or February, 2002, Nextira or its predecessor, whoever it may have been, provided telecommunications services to tenants of the airport?

Answer: To some of the tenants.

Question: Some?

Answer: Including the Miami-Dade Aviation Department.

Question: All right. And in February, 2002, pursuant to this agreement with NextiraOne, the County became the providers and Nextira became, if you will, a subcontractor; is that a fair characterization?

Answer: That's correct.

Now, this was further corroborated by Maurice Jenkins in his deposition, which was taken in August of 2004, where there was quite a discussion about the 2002 agreement.

On page 194, it starts Question: Why did the County enter into the transaction it did in January, 2002, to purchase at assets of Nextira?

Answer: It was, if I recall properly, based upon an audit and a review by County auditors, as well as there was an individual that came from the police department that was there temporarily -- I believe it was Tom Arnold -- that looked at processes from law enforcement and looked at processes and looked at the agreement and other things and said it would be in the County's best interest to buy-out and own and

operate, rather than the existing way we were doing business at that time.

Question: What was the existing way that you were doing business at that time?

Answer: It was a managed services agreement in which Nextira provided the service, did the billing, and operated and supported the MDAD voice network or voice system, voice network, as it stood. And they managed and operated an there's a management fee. There was, I think, a percentage of the shared tenant revenue that came back. Whatever was generated came back to the department.

Question: So before January, 2002, Nextira owned and operated the telecommunications facility, correct?

Answer: They owned it. They operated it under a management agreement with the department. Yes, sir.

Question: And then after January, 2002, the County owned and operated the facility, correct?

Answer: The County owned the facility and we contracted to have someone operate it for us.

Question: But aren't we saying the same thing? If the County is operating the facility after 2002, albeit through a management agreement, the County is still operating the facility? You are operating it, correct?

Answer: We are still operating it, yes.

So by the County's own admission, before 2002 they were not operating telecommunications services. After 2002, they were. They purchased the agreement. They have this purchase agreement from Nextira.

Q. Were you able to determine from Defendant's Exhibit 3 what entity provided two-way telecommunications services at Miami International Airport after 1982?

A. No.

Q. Do you have any knowledge of the operations of Centel Communications Company at Miami International Airport?

A. The only knowledge that I have is based on what is stated in the --

Q. Resolution?

A. -- in the resolution. And I think I mentioned in the -- perhaps in the contract.

Yes, they are mentioned also in the

contract. It talks about the County -- this is on page one of the Non-Exclusive Telecommunications Data Network and Shared Airport Tenant Services Management Agreement. It's dated February 1st, 2002. There's a discussion about whereas, the County and Centel entered into an equipment lease and maintenance agreement as of July 24, 1990, and retroactive to February 7th, 1988, which ELM agreement terminates on February 6, 2002.

Also talks about they were -- the County an Centel entered into a shared airport tenant agreement which SATS agreement terminates on February 6, 2002.

So Centel was involved, evidently, in the provision of the telecommunications services. But I don't know all the details that were involved.

Q. Is there anyone at BellSouth that you could identify who has knowledge of Centel Communication Company's operation at Miami International Airport during the period of time from 1982 onwards.

A. I don't know of anybody. I mean, I would think the airport would know better, the airport personnel would know better than I do, or

anybody at BellSouth. Perhaps it will come out in discovery.

Q. Is there anyone that you know of at BellSouth that would know whether or not Centel Communications Company held a Certificate of Necessity from the Florida Public Service Commission?

A. That's not difficult to determine, I don't believe. But it's a matter of going to the Public Service Commission and doing the research to find out if they had a certificate.

Q. Do you know whether BellSouth ever raised the Complaint in front of the Florida Public Service Commission about Centel Communication Company's operation and provision of telecommunications services at Miami International Airport?

MR. GOLDBERG: Objection to form.

A. I don't know that there was any complaint filed.

Plus, I'm not really sure who was providing the telecommunication services. I do recall that '82 to I think '88 is the first time they're mentioned in this agreement, between that time period.

So I mean, I don't know if it was just the equipment that was being provided, or whether it was actually telecommunications services being provided. I don't have enough information.

Q. Is there anyone at BellSouth that you can think of that might have knowledge of what you just stated you don't know?

A. As far as the complaint, or --

Q. Provision of telecommunications services between 1982 and 1988?

A. At the airport?

Q. Correct.

A. Not that I can think of right offhand.

Again, I would think that that would come from County employees would know better.

Q. You mentioned through your analysis of resolutions that the resolution I showed you, in the initial service period, outside of who was providing the service that you don't know, it was for a period of 1982 to 1988.

I'm going to present to you now resolutions and contracts which deal with the period from '88 going forward to 2002.

My question is: Does BellSouth have a mechanism for tracking solicitations and following

the bidding process to decide upon whether it's going to be bid on a certain solicitation or not?

MR. GOLDBERG: Objection to form. If you understand the question, you can answer it.

A. We certainly have a marketing department that is very interested in bidding through any services that, you know, telecommunications type opportunities that may arise. They certainly review available RFPs. And based on business decisions, they bid or don't bid, just as any other bidder would make a determination as to whether to bid or not bid.

Q. Who is the head of BellSouth's marketing department?

A. Are you talking just Florida?

Q. Yes.

A. Services in Florida?

Q. Yes?

A. When you say head --

Q. Who is the manager, whatever title, manager, division chief?

A. The vice-president is -- I forget whether she's -- I think she's vice-president. Janet Craft.

Q. She would be the VP of Marketing?
A. Um-hum. Marketing large business.
Q. Where is she located?
A. I believe she's in West Palm, I believe.
Q. Does BellSouth have marketing personnel stationed in Miami-Dade County? Physically stationed in Miami-Dade County?
A. I'm not sure how the marketing organization is set up now. I assume that there may be some marketing people located here. You know, account managers, possibly. But I'm not that close to how they have their operation set up as far as the location of the account managers.
Q. If you know, do you remember who the -- if the terminology is still the same -- who the vice-president of marketing was for BellSouth in 1987, 1988?
A. No, I do not.
Q. Would there be some sort of mechanism for the County to find out who was in charge of marketing back then?
MR. GOLDBERG: If you know, you know.
A. I'm sure there's a way to find out by asking who succeeded you and who was your predecessor and so forth. I'm sure it could be

found out. Whether they still work for the company is another question.

Q. Right.

Let me present to you what's going to be marked as Defendant's 4, which is a document resolution number R-788-90. I'll give you a second to look at that.

(Thereupon, Resolution R-788-90 was marked as Defendant's Exhibit 4 for Identification.)

A. Okay.

Q. I'll also provide what's going to be marked as Defendant's 5, the Equipment Lease and Maintenance Agreement referred to in Defendant's 4.

And what's going to be marked as Defendant's 6, which is the Shared Airport Tenant Service Agreement, which is referred to in Defendant's 4.

(Thereupon, Equipment Lease and Maintenance Agreement was marked as Defendant's Exhibit 5; and Shared Airport Tenant Service Agreement was marked as Defendant's Exhibit 6 for Identification.)

Q. While you're looking over those documents, I'm just going to read into the record

Defendant's 4, which is resolution number R-788-90, which is a resolution "approving Equipment Lease and Maintenance Agreement and Shared Airport Tenant Service Agreement with Centel Communications Company; authorizing County Manager to execute same and to exercise the cancellation and renewal provisions contained therein."

The resolution goes onto say, "Whereas, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, copies of which are incorporated herein by reference, now, therefore, be it resolved by the Board of County Commission of Dade County, Florida that this Board hereby approves the Equipment Lease and Maintenance agreement and Shared Airport Tenant Service Agreement between Metro-Dade County and Centel Communications Company in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to execute the same for and on the part of the County and to exercise the cancellation and renewal provisions contained therein; the terms of the Equipment Lease and Maintenance Agreement shall commence retroactively as of February 7,

1988, for an initial period of four years, with County options to renew for five separate one year periods; the terms of the Shared Tenant Service Agreement shall commence retroactively as of February 7th, 1988, for an initial period of four years, with the County option to renew for five separate one year terms; this Board finds it in the best interest of the County to waive formal bid procedures in connection with the acquisition of the services, formal bidding being waived pursuant to 4.03(D) of the Home Rule Charter by two-thirds vote of the board members present and by written recommendation of the County Manager provided by Administrative Order 3-2; this Board further waives the provision of resolution number R-1586-72 relating to bidding requirements for acquisition of goods and services."

Then it goes on to show who voted for it and against it. The resolution was passed and adopted on the 24th of July, 1990.

And behind that is a two-page recommendation which deals with the history of the Centel agreements, and then certification by the clerk of the Board of Miami-Dade County.

MR. GOLDBERG: Do you know whether

this document was produced in discovery?

MR. HOPE: Yes. It was produced in discovery.

And you also have it -- at the bottom you will see Exhibit B. It was also Exhibit B to the County's cross-motion for summary judgement.

Q. Ready?

A. Yes.

Q. I'm not going to ask you that much because I'm assuming you've just seen this.

Prior to me presenting you with Defendant's 4, had you ever seen Resolution R-788-90?

A. No, sir. I don't believe so.

Q. Do you know of anyone in BellSouth who would have knowledge of this resolution?

A. Not that I know of.

Q. If you turn to the forth actual page of Defendant's 4, at the bottom it has a handwritten number two, because they're actually out of order. The justification memo was on top of the actual resolution.

If you could read the first full paragraph, which come commences on October 7th,

1987.

A. On October 7th, 1987, the County exercised its option in the Master Equipment Lease Agreement to purchase the hotel system. The Aviation Department is operating it today with Centel providing maintenance and repair services for that system.

Q. Based upon that statement, which is true and it's still going on today, would this make the County a telecommunications company?

MR. GOLDBERG: Objection. Form.

A. I don't believe so.

Because if I'm understanding these agreements correctly, all of them together, there are two things working here.

First of all, there's equipment that is being provided to the airport and the airport -- the County is evidently entered into a lease agreement for the equipment, the telecommunication type equipment. But the actual service is being provided by Centel, as stated in the resolution. And in the agreements it says a Shared Airport Tenant Service Agreement by which Centel shall provide telephone service to airport tenants and users.

It says this is in a continuation of the agreements that were authorized in resolution R-361-82, dated March 16, 1982.

So it appears that Centel is actually providing the telecommunications services. And even though the equipment may be owned by or leased by the County, the actual provision of the telecommunications service, the billing of the services is being done by Centel.

Q. Now, what you just read referred to, the airport system, is there anything in there that speaks to Centel as providing the service to the hotel in the airport?

A. Well, I'd have to look further in here. It says there is one -- there's a reference on page seven of the Exhibit 6, Shared Airport Tenant Service Agreement. Paragraph 9B says, "Because the parties contemplate that the County may provide the SATS for the airport and hotel system at some point in the future, such documents shall provide at a minimum that the contracts of customers are fully assignable to the County by Centel."

I would have to study this a little further to see what Centel is providing service

to. But it would lead you to believe it's providing service to both, even though the equipment may be leased by the County.

Q. From your brief review of the documents, the two agreements, the Shared Airport Tenant Service Agreement and the Equipment Lease and Maintenance Agreement, have you seen anything in those documents that contradicts the statement in the paragraph, the last sentence of the two sentence paragraph, which says the aviation department is operating it -- referring to before as the hotel system -- today with Centel providing maintenance and repair services for that system?

MR. GOLDBERG: Let me object. The documents speak for themselves. They're lengthy. She already testified that she hasn't fully reviewed everything. I think that's an unfair question. There's a lack of foundation.

MR. HOPE: What's the lack of foundation?

MR. GOLDBERG: She hasn't had the ability to read the entirety of the contract.

MR. HOPE: So the foundation is she

hasn't had a chance to see it.

MR. GOLDBERG: She hasn't had a chance to read it. She hadn't seen it before today. She had no knowledge of the transaction to begin with.

You're trying to draw out conclusions from somebody that said she had no knowledge. The documents speak for themselves. You're asking her to point out explicit provisions of a document, whether they exist or don't.

You and I can argue about it later and draw whatever conclusions we want for the judge. It doesn't help the trier of fact for her to sit here and say yes it's in there, no it's not.

If you want to ask her about knowledge she has about the contracts over and above what the documents say, I'm fine with that.

MR. HOPE: I was just asking in terms of your objection of foundation. Foundation goes to whether or not I laid the proper foundation, not to whether or not she has the requisite knowledge. But

you've cleared your point.

A. Like I said before, it appears to be unclear. The paragraph says what it says. It says that the Aviation Department is operating it today with Centel providing maintenance and repair.

Whereas, on the service agreement -- I mean, the share tenant service agreement, the way the paragraph is worded on page seven that I read before about the parties contemplate the County may provide, because the parties contemplate that the County may provide the SATS for the hotel and airport in the future. I'm not real clear as to whether or not the hotel system was being -- the telecommunications system in the hotel was being provided by the aviation department or by Centel. It says what it says.

Q. Okay. Because of the clause that doesn't necessarily clarify who is providing SATS services?

A. Correct.

Then there would be some question as to whether or not, if it was just a provision of service to a hotel, whether or not that would actually be a shared tenant service type service

anyway.

Q. Explain for me, if you can, the importance of, or if there's any importance at all, to the hotel service being a "shared tenant service."

MR. GOLDBERG: Object to form.

A. Well, because there is a reference here to shared airport tenant service in the context of this paragraph. It talks about SATS and whether the interpretation of SATS encompasses the hotel, in this particular hotel, which would indicate or lead me to believe that Centel was providing the service, if indeed the hotel was under the SATS agreement, the shared tenant service agreement.

Q. But because you haven't seen these agreements previously, you don't want to -- or you don't have a basis to state with any certainty whether or not the hotel was under the SATS agreement. And therefore, any answer would be pure speculation on your part?

A. That's correct.

Q. I know that you stated previously that you had never seen resolution R-788-90. And you didn't know of anyone in BellSouth who knew of the resolution. Do you know anyone at BellSouth who

has knowledge of either the equipment lease and maintenance agreement, or the shared airport tenant service agreement?

A. No. Because it was with Centel. And as I stated previously, I guess Centel knows and I guess the County knows more so than we would.

Q. Was Centel Communications company a competitor of BellSouth?

A. Well, it depends on which Centel this is. If it's the Centel that I am knowledgeable of -- and believe me, a lot of competitors and so forth have similar names -- there used to be -- Sprint used to be Centel. Sprint is comprised of Centel and United, the old Centel and United telephone companies, local exchange telephone companies. If indeed this is the same Centel, then yes, Centel is a competitor of BellSouth.

Now, at the time that this was entered into, which is prior to full-fledged local exchange competition, we did have local exchange competition prior to 1995, but it was in the form of the shared tenant services. It was in the form of alternate access venders. So it was not the same.

But yes, to the extent that they were

providing telecom services, yes.

Q. In terms of competition, at least from the standpoint of bidding on the initial installation of the telecommunications systems at MIA in 1982, Southern Bell, now BellSouth, was one of the proposers and Centel Communications, the same entity, was another one of the proposers?

A. True.

Q. Do you know whether BellSouth filed any sort of complaint or challenge to the County's purchase of the hotel communication telecommunications system in 1987?

MR. GOLDBERG: Objection, form. Lack of foundation. Lack of predicate.

You can answer if you understand the question.

A. I'm not aware of any.

Q. Is there anyone at BellSouth who might have knowledge of whether or not BellSouth filed some sort of complaint, or instituted some sort of complaint or challenge?

A. The legal department would probably know.

Q. Who is the head of the legal department?

MR. GOLDBERG: At what time period?

Q. Circa 1988 to 1990?

A. I'm not sure about who was the head then. We had a couple of changes and I'm not sure with about the dates.

Q. What's the name of the last person that you're sure was the head of the legal department?

A. Well, the one that is there now. But she was not there at that time frame.

Q. Her name?

A. Nancy White.

Q. But you don't know her predecessor?

A. Yes. Her predecessor was -- oh, God. His name just escaped me. If you hadn't asked me I could have told you. I can see him. If I can remember, I'll tell you later.

Q. That's fine.

A. I'll remember. It's getting there. It'll come to me in the middle answering another question.

Q. Let me ask you a hypothetical based on your quick reading of the two agreements. There's a question as to whether or not Centel was providing the shared airport tenant services to the hotel.

Assuming arguendo that Centel was not

the provider of shared airport tenant services to the hotel, does the County's ownership of the hotel system constitute operation as a telecommunications company?

MR. GOLDBERG: First, let me object. She's not here as an expert, so hypotheticals are not appropriate for a corporate representative or lay witness.

Secondly, calls for speculation.

Third, there's an entirety of lack of foundation.

Having said that, so the record is very clear, you're asking for speculation on facts that may or may not be true.

If you understand the question you may answer.

A. Providing telephone service to a hotel, if the airport owns the equipment, which means like the PBX or whatever type of serving arrangement is in the hotel to service the hotel itself, the hotel is a stand alone entity.

If someone owns the hotel -- let's say the County owns the hotel. The County runs the hotel. Provision of hotel service by itself would not be classified as a telecommunications service

provider.

In other words, if you just owned a hotel and provided service to that hotel, that's your business. That in itself is not providing two-way telecommunications for hire to the public. It's hotel service.

Q. Because it's under your previous --

A. It's your business. It's your -- it's a separate, stand-alone operation.

Now, I can't say for sure based on what I have seen who was actually providing the service into the hotel. In other words, was it -- is it actually that the County has and owns that equipment, but they're not really providing the telephone service into the hotel. It could have been. I don't know it. Could have been BellSouth providing the actual connection into the hotel.

Q. When you say the actual connection into the hotel, do you mean the connection from the outside to the PBX in the hotel?

A. Yes.

But see, the ownership of the equipment in the hotel by itself as a stand-alone operation doesn't really meet the definition of an STS.

Q. Let me back you up for a second.

A. Or a telecommunications provider. Just a stand-alone hotel standing there doing business by itself.

Q. Let me back you up for a second and see if I understand clearly what you're saying.

Are you saying that if in the case of the hotel, for example, an entity like BellSouth is providing the service from the outside up to the hotel PBX, then what happens on the other side of the PBX doesn't constitute the provision of two-way telecommunications services.

MR. GOLDBERG: I'm going to renew my previous objection to this question and also lodge a standing objection to all future questions having to do with this hypothetical, which assumes facts not yet established, not yet in evidence. And there's a clear lack of foundation, et cetera.

A. Let me put this in perspective. We are talking solely about the hotel. I mean, this could be any individual business operation. I'm not talking about a PBX that is, for instance, as is operating today in to serve the tenants of the airport.

We're talking about an individual business operation, which is the hotel. BellSouth or any other local exchange provider can provide service. You've got to buy some kind of access to the public switch network. As access connects to the PBX, service is provided from that PBX to the hotel as a hotel service.

It is not a two-way telecommunications service. The hotel itself is not a two-way telecommunications service. Whoever owns the PBX is not providing two-way telecommunications services in that particular case for hire to the public. It's an individual business. The hotel is the customer. The hotel is the end user.

Now, just saying that by BellSouth or any other local exchange company connecting to a PBX, that anything else that happens on the other side of the PBX is not two-way telecommunication, that's not what I'm saying. What I'm saying is in this particular instance where it's a specific business, one business, one entity, one customer who has a PBX and he is serving his own needs, his own business.

Q. Okay. And the hotel fits that description?

A. A hotel fits that description. I can't speak totally to -- I don't know the total circumstances on this one.

Q. Now, in that description, does it matter whether or not the owner of the hotel is in the hotel business, like a Hyatt or a Marriot, or some other unrelated business?

MR. GOLDBERG: Same objection renewed.

I might also add the questions are outside the scope of the Notice of Deposition.

A. I really -- I don't think so. All I'm addressing is a hotel operation by itself, a typical hotel operation as a stand-alone business.

Now, if that hotel, such as the one that is within the airport, as I understand it, operates today, could operate directly off of the PBX, or it does operate directly off of the PBX that is owned and operated by the County, and in that particular situation, it becomes part of a shared tenant service arrangement, because the service is being provided by the shared tenant service providers. It's not for the County's own operation. It is a separate operation.

Q. In that example, that would be an example of constituting two-way telecommunication services to the public for hire?

A. Yes.

Q. But you, sitting here today, have no knowledge of whether or not that in fact was the operation at the hotel circa when this resolution was passed and the system was purchased by the County?

MR. GOLDBERG: Objection. Other than the representations you made in your questions.

A. I can only speculate what I perceive from these agreements.

Q. I had asked you earlier, and I'm not sure if I received an answer, as to whether or not you knew -- well, maybe, correct me if the answer was BellSouth legal -- whether or not you knew of anyone who had knowledge of these agreements at BellSouth?

A. Correct.

Q. Answer was BellSouth Legal?

A. Yes.

Q. Thank you.

A. Well, I want to clarify that. I said

BellSouth Legal might have knowledge about whether or not a Complaint was filed. I don't know.

I think I said I really didn't know who would have direct knowledge about the particular agreements, other than Centel and the County.

Q. Okay.

MR. HOPE: Now is a good time for a break.

(Thereupon, having not been concluded, proceedings were recessed.)

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IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,
Defendant.
_____/

RE-NOTICE OF TAKING DEPOSITION

TO: Martin B. Goldberg, Esq.
LASH & GOLDBERG, LLP
1200 Bank of America Tower
100 Southeast Second Street
Miami, Florida 33131

YOU ARE NOTIFIED that the undersigned will take the deposition of the following party:

Deponent: Corporate representative(s) of BellSouth Telecommunications, Inc. ("BellSouth") with the most knowledge of: (i) BellSouth's provision of two-way telecommunications service within its service area in Florida, including Miami-Dade County (the "County"); (ii) BellSouth's allegation in paragraph 7 of its Complaint for Declaratory and Injunctive Relief and for Issuance of Writ of Mandamus (the "Complaint") that "[t]he County offers two-way telecommunications service to the public for hire ... at Miami International Airport ("MIA") and other general aviation airports ..."; (iii) BellSouth's allegation in paragraph 11 of its Complaint that "[t]he County ... is operating a Telecommunications Company ..."; (iv) BellSouth's allegation in paragraph 22 of its Complaint that "the County offers shared tenant services to at least one hotel, to retail shops, and to other commercial entities which are 'facilities such as hotels, shopping malls and industrial parks'"; (v) BellSouth's allegation in

DEFENDANT'S EXHIBIT
1
12-2-04

paragraph 30 of its Complaint that "[p]rior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company ..." (vi) BellSouth's allegation in paragraph 32 of its Complaint that "based solely on the Resolutions, the County now owns and operates a telephone utility ..."; (vii) BellSouth's allegation in paragraph 38 of its Complaint that "BellSouth, ..., provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, ..."; (viii) BellSouth's allegation in paragraph 46 of its Complaint that "BellSouth .. has a special injury ..."; (ix) BellSouth's allegation in paragraph 47 of its Complaint that "the County's operation of a telephone utility ... affects BellSouth's business opportunities with, and potential income from, customers at MIA and the Other Airports"; and (x) BellSouth's statement in its Reply to the County's Answer and Affirmative Defenses to Second Amended Complaint that "BellSouth denies and avoids this 'Second Defense - Laches.'"

before a person authorized to take depositions in the State of Florida. The deposition is for the purpose of discovery, use at trial, or any other purpose permitted pursuant to Fla. Rule Civ. P. 1.310. The deposition will commence at the location and time listed on this notice, and continue from day to day until completed.

Place of Deposition: **County Attorney's Office**
Miami International Airport
Terminal Building, Concourse A, 4th Floor
Miami, Florida 33122

Date/Time: **Thursday, December 2, 2004 @ 10:00 a.m.**
Friday, December 3, 2004 @ 10:00 a.m.

Respectfully submitted,

ROBERT A. GINSBURG
Miami-Dade County Attorney
Aviation Division
P.O. Box 592075 AMF
Miami, Florida 33159-2075
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By: _____
David Stephen Hope
Florida Bar No. 87718
Cynji Lee
Florida Bar No. 537705
Assistant County Attorneys

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was facsimiled and mailed this *26th* day of October 2004, to ***Martin B. Goldberg, Esq.***, Lash & Goldberg LLP, 1200 Bank of America Tower, 100 Southeast 2nd Street, Miami, Florida, 33131; ***Dorian Denburg, Esq.***, BellSouth Corporation, 1155 Peachtree Street, Suite 1700, Atlanta, Georgia 30309-3610; and ***Sharon Liebman, Esq.***, BellSouth Telecommunications, Inc., 150 West Flagler Street, Suite 1910, Miami, Florida 33130.

David Stephen Hope
Assistant County Attorney

Copies furnished to:

KRESSE, VALDES-PRIETO & ASSOCIATES, INC.
Court Reporters
44 West Flagler Street
Suite 300
Miami, Florida 33130

In accordance with the American with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact ADA Coordinator no later than seven (7) days prior to the proceeding. Telephone: (305)375-2008 or (305)375-2006 for Court ADA. If hearing impaired, telephone (305)375-2007 or 1-800-955-8771 for assistance.

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION

CASE NO. 02-28688 CA (03)

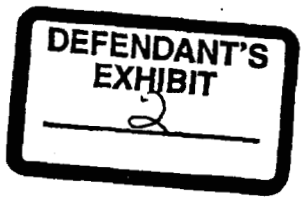
BELLSOUTH TELECOMMUNICATIONS, INC.

Plaintiff,

v.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/



SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND FOR ISSUANCE OF WRIT OF MANDAMUS

Plaintiff, BellSouth Telecommunications, Inc. ("BellSouth"), files this Second Amended Complaint for Declaratory and Injunctive Relief and for issuance of a Writ of Mandamus against Defendant, Miami-Dade County (the "County"), and alleges:

JURISDICTION AND PARTIES

1. BellSouth brings this action for declaratory and injunctive relief pursuant to Chapter 86 and Section 26.012(3), Florida Statutes (2002), based upon the County's violation of The Home Rule Amendment and Charter of Miami-Dade County, Florida (the "Charter") as well as the County's violation of Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, which incorporate certain prior provisions of the Constitution of 1885, as amended.

2 BellSouth further brings this action for issuance of a Writ of Mandamus to compel the County to perform its ministerial obligation pursuant to Chapter 364 of the Florida Statutes, and its accompanying regulations as set forth in the Florida Administrative Code governing the regulation of telecommunications companies

3. BellSouth is a Georgia corporation doing business in Miami-Dade County.

4. BellSouth is a local exchange telecommunications company, as defined in Chapter 364, Florida Statutes

5 Pursuant to its Certificate of Public Convenience and Necessity issued by the Florida Public Service Commission ("FPSC"), BellSouth "offer[s] two-way telecommunications service to the public for hire . . . by use of a telecommunications facility" within its service area in Florida, including Miami-Dade County

6 The County is a political subdivision of the State of Florida and is located in Miami-Dade County

7. The County "offer[s] two-way telecommunications service to the public for hire by use of a telecommunications facility," at Miami International Airport ("MIA") and other general aviation airports within Miami-Dade County, including Kendall, Tamiami, Homestead and Opa-Locka (the "Other Airports) (collectively MIA and the Other Airports may be referenced as, "airports").

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FACTUAL ALLEGATIONS

A THE LEGAL FRAMEWORK

8. Section 1 01(A)(14)(b) of the Charter states:

> The county shall not operate a . . . telephone utility to serve any territory in the county which is being supplied with a similar service except by a majority vote of those qualified electors voting in an election held not less than six (6) months after the Board has passed an ordinance to that effect by a two-thirds (2/3) vote of the members of the Board present. Such ordinance shall contain information on cost, method of financing, agency to regulate rates, agency to operate, location and other information necessary to inform the general public of the feasibility and practicability of the proposed operation. (Emphasis added).

9. A "telephone utility," as used in the Charter, is a Telecommunications Company" as provided in Section 364.02 (13), Fla Stat and the regulations promulgated thereunder.

10. Section 364.02 (13), Fla. Stat defines a Telecommunications Company, and thus a telephone utility, as:

> 13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. (Emphasis added).

11. The County, a political subdivision, is operating a Telecommunications Company and is thus subject to regulation by, and the exclusive jurisdiction of, the FPSC with respect to the County's offering two-way telecommunications services to the public for hire.

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12 Rule 25-9.002 of the Florida Administrative Code, governing the FPSC's regulatory authority, defines the terms "utility" or "public utility" as follows

> "For the purposes of these regulations the following definitions shall apply (2) Except where a different meaning clearly appears from the context, the word or words "utility" or "public utility" as used in these rules shall mean and include all electric and gas utilities, water systems, wastewater systems, telephone companies and telegraph companies which are, or may hereafter be, subject to the jurisdiction of this Commission (Emphasis added).

13 Moreover, Rule 25-4.003(10) of the Florida Administrative Code, governing the FPSC's regulation of Telephone Companies, provides the following definitions:

> "Company," "Telecommunications Company," "Telephone Company," or "Utility." These terms may be used interchangeably herein and shall mean "telecommunications company" as defined in Section 364.02(12) [sic], Florida Statutes (Emphasis added).

14 By operating a "Telecommunications Company," the County is *a fortion* operating a "Telephone Utility."

15 Before the County can operate a telephone utility in a territory within the County where similar services are already supplied, the Charter requires the Board of County Commissioners (the "Board") first to pass an ordinance by 2/3 vote of the members of the Board present, and to obtain the approval of a majority of the qualified electors in Miami-Dade County

16 In addition to the requirements imposed by the Charter, the Board's authority to authorize the provision of telecommunications services to the public for hire is further circumscribed by general law which explicitly grants the FPSC exclusive jurisdiction over the regulation of such services

17. The Florida Legislature, by general law, provided in § 364.01(2) the following

> It is the legislative intent to give exclusive jurisdiction in all matters set forth in this chapter to the Florida Public Service Commission in regulating telecommunications companies, and such preemption shall supersede any local or special act or municipal charter where any conflict of authority may exist (Emphasis added.)

18. The County is presently operating a Telecommunications Company, as evidenced by its offering and providing telecommunications services, including shared tenant services, to airport tenants, the provision of which are subject to regulation by, and the exclusive jurisdiction of, the FPSC.

19. Section 364.339, governing the provision of shared tenant services ("STS"), states that "the [Florida Public Service] Commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which.

> (a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and
>
> (b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company." (emphasis added).

20. Pursuant to its authority under § 364.339, Fla. Stat., the FPSC enacted a limited "Airport Exemption." The "Airport Exemption" states

> Airports shall be exempt from the other STS rules due to the necessity to ensure the safe and efficient transportation of passengers and freight through the airport facility. The airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks. However, if the airport partitions its trunks, it shall be exempt from the other STS rules for service provided only to the airport facility. (Emphasis added)

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Rule 25-24.580, F.A.C.

21 As the plain language of the rule makes clear, the Airport Exemption does not grant the County an exemption from the certification requirement applicable to all STS providers with respect to the County's provision of shared tenant services to facilities such as hotels, shopping malls and industrial parks.

22 As set forth below, the County offers shared tenant services to at least one hotel, to restaurants, to retail shops, and to other commercial entities which are "facilities such as hotels, shopping malls and industrial parks."

23 Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, incorporates certain prior provisions of the Constitution of 1885, as amended, that expressly limit the authority of Miami-Dade County as follows:

> Section 11 (5) Nothing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the state of Florida and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County . . . nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein. (emphasis added)
>
> Section 11(9) [I]t is further declared to be the intent of the Legislature and of the electors of the State of Florida that the provisions of the Constitution and general laws which shall relate to Dade County and any other one or more counties of the State of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida enacted pursuant thereto by the Legislature shall be the supreme law in Dade County, Florida, except as expressly provided herein and this section shall be strictly construed to maintain such supremacy of this Constitution and of the Legislature in the enactment of general laws pursuant to this Constitution (emphasis added)

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24. Consequently, the County, through the Board, both (1) violated the Charter and (2) exceeded its constitutional authority, by purporting to authorize the County Manager and the Miami-Dade Aviation Department ("MDAD") to operate a telephone utility by offering telecommunications services to the public for hire, including to facilities such as hotels, shopping malls and industrial parks, based solely on the County's resolutions, without the prior approval of the FPSC, and without passing the required Ordinance or obtaining the required vote of a majority of the qualified electors

B. THE BOARD VIOLATED THE CHARTER AND ENACTED RESOLUTIONS THAT UNCONSTITUTIONALLY CONFLICT WITH GENERAL LAWS GRANTING EXCLUSIVE JURISDICTION TO THE FPSC.

25 On January 29, 2002, the Board approved Resolution No R-31-02 authorizing the County to enter into a Non-Exclusive Telecommunications, Data Network, and Shared Airport Tenant Services Management Agreement (the "Agreement") with NextiraOne, LLC ("Nextira").

26. Under the Agreement, among other things, the County acquired title to Nextira's telecommunications facilities, and Nextira assigned its agreements with customers for telecommunications service to the County See County Manager's Memorandum and Resolution R-31-02, dated January 29, 2002, attached as Composite Exhibit A

27 Under the Agreement, the County acquired telecommunications facilities, authorized MDAD to operate the facilities to provide telecommunications services to customers for hire, and authorized the County to receive all gross revenues from the provision of the telecommunications services

28 During 2001, the year prior to the County's acquisition and operation of the telephone utility at the airports, the gross revenues for the provision of telecommunications services to airport tenants totaled approximately $2,670,024

29 On September 24, 2002, the Board adopted Resolution No R-1091-02 (collectively, R-1091-02 and R-31-02 are referenced hereinafter as the "Resolutions") authorizing the County Manager or his/her designee to negotiate and execute new Airport Rental Agreements between the County and customers at the airports to govern the County's provision of telecommunications services to these tenants, including hotels, restaurants, retail shops and other commercial entities ("Commercial Tenants") See Resolution R-1091-02, County Manager's Memorandum and Miami-Dade Aviation Department Airport Rental Agreement attached as Composite Exhibit B

30 Prior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company because it did not offer two-way telecommunications services to the public for hire by use of a telecommunications facility at MIA or the Other Airports

31 Nextira and, upon information and belief, its predecessor private entities offered the two-way telecommunications services to the airport tenants for hire using telecommunications facilities owned by these private entities prior to the passage of the Resolutions

32 Thus, by passing the Resolutions, and, based solely on the Resolutions, the County now owns and operates a telephone utility by offering two-way telecommunications

services to the public for hire, including to Commercial Tenants, at MIA and the Other Airports using telecommunications facilities

33 As testified to by Pedro Garcia, MDAD's Chief of Telecommunications, the County, through its legal counsel and management, and with the participation of the management of the airport, determined that the County had the authority to authorize MDAD and the County Manager to operate the telephone utility/telecommunications company at the airports without seeking prior approval from the FPSC.

34. Thus, the County never submitted an application to the FPSC to obtain a certificate of public convenience and necessity

35 The Commercial Tenants to which the County currently offers and provides two-way telecommunications services for hire at the airports include at least one hotel, several restaurants, retail shops and other commercial entities A list of the County's customers, as of the date of that list, is attached hereto as Exhibit "C," and Pedro Garcia's deposition testimony confirming that MDAD provides STS to a hotel tenant at MIA is attached hereto as Exhibit "D."

36 By offering telecommunications services to Commercial Tenants, the County is in direct competition with other telecommunications companies operating at the airports, including BellSouth

37. Indeed, the County's professed goal, as testified to by Pedro Garcia, in offering telecommunications services to Commercial Tenants is to make money and to compete with BellSouth and other telecommunications companies operating at the airports.

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38 BellSouth, the incumbent local exchange telecommunications company in Miami-Dade County, provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, subject to the regulation of the FPSC.

39 In fact, by offering shared tenant services to Commercial Tenants at the airports, the County is necessarily offering similar services to those already offered at the airports by BellSouth because shared tenant services, by definition, are services which duplicate or compete with local service provided by an existing local exchange telecommunications company.

40 The provision of shared tenant services to these Commercial Tenants at the airports is not necessary to ensure the safe and efficient transportation of passengers and freight through the airports' facilities.

41 The Commercial Tenants at the airports to which the County offers shared tenant services are facilities, such as hotels, shopping malls and industrial parks.

42 Accordingly, the County's provision of shared tenant services to these Commercial tenants is not exempt from the certification requirements and other regulations enacted by the FPSC and as provided in Chapter 364 of the Florida Statutes.

43 Thus, by passing the Resolutions, the Board purported to authorize the County, based on its own authority and without prior approval of the FPSC, to offer shared tenant services to the Commercial Tenants at MIA and the Other Airports.

44 Moreover, whether or not the County, pursuant to the "Airport Exemption," is entitled to a limited exemption from "other STS rules" governing the provision of shared

tenant services, the County is still operating a telecommunications company, and thus a telephone utility, in violation of the Charter, and the County is still subject to FPSC jurisdiction by virtue of its operation as a telecommunications company.

45. MIA and the Other Airports are territories in Miami-Dade County.

46. BellSouth has standing to bring this action because it has a special injury resulting from the County's violation of Section 1.01(A)(14)(B) of the Charter, as it relates to the operation of a telephone utility by the County.

47. Specifically, BellSouth's injuries are different in kind from that of the general public. The County's operation of a telephone utility in violation of the Charter affects BellSouth's business opportunities with, and potential income from, customers at MIA and the Other Airports.

48 BellSouth also has standing to compel the County to comply with its statutory and regulatory obligations under Chapter 364, Florida Statutes, because those statutes and related rules expressly govern all telecommunications companies and the provision of telecommunications services

49 The statutory scheme explicitly promotes and seeks to ensure fair and effective competition amongst telecommunications companies, including BellSouth and the County

50 Finally, BellSouth has standing to bring this action because it is challenging the constitutionality of the County's Resolutions purporting to authorize the County to operate a telecommunications company independently, and in direct conflict with, general

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law passed by the Florida Legislature which grants exclusive jurisdiction to the FPSC to authorize persons to provide such services and regulate providers thereof.

COUNT I
DECLARATORY JUDGMENT
(The County's Violation of the Charter)

51 BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint.

52. An actual and justiciable controversy exists between BellSouth and the County as to whether the County's operation of a telephone utility in Miami-Dade County, absent the necessary votes of the qualified electors and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter, violate the Charter

53 There is a present, bona-fide need for a declaration that the County's actions violate the Charter.

54. The declaration is ascertainable based on the current state of the facts.

55. BellSouth has an actual, present, and adverse interest in the subject matter of this declaration, which is before this Court by proper process, and the relief it seeks is not merely the giving of legal advice or the answer to questions propounded from curiosity

WHEREFORE, BellSouth requests this Court issue a judgment declaring that the County is violating Section 1.01(A)(14)(b) of the Charter, declaring that any existing contracts relating to the operation of a telephone utility in violation of Section 1.01(A)(14)(b) of the Charter are void, and further declaring that Resolution No. R-31-02 and Resolution R-1091-02, to the extent they authorize the County to operate a telephone

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utility in violation of the Charter, are void, and to award Plaintiff its costs pursuant to Section (C) of the Charter's Bill of Rights.

COUNT II
INJUNCTION
(To Prohibit the County from Continuing to Violate the Charter)

56. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint.

57 This is an action for injunctive relief to prevent the County from continuing to operate a telephone utility absent the votes and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter.

58 BellSouth has no adequate remedy at law If the County is permitted to continue to operate its telephone utility at the airports without the majority vote of the qualified electors and the enactment of an ordinance as required under Section 1.01(A)(14)(b) of the Charter, BellSouth will suffer irreparable harm.

WHEREFORE, BellSouth requests that this Court issue an injunction enjoining the County from continuing to operate a telephone utility in the County absent the required votes of the qualified electors and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter, and further enjoining the County from continuing to operate a telephone utility in violation of Section 1.01(A)(14)(b) of the Charter, and to award it costs pursuant to Section (C) of the Charter's Bill of Rights.

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COUNT III
DECLARATORY JUDGMENT
(Constitutional Challenge to the County's Passage of the Resolutions)

59. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint.

60 An actual and justiciable controversy exists between BellSouth and the County as to whether the County's Resolutions authorizing the County Manager and MDAD to operate a telecommunications company as a shared tenant service provider to certain airport tenants is an unconstitutional exercise of authority that is inconsistent with and conflicts with the general law applicable to the regulation of telecommunications companies under Chapter 364 of the Florida Statutes, thereby violating Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985 which incorporate Sections 11(5) and 11(9) of the 1885 Constitution.

61. There is a present, bona-fide need for a declaration that the County's actions violate the Florida Constitution.

62 The declaration is ascertainable based on the current state of the facts

63 BellSouth has an actual, present, and adverse interest in the subject matter of this declaration, which is before this Court by proper process, and the relief it seeks is not merely the giving of legal advice or the answer to questions propounded from curiosity

WHEREFORE, BellSouth requests this Court issue a judgment declaring the following (1) that the County is a "Telecommunications Company" as defined in § 364.02(13), (2) that the County is offering shared tenant services as defined in §364 339, Fla Stat , and (3) that the County's passage of Resolution No. R-31-02 and Resolution R-

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1091-02, to the extent they authorize the County to operate a telecommunications company providing shared tenant services in conflict with the general law granting the exclusive jurisdiction for the regulation of telecommunications companies to the Florida Public Service Commission, is a violation of Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, incorporating Sections 11(5) and 11(9) of the 1885 Constitution, and declaring such Resolutions, to the extent they violate the Florida Constitution, null and void.

COUNT IV
PETITION FOR ISSUANCE OF WRIT OF MANDAMUS
(Compelling the County to Comply with Its Statutory and Regulatory Obligations as a Telecommunications Company)

64 BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint

65. Miami-Dade County has a clear legal duty to perform certain ministerial acts required by Chapter 364 of the Florida Statutes, and the regulations enacted pursuant thereto, which exclusively govern the regulation of telecommunications companies

66 Section 364 02 (13) defines Telecommunications Company to include political subdivisions, and §364 32(1)(a), Fla Stat , defines "Person" to include any county

67 Section 364 33, Fla Stat. then provides that

> A person may not begin the construction or operation of any telecommunications facility, or communications services to the public, or acquire ownership or control thereof, in whatever manner, . without prior approval (Emphasis added)

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68. With respect to the provision of shared tenant services, §364.339(2), Fla Stat., further states that "No person shall provide shared tenant services without first obtaining from the commission a certificate of public convenience and necessity to provide such service."

69. To obtain "prior approval," from the FPSC, and to obtain a certificate of public convenience and necessity, the "person" must satisfy the ministerial requirements described in §§ 364.33 and 364.335, Fla. Stat.

70. Enacted pursuant to Section 364.339, Fla. Stat., Rule 25-24.567 of the Florida Administrative Code sets forth additional ministerial requirements that the County must satisfy before it can provide shared tenant services.

71. Alternatively, to the extent the County seeks to take an assignment of an existing certificate for the provision of shared tenant services which may have previously been held by NextiraOne, the County is required to satisfy the requirements set forth in Rule 25-24.569 of the Florida Administrative Code before it can offer the shared tenant services.

72. BellSouth has the right to demand that the County perform the ministerial obligations set forth in the above-referenced statutory and regulatory provisions because the County competes with BellSouth. One of the purposes of Chapter 364 is to promote the development of fair and effective competition with respect to the provision of telecommunications services in Florida.

73. There is no room for the County to exercise discretion in the performance of the stated obligations, and the performance thereof is directed by law.

Bank of America Tower
Suite 1200
100 Southeast 2nd Street
Miami, Florida 33131

LASH & GOLDBERG

Weston Corporate Center
Suite 400
2500 Weston Road
Ft. Lauderdale, Florida 33331

74. BellSouth has no other legal remedy available to it.

WHEREFORE, BellSouth requests this Court issue a Writ of Mandamus (1) compelling the County to perform the ministerial duties required by §§364.32 – 364.335 and §364.339, Fla. Stat. and as required by the Florida Administrative Code, including Rule 25-24.567 or Rule 25-24.569, F.A.C. and (2) enjoining the County from continuing to operate a telecommunications company and to offer shared tenant services to facilities such as hotels, shopping malls, and industrial parks until the County complies with its statutory and regulatory obligations under Chapter 364, Fla. Stat., in addition to the obligations set forth in the Charter.

Respectfully submitted,

LASH & GOLDBERG LLP
1200 Bank of America Tower
100 S.E. 2nd Street
Miami, Florida 33131
Telephone: (305) 347-4040
Telefax: (305) 347-4050

BY _____
Martin B. Goldberg
Florida Bar No. 0827029
Lawrence B. Lambert
Florida Bar No. 0032565

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BellSouth Telecommunications, Inc.
1155 Peachtree Street, Suite 1700
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BellSouth Telecommunications, Inc.
150 W. Flagler Street, Ste. 1910
Miami, Florida 33130
Telephone. (305) 347-5570
Telefax (305) 375-0209

Counsel for Plaintiff, BellSouth Telecommunications, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Overnight Mail on this 27th day of May, 2004 to David Hope, Asst. County Attorney, Miami-Dade County Attorneys Office, 111 N.W. 1st Street, Miami, Florida 33130.

BY: Martin B Goldberg
Martin B Goldberg

Bank of America Tower
Suite 1200
100 Southeast 2nd Street
Miami, Florida 33131-2145

LASH & GOLDBERG LLP

Weston Corporate Center
Suite 400
2500 Weston Road
Ft. Lauderdale, Florida 33331

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(A)(1)(D)
1-29-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

RESOLUTION NO. R-31-02

RESOLUTION RELATING TO TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES AT MIAMI-DADE COUNTY AIRPORT SYSTEM FACILITIES; AUTHORIZING PURCHASE OF LEASED EQUIPMENT; AUTHORIZING APPROVAL AND EXECUTION OF NON-EXCLUSIVE MANAGEMENT AGREEMENT WITH NEXTIRAONE, LLC FOR INTERIM TWO-YEAR PERIOD; AND WAIVING COMPETITIVE BID PROCEDURES AND PROVISIONS

WHEREAS, Miami-Dade County, Florida (the "County") and Centel Communications Company ("Centel") entered into an Equipment Lease and Maintenance Agreement, as of July 24, 1990, and retroactive to February 7, 1988 (the "ELM Agreement") which ELM Agreement terminates on February 6, 2002; and

WHEREAS, the County and Centel also entered into a Shared Airport Tenant Service Agreement (the "SATS Agreement") which SATS Agreement terminates on February 6, 2002; and

WHEREAS, NextiraOne, LLC ("Nextira") is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC)[1] under both the ELM Agreement and the SATS Agreement; and

WHEREAS, it is in the best interest of the County to acquire title to all telecommunications, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as detailed on Schedule A of the ELM Agreement and Schedule E of the SATS Agreement, as of February 6, 2002 (the "Assets"); and

1 In 1991, Centel Communications Company ("Centel") was acquired by WilTel Communications System ("WilTel"), and in 1997, Williams Communications Solutions, LLC was created from the merger of WilTel and Nortel Communications Systems.

EXHIBIT
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tabbies

WHEREAS, an interim manager is necessary to operate, maintain, and manage the Assets, until a telecommunications and data network request for proposal ("RFP") is circulated and a new manager is selected; and

WHEREAS, Nextira, as the owner and operator of the Assets, has the personnel, technical and product knowledge, expertise, and market recognition to manage the Assets,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board:

Section 1. Authorizes the payment of $6,450,000 to Nextira, for the purchase of the Assets, to be used and operated by or for the Miami-Dade County Aviation Department.

Section 2. Authorizes the approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with Nextira for an interim two (2) year period, and delegates to the County Manager the authority to negotiate all terms and conditions necessary to consummate the Agreement. The Agreement shall contain a random audit provision to be conducted by the Office of the Inspector General, pursuant to § 2-1076(c)(6), Code of Miami-Dade County Florida (the "Code"). The Agreement shall also contain a provision for the County to retain the services of an independent private sector Inspector General ("IPSIG"), pursuant to Administrative Order No. 3-20.

Section 3. Waives competitive bid provisions of Administrative Order Nos. 3-4 and 3-16 related to the procurement of professional services.

Section 4. Waives competitive bid provisions of Section 4.03(D) of the Home Rule Charter and the requirements of Administrative Order No. 3-2 in connection with the purchase by the County for (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications

equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport system facilities. Such waiver is by a two-thirds (⅔) vote of the Board members present.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Katy Sorenson and upon being put to a vote, the vote was as follows:

Dr. Miriam Alonso	absent	Bruno A. Barreiro	aye
Dr. Barbara Carey-Shuler	aye	Betty T. Ferguson	absent
Gwen Margolis	absent	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
	Javier D. Souto aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 29th day of January, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

dsh

David Stephen Hope

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MEMORANDUM

TO: Honorable Chairperson and Member Board of County Commissioners

DATE: January 29, 2002

FROM: Steve Shiver County Manager

SUBJECT: Telecommunications Services at the Aviation Department

RECOMMENDATION

It is recommended that the Board of County Commissioners (the "Board") approve the attached resolution waiving the competitive bid requirements of Administrative Order No. 3-2 related to the procurement of commodities and services and approve in principle the non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement ("Agreement") between Miami-Dade County, (the "County") and NextiraOne, LLC[1] ("Nextira"), substantially in the form attached hereto, which provides for: 1) the acquisition of, in accordance with the principles delineated in the Agreement, title to all telecommunications network, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as described in Schedule A to the Equipment Lease and Maintenance agreement ("ELM Agreement") and Schedule E to the Shared Airport Tenant Services agreement ("SATS Agreement"), as of February 6, 2002 for the acquisition price of $6,450,000 which will be amortized at five (5) percent over five (5) years; 2) resolution of various claims arising out of the ELM Agreement and SATS Agreement; 3) assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at Miami International Airport ("MIA") or the County's other owned or operated general aviation airports; and, 4) Nextira to become the interim telecommunications infrastructure manager, to provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD") and shared airport tenant services customers at MIA and the General Aviation Airports ("GAAs") until a new provider is selected, but for no longer than a period of twenty-four (24) months.

In addition, it is recommended that the Board approve the attached resolution authorizing the County to make direct purchases of the following equipment: (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport systems facilities. Under this system the County will purchase directly, certain commodities as indicated by Nextira and be exempt from paying state sales taxes and mark-up

[1] NextiraOne, LLC is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement

costs on these purchases. It is also recommended that the Board authorize, in accordance with Ordinance No. 99-63, the inclusion of a random audit provision, including the one quarter (1/4) of one percent assessment, in the Agreement. It is further recommended that the County Manager be authorized to execute the Agreement.

BACKGROUND

The County is currently under contract with Nextira. Nextira leases to the County, and manages, operates and maintains all the telecommunications infrastructure and services serving MIA and the GAAs at an approximate annual cost of $7,300,000. MDAD's agreement with Nextira expires on February 6, 2002.

NEGOTIATIONS

In July 2001, the Board approved Resolution No. R-852-01, approving a professional services agreement between the County and ResAvia. ResAvia is providing specialized technical and negotiation services to resolve the various claims arising out of the ELM Agreement and SATS Agreement entered into between the County and Nextira, and to negotiate a buy-out and new agreement with Nextira to allow MDAD an opportunity to finalize its long term voice and data telecommunications strategy.

INTERIM MANAGER FOR TELECOMMUNICATIONS INFRASTRUCTURE

MDAD is simultaneously working to develop a request for proposal ("RFP") to award a contract to a service provider to serve as the manager of the telecommunications infrastructure. Due to time constraints, the County will not be able to award this contract before February 6, 2002, when the Nextira contract expires. To assure the uninterrupted operation of the County airports, ResAvia, MDAD and the County Attorney's Office negotiated a proposed management agreement type contract (the "Agreement") with Nextira, to retain it as manager of the installed telecommunications infrastructure based upon County ownership of the equipment as further described below:

PROJECT LOCATION:	Miami International Airport and General Aviation Airports
PROJECT DESCRIPTION:	Provides for the operations, management, maintenance, service, support and equipment and supplies of the telecommunications and data, infrastructure, hardware and software systems for the MDAD and the shared airport tenant services customers at Miami International Airport and the General Aviation Airports. The scope of services includes the management of the shared airport tenant services for the County, including CUTE, to tenants and users at the Airport. In addition, Nextira will be

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required to implement a transition program, one hundred and twenty (120) days prior to the expiration of the term of this Agreement, to ensure that either the new vendor selected as a result of the RFP process or MDAD's operating and maintenance personnel are trained in all aspects of the telecommunications and data infrastructure

FIRM: NextiraOne, LLC

LOCATION OF FIRM: Houston, Texas

TERM OF AGREEMENT: The Agreement shall be for a duration of twenty-four (24) months. The County may terminate the Agreement with or without cause on thirty (30) days written notice to Nextira, provided however, the Agreement shall have a minimum term of eighteen (18) months unless terminated earlier for cause.

AMOUNT OF AGREEMENT: Compensation to the Contractor

One-Time Acquisition Price:

Acquisition of the telecommunications, data network, and CUTE infrastructure, software licenses, permits, and other assets in Schedule A to the ELM Agreement and Schedule E to the SATS Agreement of $6,450,000 which will be amortized at five (5) percent over five (5) years

Fixed Management Fee:

This Agreement provides for a fixed management fee of $6,144,067 for the first year, which includes overhead and profit, staff transition costs, vendor agreements and spare parts carrying charge.

The compensation for the second year is based on this Management Fee as adjusted by the budgeting process that incorporates the requirements of the Capital Improvement Program (CIP) and the change in the Consumer Price Index (CPI) for the salaries of the personnel.

3

Variable Costs.

The Agreement also provides for the variable costs, when authorized by the Department, and includes: 1) the procurement of parts, materials and software ($2,680,000), 2) On-call after hour services ($273,000), and 3) subcontractor services for wiring installation and maintenance, as necessary ($899,415).

SATS Revenue:

Per the SATS Agreement, last year MDAD received $267,000 which was based on ten (10) percent of gross revenues. Under this new Agreement, MDAD will receive all SATS gross revenues which last year was $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

Compensation to the County

The Contractor will pay to the County the sum of $110,000, on February 6, 2002, on account of excess space occupied without lease by the Contractor in Building 3030 at MIA for the period from November 1, 1997 to and including February 6, 2002.

RECOMMENDED CONTRACT MEASURES:	No measure
USING AGENCY:	Miami-Dade Aviation Department
FUNDING SOURCE:	Miami-Dade Aviation Department Operating Budget for Consulting Services and Aviation Revenue Bonds.
APPROVED FOR LEGAL SUFFICIENCY:	Yes

CONTINGENCY PLAN

As reported to the Board at its December 18, 2001 meeting, in the event that the negotiations with Nextira fail and no agreement is reached by the contract expiration date, the Department has a contingency plan to assure continuity in the provision of telecommunication services.

SUMMARY

In summary, our preferred outcome is a negotiated buyout of the telecommunications equipment and infrastructure, retaining Nextira for a limited time to act as manager of the telecommunications infrastructure, and obtaining a long-term contract for telecommunications infrastructure management through a competitive request for proposal. In addition, the above recommendation begins the implementation of MDAD's long-term, cost-effective strategy to enable better management and control of our telecommunications infrastructure. In the alternative, MDAD has a plan to continue services without Nextira while procurement processes and legal remedies are undertaken.

Attachment

5

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

Agenda Item No. 6(A)(1)(A)

TO:	Honorable Chairperson and Members Board of County Commissioners	DATE:	September 24, 2002
FROM:	Steve Shiver County Manager	SUBJECT:	Resolution approving recommendations relating to shared airport tenant services for the Aviation Department

RECOMMENDATION

It is recommended that the Board approve the attached resolution that will authorize the County Manager or his designee to: (i) execute standard form airport rental agreements for shared airport tenant services ("SATS") to offer telecommunications and network access to airport tenants; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and event of default notices, and in the instance of default, to take necessary termination actions for failures to correct defaults on a timely basis all in accordance with the airport rental agreement.

BACKGROUND

On January 29, 2002, the Board of County Commissioners (the "Board") approved Resolution No. R-31-02 relating to the telecommunications, data network, and shared airport tenant services at Miami-Dade Aviation Department ("MDAD"), and entered into a non-exclusive management agreement with NextiraOne, LLC (the "Contractor") wherein MDAD receives all SATS gross revenues.

Shared airport tenant services consist of telecommunications, voice and data network services which MDAD offers to its tenants. The Contractor is required to use its best efforts to establish, market, maintain, operate and manage SATS for the County to tenants and users at Miami International Airport ("MIA") and the General Aviation Airports ("GAA"), consistent with the requirements of the Public Service Commission of Florida ("PSC") or whatever other governmental entity has jurisdiction over SATS, if and where applicable, and all applicable laws.

It is requested that the Board delegate to the County Manager or his designee certain specific and limited authority that would provide for more efficient management of airport properties, maximization of revenues, and better operational flexibility for users of said facilities. Given the changing or different needs of each tenant requesting SATS, it is also requested that the Board delegate the authority to negotiate such terms and conditions as may be necessary, on a tenant by tenant basis, to allow the County to be responsive to the needs of the MIA and GAA business partners. The rental term may vary depending on the [illegible] in no occasion will any airport rental agreement exceed forty-eight (48) months

EXHIBIT
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10-15702 III 12-12 ITVRA NO 5701

The installation and monthly rental fees for SATS is dependent on the scope of the tenant's request for services.

The following chart provides a sampling of three levels of service (i.e., small, medium, and large tenant) that is presently offered by MDAD:

Tenant	Type of Service	Number of Subscribers	Installed Costs	Actual Monthly Rental Fee (period 5/1/02 – 5/31/02)
Air Jamaica (small)	Telecommunications Access	6 Subscribers	$860.00	$206.88
Miami Airport Duty Free (medium)	Network Access	46 Subscribers	$15,690.00	$ 2,516.44
United Airlines (large)	Telecommunications Access	593 Subscribers	$99,297.00	$16,142.88

The requested delegation of authority is similar to that which has existed for standard form aviation leases for the use and occupancy of real property at MDAD facilities.

At present, there are fifty-five (55) tenants with existing SATS agreements with MDAD. These agreements must be renewed, and as MDAD takes additional tenants into service, it is expected the number of users of our telecommunications and data network system and resulting revenues will increase. Per the previous SATS agreement with NextiraOne, LLC[1], last year the MDAD received $267,000, which was based on ten (10) percent of gross revenues. Under the new non-exclusive management agreement with NextiraOne, LLC, approved by the Board on January 29, 2002, MDAD will receive all SATS gross revenues which last year totalled $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

[1] NextiraOne, LLC was the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement

10/15/02 TUE 12:12 [TX/RX NO 8707]

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(A)(1)(A)
9-24-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

RESOLUTION NO. R-1091-02

RESOLUTION AUTHORIZING THE COUNTY MANAGER OR DESIGNEE TO EXECUTE AIRPORT RENTAL AGREEMENTS FOR AIRPORT TENANT TELECOMMUNICATIONS SERVICES AND NETWORK ACCESS; NEGOTIATE TERMS AND CONDITIONS; AND ISSUE RENEWAL AND DEFAULT NOTICES AND TAKE NECESSARY TERMINATION ACTION FOR FAILURE TO CORRECT DEFAULTS.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the County Manager or designee to: (i) execute the standard form of an airport rental agreement attached to the accompanying memorandum for shared airport tenant telecommunications services and network access; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and default notices and, in the instance of default, to take necessary termination actions for failure to timely correct defaults all in accordance with the agreement.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Gwen Margolis and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro	absent	Jose "Pepe" Cancio, Sr.	aye
Dr. Barbara Carey-Shuler	absent	Betty T. Ferguson	absent
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye

Sen. Javier D. Souto absent

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of September, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency. dsh

David Stephen Hope

5

10/15/02 TUE 12:12 [TX/RX NO 6701]

MIAMI-DADE AVIATION DEPARTMENT

Airport Rental Agreement

This Agreement is made as of _____, 20__ between Miami-Dade County (the "County"), a political subdivision of the State of Florida, and _____, a _____ corporation/partnership/sole proprietorship (the "Customer") conducting business at Miami International Airport ("MIA" or the "Airport").

1) Agreement. The County agrees to deliver, install, rent, and maintain telecommunications systems and services consisting of: (1) switch access to its communications equipment facilitating equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" or the "Department") and its tenants at the Airport ("Switch Access"); (2) network access to the local telephone exchange carrier ("Network Access"); and (3) telecommunication terminal equipment and cabling, when itemized and included on Schedule I. Such equipment and services are described in the Equipment and Services Schedule I and Maintenance Schedule III attached hereto, including optional services and features and made a part hereof (collectively, the "System") and the Customer agrees to rent the System (the "Rental") subject to the terms and conditions of this Agreement.

This Agreement is subject to credit approval by the County. The Customer agrees to cooperate with the County by providing all credit and financial information that may be required by the County. Upon the County's approval of the Customer's rental application, the Customer agrees to execute all documents relating to the Rental and promptly return them to the County. In the event all required and properly executed documents and advance payments are not provided to the County, the County may, in addition to other delineated rights and remedies, delay cutover until such executed documents and advance payments are received and approved by the County.

2) Schedules. The attached schedules (the "Schedules") are part of this Agreement:

- Schedule I — Equipment and Services Schedule
- Schedule II — Acknowledgment and Certificate of Acceptance
- Schedule III — Maintenance Schedule

3) Installation.

a) The Customer will be responsible for, and provide or arrange for, at its own expense (in a timely manner as required or directed by the County): (1) necessary HVAC, plant and accessible System locations free from environmental hazards; (2) reasonable access for the County; (3) completed copies of database feature forms; (4) required conduit, holes and wireways, where not otherwise provided herein; and (5) easements and right-of-way licenses.

b) The System will meet Federal Communications Commission Part 68 regulations regarding connection to the public telephone network. The County will install the System in a workmanlike manner without damage to the Customer's premises and will obtain necessary work permits to install the System. The County will not be responsible for removing any cabling or equipment of the Customer's old telephone system.

4) Force Majeure. The County's performance under this Agreement shall be excused to the extent and for the time compliance is rendered impossible or delayed by reasons that include but are not limited to: strikes, work stoppage, fire, war, civil acts of God, destruction in service for any cause, storms, lightning, delays by suppliers and subcontractors, delays of power company, delays of the local exchange company, interexchange carrier, or any other carrier, governmental action, or any Customer nonperformance such as (i) non-payment, or (ii) failure to execute an acceptance certificate or rental document.

5) Term and Acceptance. This Agreement shall be effective upon execution by the Customer and the County, but the term of this Agreement (the "Rental Term") shall commence on the "Commencement Date" (as hereinafter defined) and shall terminate on the last day of the Rental Term stated in Schedule I, provided however, the Customer's indemnities, assumptions of liabilities, and other duties, and all of the County's disclaimers herein shall survive the termination of this Agreement. The Customer shall be deemed to have accepted the System for all purposes of this Agreement, including the payment of rent hereunder, with the Customer's execution of the "Acknowledgment and Certificate of Acceptance" contained in Schedule II attached hereto and made a part hereof. The date of execution of the Acknowledgment and Certificate of Acceptance shall be the Commencement Date under this Agreement. The Customer shall execute the Acknowledgment and Certificate of Acceptance after the County's completion of installation and pre-operational testing and final connection of the equipment to the public telephone network in a manner permitting calls to be made through the System (the "Cutover").

6) Payment of Rent. The rent for the System (the "System Rent") shall be as listed in Schedule I and shall be payable, without notice or demand, pursuant to said Schedule.

7) Cancellation. After paying the first twelve (12) monthly payments under this Agreement, including twelve (12) months of payments for any additions, the Customer may cancel this Agreement by giving sixty (60) days written notice to the County and by paying a cancellation fee equal to: (a) seventy percent (70%) of the unpaid System Rent, AND (b) three (3) monthly payments for Switch Access and Network Access. With the County's prior written approval, the cancellation fees will be waived if this Agreement is assigned to a MDA tenant who assumes all the obligations of this Agreement.

8) Training. The County will provide instruction and training in the use of the System, to employees of the Customer for a reasonable time (not to exceed thirty (30) days) after the Cutover.

9) Maintenance. The County will maintain the System in good repair and will provide the necessary parts and labor to maintain the System as provided in Schedule III, provided the Customer is current on its payments hereunder and is otherwise in compliance with terms and conditions of this Agreement. The Customer's SOLE AND EXCLUSIVE REMEDY for the County to correct a defect in the System is limited to the County's performance under this Section 9.

The County's duty to maintain the System:

a) Excludes any service in connection with maintenance or repair of the equipment caused by negligence, theft or unexplained loss, abuse, connection to wrong power, fire, water, wind, storms, lightning, acts of God, acts of public enemies, improper wiring, installation of equipment, items, materials or software by the Customer or third parties, failure or changes resulting from local exchange company, failure or changes resulting from local power company, failure or changes resulting from other transmission providers, or repair or alteration of the equipment or software by anyone other than the County; and

b) requires that Customer maintain a suitable operating environment for the System.

BY CUSTOMER REQUEST, REPAIRS NECESSITATED BY ANY OF THE EXCLUDED CAUSES IN SECTION 9(a) ABOVE, SHALL BE PERFORMED BY THE COUNTY AT ITS THEN PREVAILING RATES. THIS MAINTENANCE AGREEMENT IS IN LIEU OF ANY WARRANTY OR OTHER OBLIGATION, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY, AGREEMENT OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COUNTY DISCLAIMS ANY WARRANTY TO PREVENT UNAUTHORIZED USE OF THE SYSTEM, INCLUDING TOLL FRAUD.

10) LIMITATION OF LIABILITY. THE COUNTY WILL BE LIABLE FOR PHYSICAL INJURIES TO INDIVIDUALS AND DAMAGES TO TANGIBLE PHYSICAL PROPERTY (OTHER THAN THE SYSTEM WHICH IS COVERED BY THE MAINTENANCE PROVISIONS OF THIS AGREEMENT) CAUSED BY THE COUNTY'S NEGLIGENCE. IN NO EVENT, HOWEVER, WILL THE COUNTY AND ITS CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR: (A) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (B) COMMERCIAL LOSS OF ANY KIND (INCLUDING LOSS OF BUSINESS OR PROFITS); OR (C) ANY DAMAGE OF ANY KIND RESULTING FROM UNAUTHORIZED USE OF THE SYSTEM, INCLUDING TOLL FRAUD. THIS LIMITATION SHALL APPLY TO ANY CLAIM OF THE CUSTOMER WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OF THE COUNTY, ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS, STRICT TORT OR ANY OTHER LEGAL THEORY, WHETHER OR NOT THE COUNTY OR ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

11) Title. The County shall retain title to the System and the Customer shall have no interest in the System other than the rights acquired as a customer hereunder. The Customer acknowledges the County may affix to and maintain on such System identifying labels indicating the County's ownership. The System shall remain County personal property and not become a fixture or part of any Customer real estate regardless of the manner in which it may be included or attached. If requested by the County, the Customer will, at the Customer's expense, furnish a landlord and/or mortgagee waiver with respect to the System. The Customer shall protect and defend the County's title and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those which through the County, and shall not permit the County's rights or interest hereunder to be subject to any lien, charge or encumbrance, including but not limited to: (a) any lien of the owner of real property upon which the System is installed; or (b) of any purchaser of, or future creditor obtaining a lien on, said real property. The Customer shall give the County immediate notice of any attachment or judicial process affecting any item of the System.

12) Use of the System(s); Inspections and Reports. The Customer shall use the System(s) solely for business and not for personal, family or household purposes. The Customer may only use the System at the location set forth in Schedule I. The Customer's use of the System shall conform with all applicable federal, state and local laws and rules. The County shall have the right to inspect the System at all reasonable times during the Customer's normal business hours.

Additional Terms and Conditions

13) Alterations and Attachments. The Customer shall not permit any equipment or other items or material (the "Other Equipment") or software (the "Other Software") to be used on or in connection with the System, which does not meet the specifications of the manufacturer of the equipment in the System. All Other Equipment and Other Software which may be used on or in connection with the System shall be acquired and installed by the Customer at Customer's own expense and risk. The County makes no representation concerning the compatibility of any such Other Equipment and/or Other Software for use with the System.

Without the prior written approval of the County, at the end of the Rental Term, the Customer must remove any additions to the System not otherwise subject to this Agreement (the "Additions") made by Customer during the Rental Term and restore the System, at the Customer's expense, to its original condition, reasonable wear and tear only excepted. In the event the Customer fails to remove an Addition, it shall become the property of the County.

14) Indemnification. The County will be responsible only for physical injury to persons (including death) and damage to tangible physical property to the extent caused by its negligence during delivery, installation or maintenance of the System, and which is reported to the County in writing within sixty (60) calendar days of the incident.

The Customer shall indemnify and hold harmless the County and its officers, employees, agents and authorized representatives and instrumentalities from any and all claims, liabilities, losses, damages, and causes of action, including attorney's fees and costs of defense, which may arise or be incurred as a result of claims, demands, such causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Customer or its employees, agents, servants, partners, principals or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay all claims and losses of any nature whatsoever in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be issued thereon. The Customer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Customer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and authorized representatives and instrumentalities as herein provided. Nothing contained in this Section 14 shall be construed so as to require the Customer to indemnify the County's employees, agents and authorized representatives to the extent of their negligence.

15) Return of System. Upon termination of this Agreement, excepting equipment covered under a renewal agreement, the Customer will make the System available for removal which shall be accomplished in a careful and reasonable fashion by the County. The System will be returned to the County in the same condition as originally installed, ordinary wear and tear excepted, or the Customer will pay for the restoration of the System to such condition. The County shall not be obligated to restore the premises to its original condition. If the Customer does not return the System or make it available for removal by the County when, in addition to all other remedies under this Agreement, the County has available all other remedies available at law or equity. All obligations of the Customer under this Agreement shall remain in force and effect until the System is returned to the County.

16) Events of Default by the Customer. The occurrence of any one or more of the following items (an "Event of Default") shall constitute a default under this Agreement:

a) Failure by the Customer to pay any installment of System Rent or any other amount payable hereunder as and when the same becomes due and payable and the continuation of such failure for a period of ten (10) calendar days thereafter;

b) Failure by the Customer to perform or observe any other term, covenant or condition of this Agreement or any Schedule or the inaccuracy in any material respect of any representation, warranty or statement made by the Customer in this Agreement, any Schedule or any document or certificate furnished to the County at any time, which such failure or inaccuracy shall continue for a period of ten (10) calendar days after notice from the County;

c) dissolution, termination, or discontinuance of the Customer's business (including without limitation the death of the proprietor if the Customer is a sole proprietorship or the death of a general partner if the Customer is a partnership), the sale of substantially all of the Customer's assets or the sale or pledge of the controlling interest in the Customer;

d) the Customer's insolvency, the appointment of a receiver for any property of the Customer, assignment by the Customer for the benefit of creditors, admission by the Customer in writing of its inability to pay its debts as they become due, or the commencement of a proceeding under any bankruptcy, reorganization or similar laws by or against the Customer or any property it possesses, or if the Customer enters into an agreement of composition with its creditors; or

e) the attempted sale by the Customer of a System or any part thereof, or the issuance of any levy, seizure or enactment thereon or pertaining thereto.

17) Remedies of the County. At any time after the occurrence of an Event of Default, the County may exercise any one or more of the following remedies:

a) The County may, upon seven (7) days written notice, terminate this Agreement with respect to any System, or portion thereof, or all of the Systems;

b) The County may demand and recover from the Customer all System Rent and other amounts then due;

c) The County or its agents may take possession of any portion or all of the Systems wherever the same may be located, on reasonable notice, without any court order or other process of law and without liability to the Customer for any damages occasioned by such taking of possession, and any such taking or possession shall not constitute a termination of this Agreement, and whereupon all rights and interest of the Customer to possess and use the Systems shall absolutely cease, but the Customer shall remain liable as provided herein;

d) The County may demand the Customer return any System or portion thereof or all of the Systems to the County in accordance with this Section 17 herein; and

e) The County may pursue any other remedy available at law or in equity, including without limitation, seeking damages, specific performance, and/or an injunction. None of the remedies under this Agreement is intended to be exclusive but shall be cumulative and in addition to any other remedy referred to herein or otherwise available to the County in law or in equity. Any repossession or subsequent sale or lease by the County of any portion of the System shall not bar any action for deficiency, as herein provided, and the bringing of any action or the entry of a judgment against the Customer shall not bar the County's right to repossess any System or portion thereof or all of the Systems.

18) County Event of Default and Customer Remedy. The Customer may terminate this Agreement upon thirty (30) days written notice in the event of the County's material breach of this Agreement. Such written notice shall identify the material breach(es) and provide a reasonable time to cure in the notification to remedy the cause(s). The County has fifteen (15) days to cure the cause of the termination (the "Cure Period"). Such Cure Period commences the day after the thirty (30) day written notice period runs. The Customer may extend the Cure Period. This shall be the Customer's exclusive remedy.

19) Insurance. In addition to such insurance as may be required by law, the Customer shall maintain during the term of this Agreement the following insurance:

a) Public Liability Insurance on a comprehensive basis, including contractual liability, products and completed operations, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.

b) Automobile Liability Insurance, coverage for all owned, non-owned and hired vehicles used in connection with this agreement, in amounts not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

c) Property Damage. The Customer will bear the risk of loss or damage to the leased equipment for the replacement cost and will reimburse the County for any damages to the equipment.

The insurance coverage required shall include those classifications, as listed in the standard liability manuals, which most nearly reflect the operations of the Customer's this Agreement. All insurance policies required herein shall be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B" as to management and no less than "V" as to strength, in accordance with the latest edition of "Best's Insurance Guide" published by A.M. Best Company, Inc., or its equivalent, as approved by the Miami-Dade County Risk Management Division.

Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classifications as required for strict compliance with this Section 19; (2) any material change or cancellation of the insurance shall not be effective without thirty (30) days prior written notice to the County; and (3) that Miami-Dade County is named as an Additional Insured with respect to the Public Liability coverage.

The County reserves the right to require the Customer to provide such reasonably amended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to the Customer, which notice shall be provided at least thirty (30) days prior to such notice. Compliance with the foregoing insurance requirements shall not relieve the Customer of its liability under any other portion of this Agreement.

20) Further Assurances. The Customer will execute and deliver to the County such additional instruments as the County deems necessary hereunder.

PSC 6122

Additional Terms and Conditions

21) County's Performance of the Customer's Obligations. If the Customer fails to perform any of its obligations under this Agreement, the County may perform any ... make any payment which the County deems necessary for the maintenance and preservation of the Systems and the County's title thereto. All sums so paid by the ... (together with all related "Late Payment Charges", as hereinafter defined) and reasonable attorney's fees incurred by the County in connection therewith shall be additional ... System Rent immediately due and payable by the Customer to the County. The performance of any act or payment by the County shall not be deemed a waiver of ... of any obligation or default on the part of the Customer.

22. Severability. Any provision of this Agreement prohibited by the laws of a state shall as to such state, be ineffective to the extent of such prohibition, but shall not affect the other provisions of this Agreement.

23. Amendments and Waivers. This Agreement and the Schedules constitute the entire agreement between the County and the Customer with respect to the rental of the Systems, and supersede all previous communications, understandings and agreements, whether oral or written, between the parties with respect to such subject matter. Any representations, warranties or statements made by an employee, salesperson, agent, or authorized representative of the County and not expressed in this Agreement are not binding upon the County. No provision of this Agreement may be changed, waived or amended except by written agreement signed by both the County and the Customer, except that the County may insert the serial number of any portion of a System on the applicable Schedule after delivery of such portion of the System and the County may insert the Commencement Date for this Agreement after receiving the Acknowledgment and Certificate of Acceptance.

24. Late Payment Charge. In the event the Customer fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) calendar days of the due date, interest at the rates established from time to time by the Miami-Dade Board of County Commissioners and/or Florida Statutes (currently set at six and one-half percent (1 ½%) per month) shall accrue against all such delinquent payment(s) from the original date due until the Department actually receives payment. The right of the County to require payment of such interest and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's rights to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.

25. Assignment. The Customer shall not assign this Agreement without the County's written consent. No assignment or transfer of any sort shall relieve the Customer of its obligations hereunder. The County may assign any rights under this Agreement to an affiliate or any other assignee, and the Customer agrees to execute any documents, other than such assignee may reasonably require. The Customer acknowledges that if this Agreement is assigned to a governmental entity, the indemnity obligations under Section 14 herein may not apply in full to such assignee.

26. Applicable Law. This Agreement shall be governed by, construed and enforced in accordance with the applicable laws of the County, including (a) the rules and regulations of the Department, (b) Chapter 25, Code of Miami-Dade County, Florida, and (c) operational directives issued thereunder, in addition to all additional laws, ordinances, administrative orders, regulations, and rules of the federal, state, and local governments, and any and all plans and programs developed in connection therewith, which may be applicable to the operations of this Agreement.

27. Customer's Representations. The Customer represents that this Agreement is a lawful, binding and valid obligation of the Customer enforceable in accordance with its terms and has been duly authorized, executed and delivered by the Customer, and that all information concerning the Customer's financial condition which has been or will be supplied to the County is and will be true and correct.

28. Notices. All notices, demands and other communications shall be transmitted in writing by hand delivery or by United States Mail, addressed to such party set forth below or at such other address as may be subsequently submitted by written notice of either party. Notice given pursuant to this Section 28 shall be deemed effective four (4) days after the date it is mailed or upon receipt, whichever is earlier.

For the Department:

Manager, Information Services Division
Miami-Dade Aviation Department
PO Box 592075
Miami, Florida 33159-2075

For the Customer:
[Billing Customer Name] _____
[Customer Address] _____
[City, State & Zip Code] _____
[Billing Contact] _____
[Telephone Number] _____

29. Miscellaneous.

a) If the Customer uses a purchase order or similar document to order a System or additional thereto, the Customer acknowledges that the terms and conditions of such purchase order or document shall not apply and that the terms and conditions of this Agreement shall exclusively apply thereto.

b) The waiver by either party of any default will not operate as a waiver of any subsequent default.

c) The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.

d) Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.

e) This Agreement shall be binding upon and inure to the benefit of the County and the Customer and their respective successors and assigns.

f) Rights to be Exercised by Department. Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

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Additional Terms and Conditions

20. Terms and Execution

a) This Agreement binds the Customer when it is executed by the Customer and binds the County when executed by the County and delivered to the Customer.

b) This Agreement allocates the risks of the System's delivery, installation, operation and maintenance between the County and the Customer. The County has provided the Customer a favorable rent in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized by both parties and is reflected in the System Rent. The Customer acknowledges that it has read this Agreement, understands it and is bound by its terms.

c) The Customer agrees that the County shall not be obligated under this Rental Agreement if the federal, state or county statutory or regulatory authority permitting the County's performance hereunder is withdrawn, abridged, or amended so as to preclude the effective delivery by the County of services hereunder. In such event, the County shall notify the Customer in writing and the Customer's sole obligation thereafter shall be to compensate the County for the equipment and services rendered by the County to date.

Miami-Dade Aviation Department	Customer
By:	By:
Title:	Title:
Date:	Date:

MIAMI-DADE AVIATION DEPARTMENT — Equipment and Services Schedule I

Name: _____ Date: _____

With reference to the certain Airport Rental Agreement dated _____ 20___ (the "Agreement") between the County and _____ (the "Customer"), the County and the Customer agree to incorporate the following additional terms and conditions into such Agreement:

1) Location: Miami International Airport

2) Rental Term: _____ months

3) Payment: The Customer shall pay to the County the total rental (which includes maintenance) for the Rental Term of the Agreement which shall be the total amount of all rental payments set forth on this Schedule, plus any such additional amounts as may arise hereunder or pursuant to any addenda hereto as described in Paragraphs 11 and 12 of this Schedule. Except as otherwise specified in this Schedule, rental payments pursuant to this Schedule (each monthly payment of System Rent) shall be made and shall be due and payable in advance on the first day of each calendar month during the Rental Term, provided however, that the Customer shall pay to the County the first monthly System Rent payment with respect to the System when the Customer delivers to the County the Schedule I and Schedule II executed by the Customer. In the event the Customer does not accept the System for any reason, the County shall be entitled to retain such payment in addition to its other rights hereunder unless the parties agree in writing to the contrary. All amounts due hereunder from the Customer shall be paid to the County by check, in immediately available funds at the address of the County as set forth in the Agreement or at such other place as the County shall designate in writing. Whenever any payment for System Rent or otherwise is not made within ten (10) days of the date when due hereunder, the Customer shall pay the "Late Payment Charge" (as defined in Section 24 of the Agreement) calculated from the eleventh (11th) day after the due date to the date of actual receipt of payment.

4) System Rent: _____ Dollars ($_____) (Monthly System Rent during Rental Term: $_____ per month) during the term of this Agreement except as it may be increased or decreased by amendment or by an inflation and/or utility company adjustment, plus applicable taxes. Unless otherwise specified, telephone numbers, directory listings and all other charges of the local exchange company or any interexchange carrier are not included in the rental price unless indicated on a schedule. No cabling, wiring or other items are included unless specifically stated in this Agreement and indicated on this Schedule.

5) Security Deposit: The Customer shall pay two (2) months rent as a security deposit, that shall be held as long as the Customer is current on its System Rent and applicable taxes, and that shall be returned without interest to the Customer at termination of this Agreement. If not current on either System Rent or applicable taxes, the County may deduct from the Security Deposit any and all amounts due from the Customer under the Agreement. The Customer must maintain the two (2) month rent security deposit amount balance, and must tender to the County the amount needed to maintain this threshold if a deduction or deductions are made by the County.

6) Estimated Commencement Date: _____, 20___

7) Attachments: The following Schedules are attached to and made a part of this Agreement: Schedules I, II & III

8) Installation: The total amount due for installation of the System is _____ Dollars ($_____) plus applicable taxes. This amount is due and payable on the Agreement execution date and is non-refundable.

9) Maintenance Hours: The County will respond to System failures during the hours specified by the maintenance plan chosen by the Customer (see Schedule III).

10) Equipment and Features: The equipment and features subject to the Agreement are set forth below:

1)	Switch Access	$	/month
2)	Network Access	$	/month
3)	System - Terminal Equipment	$	/month
4)	System - Other	$	/month
	Monthly Rent	$ (See Attached Quote #_____)	

(A continuation sheet may be added if more room is needed)

11) Pre-Customer Changes: In the event that additions and/or deletions to the equipment and/or features described in Section 10 above are made in accordance with the Agreement before the Commencement Date, the monthly Rental shall be adjusted by the charge caused by applicable Installation Change Notices ("ICNs"). The County and the Customer hereby agree that any ICN executed by the Customer and delivered to the County in accordance with this Section 11 shall constitute an amendment to the Agreement and this Schedule, thereby adding to such such document the descriptions and rental information with respect to the equipment and the software included in such ICN.

12) Post-Cutover Changes: If the Customer wishes to add additional County equipment and/or features to the System (excluding however, minor equipment and/or features with maintenance related thereto which the Customer purchases from the County for cash) during the Rental Term of the Agreement, the Customer shall add additional equipment and/or features to the Agreement on such terms as the County and the Customer may agree in a Customer Service Order ("CSO") executed by the County and the Customer, and such equipment and/or features shall become, upon amendment of the Agreement and acceptance by the Customer pursuant to the Agreement, subject to the terms of the Agreement, provided the Customer is not in default under the Agreement and has not suffered a material adverse change in its financial condition since the execution of the Agreement. Pricing for additions may be adjusted for changes in tax laws and regulations.

The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operational as part of the System and shall have a term of sixty (60) months unless stated otherwise on this Schedule.

13) Renewal: If the Customer is not in default under this Agreement, the Customer can either (a) renew this Agreement on its termination at the then current market monthly rate or (b) return the System to the County. Negotiation of any such renewal can be initiated by the Customer's written notice of its willingness to negotiate a renewal no earlier than one hundred twenty (120) days but not later than sixty (60) days prior to the end of the Rental Term. The Agreement can be automatically maintained at the County's discretion for a minimum period of one (1) year if a renewal is not finalized. Renewals will be at the price and on the terms and conditions of the County in effect at the time of renewal unless otherwise agreed to in writing by the parties.

14) Miscellaneous: All terms defined in the Agreement shall have the same meaning herein.

IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorized representatives and this Schedule shall be incorporated into and made a part of the Agreement.

Miami-Dade Aviation Department	Customer
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

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PSC 6125

M AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule II

T vation Department

T _____ acknowledges, represents and warrants to the
C equipment subject to the Rental Agreement dated _____ _____, 20__
b nty and the undersigned (a) has been delivered, installed and subjected to all necessary pre
op g), (b) has been inspected, (c) is operating in accordance with the manufacturer's specifications
(d) used or made available to be placed in service for its specifically assigned function for the first
time date indicated below as the "Commencement Date", and (e) was first connected to a public
in a manner permitting calls to be made through the equipment to and from the facility in which
located on such Commencement Date.

Commencement Date _____

Customer _____

By _____

Title _____

Date _____

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10/15/02 TUE 12:12 [TX/RX NO 6203]

The maintenance plan features the following services:

1 Types of Failures:

Trouble reported by the Customers will fall into two categories a) Major Failures, and b) Minor Failures

a Major Failures are those that severely impede the ability for a Customer to conduct business at the Airport and shall be defined as an occurrence of any of the following:

1 A failure of the telephone switch, its common equipment or power supplies which renders it or them incapable of performing normal functions for five percent (5%) or more of the stations or trunks

2 A failure of network components that will render over five percent (5%) of work stations inoperable

b Minor Failures are any other failures including a failure of any ancillary equipment such as intercom circuits, paging input arrangement, or any other telecommunications equipment or component

2 Response and Repair Time:

Based on the trouble classification, the response will be in the following manner

a Major Failure- Immediate response during business hours (Monday-Friday, 7 A.M. – 11 P.M., Eastern Time) and within two (2) hours for off hours (Monday-Friday, 11 P.M. – 7 A.M., Eastern Time, and twenty four (24) hours a day Saturday, Sunday, and holidays)

Remedial maintenance will begin immediately for a major malfunction, which may consist of remote diagnostics during the first fifteen (15) to thirty (30) minutes, after the repair notification time by the Customer, via the service provider tracking processes with the appropriate service ticket number, however if not corrected, the service provider's personnel must be on-site no less than forty-five (45) minutes during business hours and no less than two (2) hours during off hours from the repair notification time. Repair work shall start immediately and continue until the problem is resolved. All commercially reasonable efforts will be made to complete repairs within eight (8) hours from the time the Customer reported the incident.

b Minor Failure - Response within eight (8) business hours.

Repairs not defined as a major failure will begin as expeditiously as possible, and all commercially reasonable efforts shall be made to complete repairs within one (1) business day from the time the Customer reported the incident. Repairs may be made by a certified technical personnel either through a premise visit or via electronic access through the use of a remote maintenance terminal. However, in all cases, the repair must be confirmed and the status updated by the next business day by notification to the service provider. Response to minor service interruptions will take place within eight (8) business hours.

"Respond" is equated to having technical support and/or troubleshooting the problem within aforementioned times. Note that during the troubleshooting process, the service provider is coordinating directly with the Customer until the problem is resolved.

3 Miscellaneous:

- All parts and labor are included, unless the failure is due to abuse or misuse of the equipment or facilities
- Preventive maintenance routines are included
- Utility coordination with the local telephone company and other common carriers are provided
- Consultation services on the Customer's system are included.
- User training (beyond that provided in Section 8 of the Agreement) is optional, and at an additional cost
- Traffic studies to determine adequate system utilization (not to exceed two (2) annual Customer requested studies) are included.

Exhibit 6
SATS Airport Rental and CUTE Agreements

	Airtele Customers (Excluding MDAD)	Customer Number
1	Abalis International	10391420
2	Aces - CUTE & Voice	10338645
3	ADT Securities	10506587
4	AeroMexico	10427644
5	Aeropostal - CUTE & Voice	10450333
6	Air France - CUTE	10518850
7	Air Jamaica	10354615
8	Air Tran Airways	10363503
9	American Airlines - CUTE & Voice	10381496
10	ASI Baggage	10377170
11	ASIG Miami Inc	10519350
12	Aserca Airlines	10337970
13	Atlas Air	10344625
14	AT&T	10484758
15	Avianca - CUTE & Voice	10408278
16	British Airways - CUTE & Voice	10339695
17	Cafe Versailles	10351663
18	Carne Ice Cream Shop	10396494
19	Centers for Disease Control	10363032
20	Cirilo Rodriguez d/b/a Bright Additions	10416024
21	Commodore Aviation	10404505
22	Communitel	10421360
23	Continental Airlines	10454895
24	Copa - CUTE	10464227
25	Cyber Express	10338837
26	Evergreen International	10338283
27	Flagship (American Eagle)	10497202
28	Gray Construction	10341784
29	Gulfstream Airlines	10406827
30	Host Marriott	10422707
31	ICI	10377882
32	Lan Chile - CUTE	10411203
33	Martin Air - CUTE & Voice	10505015
34	Mexicana	10396900
35	Miami Airport Duty Free Joint Venture	10506157
36	Midway Airlines	10477140
37	National Airlines	10345526
38	Polar Air	10407537
39	Sirgany Bencomo	10459735
40	Sita Communications	10428523
41	Smarte Carte	10452868
42	Swiss Air	10518491
43	Taca International	10514494
44	Underground Construction	10342394
45	United Airlines	10344972
46	USDA - Cargo	10427656
47	USDA - Network	10370069
48	USDA - Terminal	10517502
49	USDA - Operations	10518439
50	USDA - Bldg 100	10518440
51	USDA - Bldg 701	10467672
52	Vang Brasil - CUTE	10467591
53	Virgin Atlantic - CUTE	10518818
54	Worldwide Concessions	10464295
55	Worldwide Flight Services	
	Expected New Contracts	
	Global Concessions	TBD

EXHIBIT
tabbies
C

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

ORIGINAL

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

EXHIBIT D

APPEARANCES:

MITCHELL R. BLOOMBERG, ESQ. and
NATALIE-CARLOS, ESQ.,
of the firm of ADORNO & YOSS, P.A.
on behalf of the Plaintiff

DAVID STEPHEN HOPE, and
CYNJI A. LEE,
Assistant Miami-Dade County Attorneys
on behalf of the Defendant

Also present:

Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS	EXAMINATION	PAGE
PEDRO J. GARCIA		
	BY MR. BLOOMBERG	4

A. No, sir.

Q. Now, the first sentence of this regulation says that airports are -- essentially I'm paraphrasing -- airports are exempt from other STS rules due to the necessity to ensure safe and effective transportation of passengers and freight; fair paraphrase?

A. Yes.

Q. The second sentence says the airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks.

Do you see that?

A. Yes, I see it.

Q. And are you providing facilities, shared local services to facilities such as hotels, shops and so forth?

A. We're not providing service to any shopping malls.

Q. Hotels?

A. We're providing service to hotels -- there's a management company that manages the hotel and it's a pass-through situation. We're not making any profit from that.

Q. So is that why you determined you don't need a certificate?

A. It was determined that we didn't need a certificate based on the overall interpretation of this paragraph. We're now providing services within the airport. We're not going outside to shopping malls or to outside hotels or any outside the airport property, which belongs to Miami-Dade County.

Q. And the hotel belongs to whom?

A. The hotel building belongs to Miami-Dade County, and we have a management company managing the operation.

Q. You mentioned that you started the process of applying for a certificate at some point?

A. Yes, sir.

Q. Who decided to apply? Who decided you needed to apply?

A. I don't believe it was anybody in particular. It was something that it was just decided to -- let's do it -- at the time we were engaged in purchasing the infrastructure from the service provider NextiraOne which was -- they were the owners of all the infrastructure at the time.

LEGAL

Agenda Item No. 5 (d) (10)
3-16-82

RESOLUTION NO. R-361-82

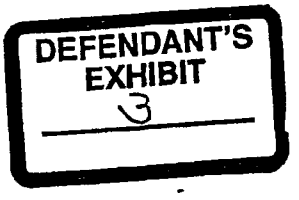
RESOLUTION AWARDING CONTRACT DCAD 6-T-600 FOR AVIATION DEPARTMENT TELECOMMUNICATIONS SYSTEM, MIAMI INTERNATIONAL AIRPORT, TO CENTEL COMMUNICATIONS COMPANY; AUTHORIZING AVIATION DEPARTMENT TO NEGOTIATE FINAL AGREEMENT FOR PURCHASE OR RENTAL OF PROPOSED SYSTEM; AND AUTHORIZING EXECUTION OF APPROPRIATE CONTRACT DOCUMENTS BY THE COUNTY MANAGER

RECEIVED
COUNTY ATTORNEY
AVIATION DEPARTMENT
01 MAY 15 AM 9:38

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board awards Contract DCAD 6-T-600 for the installation of a Telecommunications System for the Aviation Department at Miami International Airport to Centel Communications Company (Centel), and authorizes the Aviation Department to negotiate a final agreement with Centel for the purchase or rental of the Telecommunications System proposed by Centel in response to publicly advertised request for proposals; upon the preparation of the appropriate contract documents for either purchase of the system in an amount not to exceed $1,046,347, or for rental of the system, for a period of four (4) years, in an amount not to exceed $1,397,812, as set forth in the attached memorandum, the County Manager is authorized to execute the contract on behalf of Dade County.

The foregoing resolution was offered by Commissioner Beverly B. Phillips, who moved its adoption. The motion was seconded by Commissioner James F. Redford, Jr. and upon being put to a vote, the vote was as follows:



Barbara M. Carey	Aye
Clara Oesterle	Aye
Beverly B. Phillips	Aye
James F. Redford, Jr.	Aye
Harvey Ruvin	Absent
Barry D. Schreiber	Aye
Ruth Shack	Aye
Jorge E. Valdes	Aye
Stephen P. Clark	Aye

The Mayor thereupon declared the resolution duly passed and adopted this 16th day of March, 1982.

DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

RICHARD P. BRINKER, CLERK

Approved by County Attorney as to form and legal sufficiency. AP

By RAYMOND REED
Deputy Clerk

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. R-361-82 , adopted by the said Board of County Commissioners at its meeting held on March 16 , 19 82 .

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 25th day of March A. D. 19 82 .

RICHARD P. BRINKER, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By Teresa C. Hoffman
Deputy Clerk

COUNTY COMMISSIONERS DADE COUNTY FLORIDA SEAL

Board of County Commissioners
Dade County, Florida

102 01-3 REV. 11/72

MEMORANDUM

TO F. H. Judy
Aviation Director

DATE February 9, 1982

SUBJECT Report of Evaluation Committee on DCAD Telecommunications Proposals

FROM John van Wezel
Assistant Director-Administration

RECOMMENDATION

The Evaluation Committee established to review competitive proposals for DCAD Telecommunications (Contract DCAD 6-T-600) recommends as its first choice that the contract be awarded for purchase of equipment in accordance with the proposal of Centel Communications Company. The second choice would be further exploration of the rental plan proposed by Centel Communications Company.

BACKGROUND

Evaluation Committee:

On October 26, 1981, by Resolution No. R-1604-81, the Board of County Commissioners waived formal bid procedures to permit solicitation of competitive proposals for DCAD Telecommunications Contract DCAD 6-T-600. Pursuant to this authorization, specifications were revised, advertised and proposals were publicly opened on January 15, 1982.

An Evaluation Committee consisting of the below listed individuals (full resumes are on file), following appropriate public notice, met on February 3, 4 and 5, 1982, to review the proposals, hear presentations from the proposers, ask questions and finally to rank the various proposals. The Evaluation Committee consisted of the following:

John van Wezel, Assistant Director-Administration, Dade County Aviation Department - Chairman

Joseph Fletcher, Director, Dade County General Services Administration

S. Verdette Hall, Manager (Telecommunications Consulting Specialist), Coopers & Lybrand, Houston, Texas

Richard Hannon, Partner, Hancock & Hannon, (Telecommunications Consultants to Aviation Department), St. Louis, Missouri

John Heinsohn, Director of Telecommunications, State of New York, Albany, N.Y.

J. Mullett, Project Manager, Howard Needles Tammen & Bergendoff (Consulting Engineers to Aviation Department), Miami

Lawrence O'Keefe, Engineer - Energy Management and Telecommunications Consultant, Atlanta, Georgia

Phillip Orton, Director of Telecommunications, Eastern Air Lines, Inc. Miami

Charles Schweis, Director of Telecommunications, Ciba-Geigy Corporation, Ardsley, N.Y.

Summary of Evaluation:

The following summarizes the proposals in order of ranking by the Evaluation Committee, indicating eight year first cost (actual cash), eight year present value analysis cost, the proposed time of completion in calendar days and number of Evaluation points (best possible is 9; worst possible is 54), based on Exhibit A attached hereto:

Name of Proposer	Eight Year First Cost (000's)	Eight Year Present Value (000's)	Time of Completion (Days)	Evaluation Points
Centel Communications - Purchase	$1,958.4	$1,546.5	225	10
Centel Communications - Rental	$2,589.0	$1,774.6	225	20
Southern Bell	$3,703.6	$2,472.0	287	34
Burnup & Sims	$2,369.5	$1,938.8	235	35
General Dynamics	$2,137.6	$1,714.1	210	37
Florida Telcom	$2,555.7	$2,127.9	455	53

Exhibit B to this report, dated February 15, 1982, consisting of some 16 pages, provides the in-depth analysis of the financial aspects of each of the proposals, with the financial figures shown above being derived from the summary on Page 16. The Exhibit includes a detailed explanation of the financial analysis methodology and assumptions used.

Summary of Proposals:

General

When proposals were opened on January 15, 1982, six proposals were received from the five firms listed (Centel's proposal was subsequently divided into two in order to separately consider their alternate rental proposal) and from Rockwell International. The Rockwell proposal was not considered based on advice from the County Attorney's Office that it was non-responsive, in that it took exception to or did not comply with one or more of the seven specification requirements which proposers were required to adhere to, namely those for Proposal Bond, Performance Bond, Payment Bond, Insurance, Affirmative Action, Minority Business Enterprises and minimum experience requirements.

Centel Communications Company

Centel Communications is a wholly owned subsidiary of Central Telephone & Utilities Corporation, which operates the fifth largest telephone system in the United States and is near the top in the interconnect telephone market. Centel's proposal offered separate Northern Telecom SL-1LE switching systems for the Airport and the Hotel at a purchase price of $829,139, subject to adjustments as described in Exhibit B, resulting in an eight year present value cost of about $1,546,497. The Centel proposal took exception to three of the stated system feature preferences in the Technical Specifications and in limited ways to the provisions regarding maintenance requirements and associated failure penalties.

In addition to its basic purchase proposal, Centel offered an alternate rental proposal at an approximate $306,953 per year for the first four years and an option for renewal for an additional four years at an annual price equal to 60% of the annual cost for the first four years. The eight year present value cost of this proposal would be about $1,774,647. Included within this rental plan alternative would be an opportunity, subject to DCAD concurrence and negotiation, for them to install a large SL-1 switch with additional capacity permitting them to offer service to other Airport users, representing a potential revenue source to the Department.

Southern Bell Telephone & Telegraph Company

Southern Bell offered a rental plan proposal based on the preferred single switch configuration using the Western Electric-Bell System Dimension 2000. However, the Dimension switch is an analog configuration as opposed to digital which was the stated preference. Southern Bell took numerous exceptions to other preferred terms and conditions based on either their corporate policy or tariff restrictions. During the oral presentation, questions developed as to whether the switch room specified would be sufficient to house the switch gear and battery reserve proposed by Southern Bell, probably resulting in a significant, but unknown, additional cost. As reflected in Exhibit B, the eight year present value cost of this proposal, based on a number of conservative assumptions, would be approximately $2,472,042.

Burnup & Sims Communications Services of Florida, Inc.

Burnup & Sims, the next rated proposer, proposed to provide two separate Northern Telcom SL-1LE switching systems, at an eight year present value cost of some $1,938,801. Overall the Burnup & Sims proposal was among the most compliant, taking exception to only three system and four station features of a relatively minor nature.

General Dynamics Communication Company (GDCC)

GDCC's proposal was based on provision of two separate Stromberg-Carlson Century Infotran-1200 switching systems with an estimated eight year present value cost of $1,714,075. GDCC took numerous exceptions to the preferred terms and conditions from general conditions through special conditions and technical specifications, many of which are substantive and are of cause for concern in terms of our ability to enforce performance.

Florida Telcom, Inc.

The lowest rated proposer, Florida Telcom, proposed two separate NEC NEAX-22 switching systems at an estimated eight year present value cost of $2,127,905. Florida Telcom took only minor exceptions to the preferred specifications.

Evaluation Approach

In accordance with the specifications, the Evaluation Committee was asked to evaluate each proposal based on the following:

1. Suppliers, including such factors as local capabilities, experience, reputation and their implementation and cable distribution plans.

2. Maintenance, including location, staffing, training, response time guarantees, equipment reliability factors (MeanTime Between Failures and MeanTime To Repair), remote diagnostic capabilities and experience with the equipment offered.

3. Exceptions taken by Proposers and their potential impact on DCAD, the system, its cost assurances, and guaranteed performance.

4. Equipment, including previous knowledge of its capabilities and reliability, whether it was in the preferred single switch configuration, whether it was digital (preferred) or analog and to what extent it met the numerous preferred system, station and console features, etc.

5. Other factors.

6. Costs on both an eight year "first cost" and an eight year "present value" basis (Exhibit B).

The members of the Evaluation Committee based on their experience and expertise, weighting the six factors in their own judgment, were then to rank the proposals in the order which they felt were in the Department's best interests. These rankings are reflected in the opening of this report. It should be noted that eight of the nine Committee members rated the Centel purchase plan as their first choice. The remaining member voted Centel rental first and Centel purchase second.

After the ranking was completed, each Committee member, except this writer, was privately interviewed as to how sensitive to cost his ranking was, in the event the final cost analysis (Exhibit B) resulted in any appreciable shift between the relative costs of proposers, and what were the key reasons for their rank ordering. Without identifying the individuals by name, the following is a summation of their responses to the two questions:

- No price sensitivity
- Equipment and system - state of the art. Corporate commitment.

- No significant price sensitivity.
- Equipment and the firm's experience with the equipment. The firm.

- No price sensitivity.
- Equipment technology. Commitment of corporation.

- No sensitivity in the $100,000 range.
- The switching vehicle, its flexibility, growth and adaptability.

- $250,000 or more.
- Cost and support.

- No price sensitivity.
- Expertise, progress, success and commitment of corporation. Completeness of proposal.

- $250,000 over 8 years.
- How well prepared proposer was, their initiative and compliance.

- $100,000 or more
- Tried and proven product and supplier. Stability of supplier over next 5-10 years.

In addition, attached as Exhibit C is a brief analysis of each of the four switching systems prepared by one of the Evaluation Committee members.

SUMMARY

The members of the Evaluation Committee, based primarily on their belief that the Northern Telecom SL-1LE switching system is the best of the four offerings and secondarily on their confidence in the commitment of the proposer to serve DCAD and the South Florida area, essentially unanimously recommends the Centel proposal, preferring the purchase option, but giving high second place grades to the rental plan for further consideration.

attachments

Exhibit A

PROPOSAL RANKINGS

Name	Burnup & Sims	Centel Purchase	Centel Rental	Florida Telcom	General Dynamics	Southern Bell
J. van Wezel	3	1	2	6	4	5
J. Fletcher	2	1	3	6	5	4
S. V. Hall	4	1	2	6	5	3
R. Hannon	3	1	2	6	5	4
J. Heinsohn	4	1	2	6	5	3
J. Mullett	4	1	2	6	5	3
L. O'Keefe	6	2	1	5	3	4
P. Orton	4	1	2	6	3	5
C. Schweis	5	1	4	6	2	3
Total	35	10	20	53	37	34

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DADE COUNTY AVIATION DEPARTMENT

Continuing Trunk Requirements
from
Southern Bell Telephone
with
Dimension 2000 or A Private Telephone System

	Installation Charge	Monthly Rental
AIRPORT		
Trunks:		
30 DID Trunks	$ 632.00	$1,963.50
30 Out Dial Trunks	585.00	1,963.50
Touch Tone:		
30 Touch Tone Charges	------	105.00
DID:		
First 100 Numbers	750.00	420.00
Next 100 Numbers	600.00	330.00
Third 100 Numbers	75.00	42.50
Sub-Total	$2,642.00	$4,824.50
HOTEL		
Trunks:		
First Measured Trunk	$ 66.50	$ 22.30
26 Subsequent Trunks	507.00	289.90
8 HOBIC Trunks	------	------
27 Touch Tone Charges	------	94.50
Sub-Total	$ 573.50	$ 406.70
GRAND TOTAL	3,215.50	5,231.20

Annual Rental $62,774.40

//

DADE COUNTY AVIATION DEPARTMENT

Common Adjustment to All
Purchase Interconnect System Proposals

It is recognized that certain increased risks and responsibilities apply with an interconnected telephone system over a rented one. For example, the task of administering and protecting purchased property is greater than property rented from someone else. Accordingly, shown below are two additional cost factors applicable to purchased systems.

The first cost is for stolen telephones and equipment. It was suggested that a large number of telephones are removed from the Airport, and that Southern Bell has replaced them in the past with no added charge. An allowance of $200 per month, or $2,400 per year, is included for all purchase proposals from year one. This allowance is increased at the rate of 8% annually.

Similarly, it was contended that an administrative expense would be necessary to safeguard an interconnected telephone system, where such expense is not required with a rented system. Therefore, an allowance of $25,000 annually is included in the interconnected purchase proposals to reflect this added administrative burden over the Bell rental proposal. This allowance is increased at the rate of 6% annually.

Shown below are the two expenses, totalled each year, that appear in the individual system calculation columns under the system purchase price. As Centel has agreed to administer their rented system and replace stolen and damaged telephones, these additional cost factors are not considered applicable to the rental proposals from either Southern Bell or Centel.

Year	8%	6%	Total
1	$2,400	$25,000	$27,400
2	2,592	26,500	29,092
3	2,799	28,090	30,889
4	3,023	29,775	32,798
5	3,265	31,562	34,827
6	3,526	33,456	36,982
7	3,808	35,463	39,271
8	4,113	37,591	41,704
9	4,442	39,846	44,288
10	4,798	42,237	47,035

PSC 6143

DADE COUNTY AVIATION DEPARTMENT

Burnup & Sims Communications Services of Florida, Inc.
Proposal for
Two Separate SL-1 Systems
Manufactured by Northern Telcom

Proposal Form	Purchase Price
1. SL-1 System for Airport	$ 850,000
2. SL-1 System for Hotel	350,000
TOTAL	$1,200,000
Hotel Switch Credit	15,000
NET PROPOSAL FORM PRICE	$1,185,000*

Options:

1. Spare Parts Maintenance Kit	$ 30,370
2. Test Equipment	2,050
3. Paging System Maintenance Area	6,374*
4. Tram Control Room Telephone	Included
5. Message Waiting	Included
6. Do Not Disturb	Included
7. Maintenance after Two-Year Warranty	
One Year	33,000
Three Years	36,900
Five Years	42,504
Ten Years	48,879
8. Hotel Message Accounting System (Call Cashier - ZAP Call)	26,000*
Final System Purchase Price	$1,217,374

*Includes Paging System Maintenance Area and Hotel Message Accounting System

DADE COUNTY AVIATION DEPARTMENT

Burnup & Sims Communications Services of Florida, Inc.

Two SL-1 Systems

Year	System Purchase Price, Annual Stolen Equipment[1] & Administrative Expense[2]	Maintenance Expenses[3] Annualized	(4) Trunks and Touch Tone Equipment	Annual Total	Cumulative Total	Reduced to Present Value @11% Cost of Money Compounded Monthly Annual	Cumulative
0	$1,217,374	$------	$ 3,216	$1,220,590	$1,220,590	$1,220,590	$1,220,590
1	27,400	------	62,774	90,174	1,310,764	85,024	1,305,614
2	29,092	------	66,540	95,632	1,406,396	80,817	1,386,431
3	30,889	33,000	70,533	134,422	1,540,818	101,816	1,488,248
4	32,798	36,200	74,765	143,863	1,684,681	97,666	1,585,913
5	34,827	39,930	79,251	154,008	1,838,689	93,709	1,679,622
6	36,982	43,923	84,006	164,911	2,003,600	89,936	1,769,558
7	39,271	48,315	89,046	176,632	2,180,232	86,337	1,855,895
8	41,704	53,147	94,389	189,240	2,369,472	82,906	1,938,801
9	44,288	58,462	100,052	202,802	2,572,274	79,633	2,018,434
10	47,035	64,308	106,055	217,398	2,789,672	76,510	2,094,944

[1]The value of stolen equipment is escalated at 8% annually.

[2]Administrative expense begins in year one and escalates at 6% annually.

[3]The maintenance expense begins in year three and escalates at 10% annually.

[4]The continuing Southern Bell charges are escalated at 6% annually.

DADE COUNTY AVIATION DEPARTMENT

Centel Proposal
for
Two Separate SL-1 Systems
Manufactured by Northern Telcom

Proposal Form:		Purchase Price
1. SL-1 LE 5)	for Airport	$541,679
2. SL-1 LE 5	for Hotel	287,460
	TOTAL	$829,139
Hotel Swit	.edit	----
	NET PRO'OSAL FORM PRICE	$829,139*

Options:

1.	Spare Parts Maintenance Kit	$ 66,751
2.	Test Equipment	3,400
3.	Paging System Maintenance Area	1,872*
4.	Tram Control Room Telephone	1,341) Included
5.	Message Waiting	600) - in
6.	Do Not Disturb	2,466) Proposal Price
7.	Maintenance after Two-Year Warranty	
	One Year	27,360
	Three Years	96,332
	Five Years	164,472
	Ten Years	Not Offered
8.	Hotel Message Accounting (Com Dev Model 8100)	16,752*
Final System Purchase Price		$849,815

*Includes Paging System Maintenance Area, ComDev Message Accounting for Hotel and ComDev Message Accounting for Airport instead of TSB proposed. ($16,752 - 14,700 = $2,052)

DADE COUNTY AVIATION DEPARTMENT

Centel Communications Company Purchase Proposal

Two SL-1 Systems

Year	System Purchase Price Annual Stolen Equipment[1] & Administrative Expense[2]	Maintenance Expenses[3] Annualized	(4) Trunks and Touch Tone Equipment	Annual Total	Cumulative Total	Reduced to Present Value @11% Cost of Money Compounded Monthly Annual	Cumulative
0	$849,815	$———	$ 3,216	$853,031	$ 853,031	$853,031	$ 853,031
1	27,400	———	62,774	90,174	943,205	85,024	938,055
2	29,092	———	66,540	95,632	1,038,837	80,817	1,018,872
3	30,889	27,360	70,533	128,782	1,167,619	97,544	1,116,417
4	32,798	30,096	74,765	137,659	1,305,278	93,454	1,209,871
5	34,827	33,106	79,251	147,184	1,452,462	89,557	1,299,427
6	36,982	36,416	84,006	157,404	1,609,866	85,842	1,385,269
7	39,271	40,058	89,046	168,375	1,778,241	82,301	1,467,570
8	41,704	44,064	94,389	180,157	1,958,398	78,927	1,546,497
9	44,288	48,470	100,052	192,810	2,151,208	75,709	1,622,206
10	47,035	53,317	106,055	206,407	2,357,615	72,642	1,694,848

[1] The value of stolen equipment is escalated at 5% annually.

[2] Administrative expense begins in year one and escalates at 6% annually.

[3] The maintenance expense begins in year three and escalates at 10% annually.

[4] The continuing Southern Bell charges are escalated at 6% annually.

DADE COUNTY AVIATION DEPARTMENT

Centel Proposal - 48 Month Rental Plan
for
Two Separate SL-1 Systems
Manufactured by Northern Telcom

Proposal Form:	Monthly Rental
1. SL-1 LE System for Airport	$ 16,304.53
2. SL-1 LE System for Hotel	8,652.55
TOTAL	$ 24,957.08
Hotel Switch Credit	------
ANNUAL RENTAL - First Four Years	$299,484.96
- Second Four Years (60%)	179,690.98

Options - Monthly Rental:

1. Spare Parts Maintenance Kit	Not Applicable	
2. Test Equipment	Not Applicable	
3. Paging System Maintenance Area	56.35*	
4. Tram Control Room Telephone	40.36)	Included in Proposal Price
5. Message Waiting	18.06)	
6. Do Not Disturb	74.23)	
7. Maintenance after Two-Year Warranty		
One Year	Not Applicable	
Three Years	Not Applicable	
Five Years	Not Applicable	
Ten Years	Not Applicable	
8. Hotel Message Accounting System	504.24@	

Contracted Annual Rental:

First Four Years . . . $306,953.28 (299,484.96 + 7,468.32 = 306,953.28)
Second Four Years. . . $184,171.97 (179,690.98 + 4,480.99 = 184,171.97)

*Includes ComDev Units for Airport & Hotel as well as the Paging System in the Maintenance Area.

DADE COUNTY AVIATION DEPARTMENT

Centel Communications Company Rental Proposal

Two SL-1 Systems

Year	System Rental Plan including Maintenance	(1) Trunks and Touch Tone Equipment	Annual Total	Cumulative Total	Reduced to Present Value @11% Cost of Money Compounded Monthly Annual	Cumulative
0	$-------	$ 3,216	$ 3,216	$ 3,216	$ 3,216	$ 3,216
1	306,953	62,774	369,727	372,943	348,611	351,827
2	306,953	66,540	373,493	746,436	315,634	667,462
3	306,953	70,533	377,486	1,123,922	285,922	953,384
4	306,953	74,765	381,718	1,505,640	259,140	1,212,524
5	184,172	79,251	263,423	1,769,063	160,284	1,372,808
6	184,172	84,006	268,178	2,037,241	146,253	1,519,062
7	184,172	89,046	273,218	2,310,459	133,548	1,652,610
8	184,172	94,389	278,561	2,589,020	122,038	1,774,647
9	184,172	100,052	284,224	2,873,244	111,604	1,886,251
10	184,172	106,055	290,227	3,163,471	102,141	1,988,393

(1) The continuing Southern Bell charges are escalated at 6% annually.

DADE COUNTY AVIATION DEPARTMENT

Florida Telcom Inc. Proposal
for
Two Separate NEAX-22SA Systems
Manufactured by Nippon Electric Corp.

Proposal Form	Purchase Price	
1. NEAX-22SA System for Airport	$1,149,491	
2. NEAX-22SA System for Hotel	256,804	
TOTAL	$1,406,295	
Hotel Switch Credit	20,000	
NET PROPOSAL FORM PRICE	$1,386,295*	
Options:		
1. Spare Parts Maintenance Kit	Included	
2. Test Equipment	321	
3. Paging System Maintenance Area	7,200)	Included in Proposal Price
4. Tram Control Room Telephone	15,303)	
5. Message Waiting	3,168)	
6. Do Not Disturb	Included	
7. Maintenance after Two-Year Warranty		
One Year	32,130	
Three Years	139,764	
Five Years	281,137	
Ten Years	Not Offered	
8. Hotel Message Accounting System (Datapoint - Model 9195)	24,000*	
Final System Purchase Price	$1,410,295	

*Includes Hotel Message Accounting System

DADE COUNTY AVIATION DEPARTMENT

Florida Telcom Inc. Proposal

TWO NEAX-2SA Systems

Year	System Purchase Price, Annual Stolen Equipment[1] & Administrative Expense[2]	Maintenance Expenses[3] Annualized	(4) Trunks and Touch Tone Equipment	Annual Total	Cumulative Total	Reduced to Present Value @11% Cost of Money Compounded Monthly Annual	Cumulative
0	$1,410,295	$------	$ 3,216	$1,413,511	$1,413,511	$1,413,511	$1,413,511
1	27,400	------	62,774	90,174	1,503,685	85,024	1,498,535
2	29,092	------	66,540	95,632	1,599,317	80,817	1,579,352
3	30,889	32,130	70,533	133,552	1,732,869	101,157	1,680,510
4	32,798	35,343	74,765	142,906	1,875,775	97,106	1,777,616
5	34,827	38,877	79,251	152,955	2,028,730	93,068	1,870,684
6	36,982	42,765	84,006	163,753	2,192,483	89,304	1,959,988
7	39,271	47,042	89,046	175,359	2,367,842	85,715	2,045,703
8	41,704	51,746	94,389	187,839	2,555,681	82,292	2,127,995
9	44,288	56,920	100,052	201,260	2,756,941	79,027	2,206,022
10	47,035	62,612	106,055	215,702	2,972,643	75,913	2,281,935

(1) The value of stolen equipment is escalated at 8% annually.

(2) Administrative expense begins in year one and escalates at 6% annually.

(3) The maintenance expense begins in year three and escalates at 10% annually.

(4) The continuing Southern Bell charges are escalated at 6% annually.

DADE COUNTY AVIATION DEPARTMENT

General Dynamics Communications Company Proposal
for
Two Separate DBX-1200 Systems
Manufactured by Stromberg-Carlson

Proposal Form	Purchase Price
1. DBX-1200 System for Airport	$ 775,567
2. DBX-1200 System for Hotel	245,879
TOTAL	$1,021,446
Hotel Switch Credit	22,081
NET PROPOSAL FORM PRICE	$ 999,365

Options:

1. Spare Parts Maintenance Kit	$ 22,860
2. Test Equipment	Omitted
3. Paging System Maintenance Area	2,760*
4. Tram Control Room Telephone	616 (Included)
5. Message Waiting	Included in Proposal
6. Do Not Disturb	Included in Proposal
7. Maintenance after Two-Year Warranty	
One Year	30,840
Three Years	102,051
Five Years	188,122
Ten Years	Not Offered
8. Hotel Message Accounting System	2,460 (Included)
Final System Purchase Price	$1,002,125

*Includes Paging System Tram Control Area

DADE COUNTY AVIATION DEPARTMENT

General Dynamics Communications Company Proposal

Two DBX-1200 Systems

Year	System Purchase Price Annual Stolen Equipment[1] & Administrative Expense[2]	Maintenance Expenses[3] Annualized	(4) Trunks and Touch Tone Equipment	Annual Total	Cumulative Total	Reduced to Present Value @11% Cost of Money Compounded Monthly Annual	Cumulative
0	$1,002,125	$------	$ 3,216	$1,005,341	$1,005,341	$1,005,341	$1,005,341
1	27,400	------	62,774	90,174	1,095,515	85,024	1,090,365
2	29,092	------	66,540	95,632	1,191,147	80,817	1,171,182
3	30,889	30,840	70,533	132,262	1,323,409	100,180	1,271,362
4	32,798	33,924	74,765	141,487	1,464,896	96,053	1,367,415
5	34,827	37,316	79,251	151,394	1,616,290	92,118	1,459,534
6	36,982	41,048	84,006	162,036	1,778,326	88,368	1,547,902
7	39,271	45,153	89,046	173,470	1,951,796	84,792	1,632,695
8	41,704	49,668	94,389	185,761	2,137,557	81,382	1,714,076
9	44,288	54,635	100,052	198,975	2,336,532	78,130	1,792,206
10	47,035	60,098	106,055	213,188	2,549,720	75,029	1,867,235

[1] The value of stolen equipment is escalated at 8% annually.

[2] Administrative expense begins in year one and escalates at 6% annually.

[3] The maintenance expense begins in year three and escalates at 10% annually.

[4] The continuing Southern Bell charges are escalated at 6% annually.

DADE COUNTY AVIATION DEPARTMENT

Southern Bell Telephone Proposal
Bid Form Amounts

Proposal Form	Installation Charge	Monthly Rental
1. Dimension 2000 Switching System serving Airport and Hotel	$125,466.50	$17,492.00
2. Airport Peripheral Equipment including Stations, Telephones and Key Equipment	7,418.30	4,140.65
3. Hotel Peripheral Equipment	5,985.60	1,377.80
BID FORM TOTALS	$138,870.40	$23,010.45

The rental for the Dimension is subject to the 48-month contract and protected from rate increases during that period.

Options:

1. Maintenance	Not Applicable	
2. Test Equipment	Not Applicable	
3. Paging System Maintenance	$ 185.00	$ 44.90
4. Panel Telephone Tram Control Room (Added to System)	150.00	46.90
5. Subsequent Years Maintenance	Not Applicable	
6. Do Not Disturb	Included in Proposal	
7. Message Waiting Common Equipment	Included in Proposal	
264 Telephones	----	356.40
8. Hotel Call Rating System (Estimated)	6,000.00	1,700.00
OPTIONS TOTAL	$ 6,335.00	$ 2,147.70

Installation Interval — 41 Weeks (287 Days)

Conduit Expressly Excluded:

Page IP-8 - "Dade County is responsible for furnishing any conduit which may be required."

DADE COUNTY AVIATION DEPARTMENT

Southern Bell Telephone Proposal

Adjustments to Proposal Form Amounts

	Installation Charge	Monthly Rental
Proposal Form Amount Totals		
Dimension System (48-Month Contract)	$125,466.50	$17,492.00
Peripheral Equipment (Non-Contract)		
Airport	7,418.30	4,140.65
Hotel	5,985.60	1,377.80
Equipment Additions & Adjustments		
Dimension System		
Credit for Existing Hotel System	$(10,239.77)	----
Conduit	50,000.00	----
Performance Bond & Payment Bond	3,135.00	----
Sub-Total	$ 43,095.23	$ ----
Airport Peripheral Equipment		
1 - Maintenance Area Paging System	$ 185.00	$ 44.90
4 - 8 Line Status Indicators	200.00	62.40
12 - 16 Line Status Indicators	600.00	259.20
20 - Elevator Telephones	----	174.00
8 - Lightweight Headsets for Use with Tram Telephones	60.00	43.60
1 - Message Detail Recording System	2,508.00	696.50
1 - Lot Mileage	----	782.80
Sub-Total	$ 3,553.00	$ 2,063.40
Hotel Peripheral Equipment		
Hotel Call Rating System (Estimated)	$ 6,000.00	$ 1,700.00
Message Waiting Telephones	----	356.40
Sub-Total	$ 6,000.00	$ 2,056.40
Adjusted Totals		
Dimension System	$168,561.73	$17,492.00
Peripheral Equipment		
Airport	10,971.30	6,204.05
Hotel	11,985.60	3,434.20
Peripheral Equipment Total	$ 22,956.90	$ 9,638.25

Installation Charges

Dimension System $168,561.73
Peripheral Equipment 22,956.90

Annual Rentals

Dimension System . . . . . $209,904.00 (12 x 17,492.00 = 209,904.00)
Peripheral Equipment . . . . . 115,659.00 (12 x 9,638.25 = 115,659.00)

24

Business — Marketing Department
Government/ Education/ Medical & Lodging Industries

Southern Bell

7740 N.W.50th Street
Building B
Miami, Florida 33166
Phone (305) 593 5300

February 4, 1982

Mr. Dick Harmon
Communications Consultant
Hancock & Harmon, Inc.
c/o Dade County Aviation Authority
Miami International Airport
Miami, Florida

Dear Mr. Harmon:

In response to your questions received in the past two weeks concerning detailed costs for several components of Southern Bell's proposal to the Dade County Aviation Department, we are providing the following information:

1. The cost to Dade County Aviation Authority for a Performance and Payment Bond will be $ 3,335.00. As we discussed, this cost was previously included in the Contract allowances of $ 100,000.00 because a detailed cost breakdown was not available at the time of proposal submission.

2. Southern Bell's Rates and Tariff Department has reviewed our interpretation of the definition of "Same Building" for the purposes of determining when mileage charges apply. It has been determined that the Parking Garages are considered part of the main terminal building as they are connected by a covered walkway to Concourse B. The Satellite building is also considered part of the terminal building as the Tram structure connects the two buildings and it is possible for wires or cables of the Company to be safely run on the structure. A copy of the Tariff description and the applicable charges is attached.

3. Regarding our conversation concerning the cost of conduit, Southern Bell engineers and technicians who are familiar with our existing cable and conduit facilities at the airport have estimated new conduit requirements of no more than 2000 feet at a maximum cost of $ 10,000.00.

Attachment I

MILEAGE CHARGES

Location	Station Total
Central Chiller	3
Fire Station	12
Electrical Vault	1
Bomb Threat Building	1
Fire Department	12
Maintenance Buildings	37
Outside Locations	14
Total	80

The average distance between the outlying buildings and the main terminal building is 3/10 mile. The mileage charge is $ 1.90 per one tenth mile increment per month.

Mileage Charge per Month = $ 456.00

Mileage Charge per Year = $ 5, 472.00

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
FLORIDA
DEC 01 1981
W. N. Alford, Vice President
Miami, Florida

PRIVATE LINE SERVICE TARIFF

Second Revised Page 18
Cancels First Revised Page 18

EFFECTIVE: DEC 01 1981

B2. REGULATIONS

B2.5 Definitions (Cont'd)

Private Line Network (C)

The term "Private Line Network" denotes two or more private line units of the same type contracted for by one customer and reaching one or more common service points. The lines may be operated separately or they may be connected or connectable by means of a switching arrangement.

Rate Center (C)

The term "Rate Center" for private line services is a specified geographical location within an exchange area from which mileage measurements are determined for the application of interexchange mileage rates.

Same Building (C)

The term "Same Building" is to be interpreted as a structure under one roof, or two or more structures under separate roofs but connected by enclosed passageways in which the wires or cable of the Company can be safely run provided the plant facility requirements are not appreciably greater than would be required normally if all structures were under one roof. In those cases where there are several structures under separate roofs but connected by enclosed passageways and the plant facility requirements for furnishing service are appreciably greater than would be required normally if all the structures were under one roof, the term "same building" applies individually to each of the separate structures. Pipes and conduit are not considered enclosed passageways. (N)

Service Point (C)

The term "Service Point" when used in connection with private line services denotes an exchange which normally serves the exchange area in which a station of the customer is located, or an exchange in which an interexchange channel is terminated in a Telephone Company office at the request of the customer.

The term "Service Point" when used in connection with customer-provided communication channels denotes the point on the customer's premises where channels provided by or furnished to the customer are terminated in transmitting and receiving terminating equipment or switching equipment used, at least in part, for communications with stations or customer-provided terminal equipment located on the premises.

Serving Central Office (C)

The term "serving central office" denotes the central office from which a customer or authorized user would normally be served for local exchange telephone service.

Single Ended Terminal Device (C)

The term "Single Ended Terminal Device" denotes a device which terminates only one line or channel at a given time (example - headset).

Station (C)

The term "Station" as used in connection with private line services:

a. Denotes the transmitting or receiving equipment or combination transmitting and receiving equipment furnished by the Telephone Company at any location on a premises and connected for private line service or,

b. Denotes a point on a premises at which a channel is terminated where the service involves only channels and the transmitting or receiving equipment or combination transmitting and receiving equipment, as furnished by the customer, authorized user or joint user or,

c. Denotes a termination of a private line in a Telephone Company office for foreign exchange service or in a switching center of a Switched Circuit Automatic Network or a Common Control Switching Arrangement.

DADE COUNTY AVIATION DEPARTMENT

Mileage Treatment

Different Buildings on Airport

Building	Airline Distance in Inches between Cable Entry Points into Buildings	Airline Distance in Feet (x 500)	Number of Tenths (4 by 528)	Use	Number of Circuits	Total Terms Subject to Mileage
Satellite	1-13/16	1405	2.66	3	46	[illegible]
Chiller	1-3/4	875	1.66	2	3	[illegible]
Fire Station	5-11/16	2845	5.39	6	12	[illegible]
Vault	6-1/16	3030	5.74	6	1	[illegible]
Bomb Threat Bldg.	6-1/2	3250	6.16	7	1	[illegible]
Fire Dept. Office	5-1/2	2750	5.21	6	12	[illegible]
Maintenance*	3-1/8	1565	2.96	3	37	[illegible]
				TOTAL		[illegible]

Mileage Total - $782.80 (412 x 1.90 = 782.80)

Buildings Considered as Connected by Covered Walkways to Main Terminal, thus Being Considered Same Building as Airport Terminal:

Parking Garage 3	1/2	250		1	24	[illegible]
Parking Garage 4	1-1/2	750	1.42	2	1	[illegible]
Parking Garage 5	1-1/4	625	1.18	2	2	[illegible]
Transport Office				1	1	[illegible]
				TOTAL		[illegible]

Not Applied - $ 58.90 (31 x 1.90 = 58.90)

*Measured nearest corner of Terminal where underground conduit is known to leave Terminal for Maintenance Area.

DADE COUNTY AVIATION DEPARTMENT

Airport and Hotel Combined Switching System
Southern Bell Telephone
Dimension 2000 Feature Package 11

Year	(1) Dimension Contract 48 Months	(2) Non-Contract Equipment	(3) Trunks and Touch Tone Equipment	Annual Total	Cumulative Total	Reduced to Present Value @11% Cost of Money Compounded Monthly Annual	Cumulative
0	$168,562	$ 22,957	$ 3,216	$194,735	$ 194,735	$194,735	$ 194,735
1	209,904	115,659	62,774	388,337	583.072	366,158	560,893
2	209,904	120,285	66,540	396,729	979,801	335,271	896,164
3	209,904	125,097	70,533	405,534	1,385.335	307,167	1,203,331
4	209,904	130,101	74,765	414,770	1,800,105	281,579	1,484,910
5	245,558	135,305	79,251	460,114	2,260,219	279,965	1,764,874
6	245,558	140,717	84,006	470,281	2,730,500	256,472	2,021,346
7	245.558	146,346	89,046	480,950	3,211,450	235,087	2.256,433
8	245,558	152,199	94,389	492,146	3,703,596	215,609	2,472,042
9	287,268	158,287	100,052	545,607	4,249,203	214,239	2,686,281
10	287,268	164,619	106,055	557,942	4,807,145	196,360	2,882,641

(1) Escalated at 4% annually and effected every four years.

(2) Escalated at 4% annually.

(3) Escalated at 6% annually.

DADE COUNTY AVIATION DEPARTMENT

Cash Flow Comparisons

Cumulative Totals

(in Thousands of Dollars)

FIRST COST

Year	Burnup & Sims	Centel Communications Purchase	Centel Communications Rental	Florida Telcom	GDCC	Southern Bell
2	1406.4	1038.8	746.4	1599.3	1191.1	979.8
4	1684.7	1305.3	1505.6	1875.8	1464.9	1800.1
6	2003.6	1609.9	2037.2	2192.5	1778.3	2730.5
8	2369.5	1958.4	2589.0	2555.7	2137.6	3703.6
10	2789.7	2357.6	3163.5	2972.6	2549.7	4807.1

REDUCED TO PRESENT VALUE @ 11% COST OF MONEY

2	1386.4	1018.9	667.5	1579.4	1171.2	896.2
4	1585.9	1209.9	1212.5	1777.5	1367.4	1484.9
6	1769.6	1385.3	1519.1	1959.9	1547.9	2021.3
8	1938.8	1546.5	1774.6	2127.9	1714.1	2472.0
10	2094.9	1694.8	1988.4	2282.8	1867.2	2882.6

EXHIBIT C

COMMENTS ON PROPOSED
SWITCHING SYSTEMS

NORTHERN TELECOM - SL-1 (Burnup & Sims; Centel)

The SL-1 has earned an envied reputation for efficiency, stability and reliability. The basic design, incorporated into voice and data, local and toll switching systems, standardized and used in Bell and non-Bell applications, is constantly being improved to anticipate modern users needs.

Northern Telecom, subsidiary of Northern Electric (originally established by AT&T as a sister manufacturing entity to Western Electric) provides service consistent to that once provided by Bell System.

Accepted: With no reservations.

(Note: Dade County, through the General Services Administration, presently owns, operates and maintains two (2) Northern Telecom SL-1 switches, providing potential backup assistance for the Aviation Department).

DIMENSION 2000 (Southern Bell)

The Dimension 2000 telephone system, designed in 1974, cannot compare technically to the other vendor system designs. Principle difference is the dimension analog system design as compared to the modern digital system design of the other proposing vendors. The practical aspects of the older technology is the comparatively limited system feature, data and office automation offerings of the Dimension 2000 FP8.

Bell proposes future update conversion of all dimensions to digital technology. This must be a costly and delicate maneuver. Logically, Bell should abandon the Dimension 2000 series and offer a new replacement. If so, the Dimension would have maximum 4 years of service to Miami Airport before forced replacement.

Accepted: With the following reservations.

Southern Bell as with other Bell operating companies, has a confusing future. It is reasonable, even mandatory for Southern Bell to formally clarify their position on these issues.

SYSTEM CENTURY 1200 (General Dynamics)

This switch is hybrid analog/digital design, with a digital center enabled by codec devices at outlets to station instruments and/or trunks. A radical software and hardware redesign is necessary to accommodate digital electronic telephones, digital trunks (T-1 Carrier) or digital data interfaces. For this reason GDCC offered conventional "1-A" key station equipment.

Rejected:

Poor switch design, questional application or functional advantages over current system, considerable and costly upgrade retrofits near term.

NEC NEAX-22 (Fl :ida Telcom)

The NEAX line o telephone switches are of a good, stable and reliable design. As with the infotran, it cannot support an electronic instrument. Additionally, NEC has not designed one.

The largest single fault is in offering conventional telephones. Whereas, the telephone design is not most desirable, the greatest difficulty is in the comparatively gross quantity of wires needed (25 to 100 pair as compared to 3 pair) and the associated electro-mechanical actuating systems.

Accepted: With the following reservations.

Inability to meet the intent of the system specifications.

MEMORANDUM Agenda Item No. 5 (d)(10)

TO Honorable Mayor and Members
Board of County Commissioners

DATE March 16, 1982

SUBJECT Award of Proposal for Aviation Department Telecommunications

FROM [illegible]
County Manager

RECOMMENDATION

It is recommended that the Board award the contract for Aviation Department Telecommunications for Miami International Airport and the Airport Hotel to Centel Communications Company, based on its proposal dated January 13, 1982 and that the Aviation Department be authorized to negotiate a final contract, based on such proposal for either purchase (in an amount not to exceed $1,046,347 or rental (in an amount not to exceed $1,397,812, for four (4) years from date of system cutover), to be executed by this office on behalf of the County.

BACKGROUND

In mid-1981, the Aviation Department advertised for telecommunications to serve the administrative functions of the Airport and to replace the outdated mechanical switching system serving the Airport Hotel. Although three bids were received, they had to be rejected, since they were all non-responsive to the specifications in varying degrees. At this time, the Board directed that future telephone specifications be so prepared as to permit Southern Bell to submit compliant bids, recognizing the restrictions of their tariff. As a result of these instructions, the Board adopted Resolution No. R-1604-81 on October 26, 1981 which waived competitive bidding procedures in order to seek competitive proposals for the Aviation Department's telecommunications contract.

Subsequently, the Department advertised proposal specifications which would permit all proposers to take exception to any part of the preferred specifications and contract requirements, except seven essential elements. Six proposals were publicly opened on January 15, 1982. Based on the advice of the County Attorney's Office, the proposal of Rockwell International was rejected and not considered as it was non-compliant in that it did not fulfill several of the seven required elements.

The remaining five proposals were submitted to an expert Evaluation Committee which met on February 3, 4 and 5 to hear presentations from the proposers, to ask questions and finally to rank the proposers. The Committee was virtually unanimous in recommending the proposals (either the basic purchase plan or the alternate rental option) of Centel Communications Company. The Committee's detailed report, along with the Aviation Director's memorandum of concurrence is attached.

The "not to exceed" figures contained in the Recommendation Section of this report do not coincide with those contained in the Evaluation Committee's report, since they have been adjusted to include acceptance of a number of the optional items in the specifications and to provide an allowance for added installations after system cutover. These figures were derived as follows:

Honorable M' /or and Members
Board of C ity Commissioners

	Centel	
	Purchase	Rental
Base Price	$849,815	$1,227,812
Allowance Account for Conduit and Equipment changes prior to cutover*	100,000	100,000
Changes and moves during warranty or rental periods**	40,000	70,000
Replacement of lost and stolen equipment**	56,492	-0-
Not to exceed Total	$1,046,347	$1,397,812

* Included in specifications for all proposers.

** Substantially similar amounts would be required for all proposers, except Southern Bell.

Agenda Item No. 5(d)(17)
7-24-90

RESOLUTION NO. R-788-90

RESOLUTION APPROVING EQUIPMENT LEASE AND MAINTENANCE AGREEMENT AND SHARED AIRPORT TENANT SERVICE AGREEMENT WITH CENTEL COMMUNICATIONS COMPANY; AUTHORIZING COUNTY MANAGER TO EXECUTE SAME AND TO EXERCISE THE CANCELLATION AND RENEWAL PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board hereby approves the Equipment Lease and Maintenance Agreement and the Shared Airport Tenant Service Agreement between Metropolitan Dade County and Centel Communications Company, in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to execute the same for and on behalf of the County and to exercise the cancellation and renewal provisions contained therein; the term of the Equipment Lease and Maintenance Agreement shall commence retroactively as of February 7, 1988 for an initial period of four (4) years, with County options to renew for five (5) separate one year periods; the term of the Shared Tenant Service Agreement shall commence retroactively as of February 7, 1988 for an initial period of four (4) years with County options to renew for five (5) separate one year terms; this Board finds it to be in the best interest of

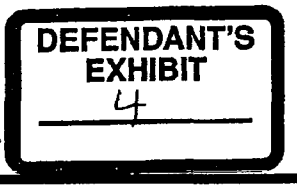


EXHIBIT B

the County to waive formal bid procedures in connection with the acquisition of the services, formal bidding being waived pursuant to Section 4.03(D) of the Home Rule Charter by two-thirds (2/3) vote of the Board members present, and by the written recommendation of the County Manager as provided by Administrative Order 3-2; this Board further waives the provisions of Resolution No. R-1586-72 relating to bidding requirements for acquisition of goods or services.

The foregoing resolution was offered by Commissioner Sherman S. Winn, who moved its adoption. The motion was seconded by Commissioner Larry Hawkins, and upon being put to a vote, the vote was as follows:

Barbara M. Carey	absent
Charles Dusseau	absent
Joseph M. Gersten	aye
Larry Hawkins	aye
Harvey Ruvin	aye
Barry D. Schreiber	absent
Jorge E. Valdes	aye
Sherman S. Winn	aye
Stephen P. Clark	aye

The Mayor thereupon declared the resolution duly passed and adopted this 24th day of July, 1990.

DADE COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

TONY COTARELO, CLERK

By: RAYMOND REED
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. AP

MEMORANDUM

Agenda Item No. 5(d)(17)

TO: Honorable Mayor and Members
Board of County Commissioners

DATE: July 24, 1990

FROM: Joaquin G. Avino, P.E., P.L.S.
County Manager

SUBJECT: Centel Agreements

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the following two agreements with Centel Communications Company ("Centel"):

1. An Equipment Lease and Maintenance Agreement, by which the County through its Aviation Department will continue to lease the telephone equipment for its "Airport System," and by which Centel will provide all maintenance services for such Airport System and the separate Hotel System; and

2. A Shared Airport Tenant Service Agreement, by which Centel shall provide telephone service to airport tenants and users.

BACKGROUND

Both agreements are essentially continuations of the agreements authorized by the Board in Resolution R-361-82 dated March 16, 1982. In that Resolution, the Board awarded Contract DCAD 6-T-600 to Centel for the installation of a telecommunications system at Miami International Airport, and authorized the County Manager to execute agreements either purchasing or leasing the telecommunications system.

The documents were subsequently executed, and consisted of (a) a Master Equipment Lease Agreement by which the County was given a 4-year lease for the Airport System and Hotel System, with an option in County to purchase either system, and (b) a Service Agreement by which County authorized Centel for a period of 8 years from "acceptance" of the airport or hotel system (whichever was later), to use certain Aviation Department facilities so as to operate, maintain and repair the complex Airport and Hotel Systems and to provide "Shared Airport Tenant" telephone service to airport tenants and users. Because the "acceptance date" was

February 1984, the Service Agreement therefore commenced in February 1984 for an 8-year period terminating in February 1992.

On October 7, 1987, the County exercised its option in the Master Equipment Lease Agreement to purchase the Hotel System. The Aviation Department is operating it today with Centel providing maintenance and repair services for that system.

In February 1988, when the initial 4-year term of the Master Equipment Lease Agreement expired, the Board agreed in Resolution No. R-302-88 to extend the Master Equipment Lease and Service Agreements on a month-to-month basis, "pending negotiations betwen the Aviation Department and Centel for amendments to the Equipment Lease and Service Agreement, or for a new equipment lease agreement."

Negotiations are now complete, and the two agreements recommended for approval today include the negotiated terms. Highlights of the agreements include the following:

1. The Lease Agreement will extend for an initial period of 48 months from February 7, 1988 (not from June 1990), with County thereafter having the option of extending it for five (5) separate two (2) year terms:

2. The Shared Airport Tenant Service Agreement has a new term applicable to it, starting on February 7, 1988, for an initial four year term, with the same 5 two-year extension options; and

3. The County will receive increased percentage-of-gross payments from the telephone charges Centel is able to collect from airport tenants and users who sign up for Centel's Shared Airport Tenant Service.

Based on the benefits to be derived from these two agreements, it is recommended that they both be approved.

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, TONY COTARELO, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. R-788-90 , adopted by the said Board of County Commissioners at its meeting held on July 24 , 1990 .

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 30th day of July , A.D. 1990 .

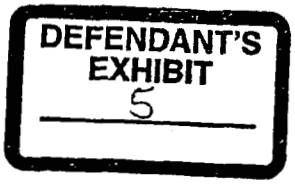
TONY COTARELO, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By Linda L. Cane
Deputy Clerk

COUNTY COMMISSIONERS BOARD OF COUNTY SEAL FLORIDA

Board of County Commissioners
Dade County, Florida

102.01 3 Rev 12/89 METRO-DADE/GSA MAT MGT



OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

5-9-11
7-3-90
R-777-90

EQUIPMENT LEASE AND MAINTENANCE AGREEMENT

THIS AGREEMENT entered into as of this 24th day of July, 1990, by and between METROPOLITAN DADE COUNTY ("County"), and CENTEL COMMUNICATIONS COMPANY ("Centel"), a Delaware corporation doing business at 1401 W. Commercial Boulevard, Fort Lauderdale, Florida, 33309.

WHEREAS, by Resolution No. R-361-82, the Board of County Commissioners of Dade County awarded Contract No. DCAD 6-T-600 to Centel for the installation and lease to County of a telecommunications system for Miami International Airport's hotel and a separate telecommunications system for the airport itself; and

WHEREAS, the parties then entered into the following two agreements:

1. A Master Equipment Lease of September 9, 1982, whereby County agreed to lease from Centel two telecommunications switches, one each for the Hotel and Airport Systems along with associated telephones hand sets, cable, software and the like, for an initial term of 48 months from the Acceptance Date, with an option in County to purchase such equipment according to terms and prices outlined in a separate schedule, and with an option in County to expand the lease period in accordance with certain terms; and

2. A Service Agreement of September 9, 1982, by which Centel was given the right to utilize telecommunication equipment and certain facilities within the airport in order to provide telephone service to airport tenants, for which Centel would pay County a minimum monthly fee plus stated percentages of gross revenues generated by various types of telecommunications equipment and services; and

WHEREAS, the acceptance date for the two systems was February 7, 1984, thus making the lease agreement expire on February 6, 1988; and,

WHEREAS by Resolution No. R-302-88, the Board of County Commissioners approved a Letter of Understanding between Centel and County by which the parties agreed that (a) the Master Equipment Lease would be continued on a month-to-month basis from February 7, 1988, (b) all remaining claims by the parties relating to the Hotel System would be considered as settled in full, (c) payments to County under the Service Agreement would be increased, and (d) the terms of the equipment and service agreements would be re-negotiated; and

WHEREAS, the parties have negotiated new terms applicable to the Master Equipment Lease and the parties desire to incorporate such terms into this new agreement; and

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1
Introduction

A. This Agreement pertains to the Equipment lease and maintenance requirements of the Airport System and to the equipment and maintenance requirements of the Hotel System. Any dealings between the parties relating to the Service Agreement as it pertains to "Shared Airport Tenant Services" ("SATS") to be provided Tenants and users at the Airport will be accomplished by separate agreement.

B. The Parties acknowledge and agree that the County purchased the Hotel system on October 7, 1987, and all remaining disputes and claims of whatever nature between the Parties relating in any way directly to the Hotel System, which claims or disputes existed on or before February 7, 1988, have been settled in full, as of February 7, 1988, and that thereafter, neither party shall have a claim against the other in relation to any such claim or dispute which existed on or before February 7, 1988.

ARTICLE 2
Definitions

A. Acceptance Date shall refer to February 7, 1984.

B. Agreement shall mean this Equipment Lease and Maintenance Agreement and its supplements, exhibits, and amendments.

C. Airport shall refer to the system of airports under the jurisdiction of the Department including Miami International Airport, Kendall-Tamiami Executive Airport, Opa-locka Airport, Homestead Airport, Dade-Collier Training and Transition Airport and Opa-locka West Airport.

D. Airport System shall refer to the SL-1XT telecommunication switch and equipment installed in connection

therewith, and other DCAD-approved systems installed by Centel including associated software sublicensed to County by Centel.

E. Change shall refer to any addition, deletion, adjustment, or modification which causes either an increase or decrease to the monthly rental rate.

F. Consumer Price Index shall refer to the Consumer Price Index-CPI(U)-for the U.S. City Average for all Items (1987 = 100%), as published by the U.S. Department of Labor's Bureau of Labor Statistics.

G. Contract No. 6-T-600 means the contract approved by the Board of County Commissioners by Resolution No. R-361-82 the proposal submitted by Centel, and any addenda thereto;

H. Current Rate shall refer to the rental rate in effect for an item of equipment as provided in Exhibit C of this agreement, as adjusted in accordance with other provisions of this agreement.

I. Cutover Date shall refer to February 7, 1984.

J. Delete shall refer to items of Equipment removed at the request of the Department, subsequent to Acceptance.

K. Department shall mean the Dade County Aviation Department, and may from time to time be abbreviated as "DCAD."

L. Discounted Rate shall refer to the current rate less any discount provided in Article 5(A)(4) hereof.

M. Distribution Cable shall mean all cables from the Main Distribution Frame to the Intermediate Distribution Frames.

N. Equipment shall mean all or any of the component parts of the Airport System, Shared Airport Tenant System, and Hotel System, including but not limited to, telephone hand sets, fiber optics cable, conduit, switches, software and other equipment provided by Centel.

O. Hotel System shall refer to the SL-1M Telecommunications switch and equipment installed in connection therewith in the Miami International Airport or for use by the Hotel, or any additions or upgrades thereto.

P. Initial Term shall refer the 4-year period from February 7, 1984 to and through February 6, 1988.

Q. Move shall refer to any adjustment or relocation of the equipment which does not cause an increase or decrease to the monthly rental rate.

R. Original Equipment shall mean all equipment installed prior to Acceptance and shall exclude all additions.

S. Shared Airport Tenant System ("SATS") shall refer to any or all component parts of the telecommunication system provided by Centel for service to tenants at the Airport.

T. Station Cable shall mean that cable which connects a telephone or other device to the Intermediate Distribution Frame (IDF).

U. Telephone Equipment Room(s) shall mean a facility or facilities mutually agreed to by DCAD and Centel for the installation of the telephone switch, stocking of spare parts, maintenance of the equipment, and other related uses.

V. Tenant shall mean any individual, company or business located at the Airport under lease with DCAD or otherwise engaged in the activities of serving Airport users, passengers, or the movement of cargo.

W. Term refers to a period of 48 months, beginning February 7, 1988.

X. Termination shall mean the expiration of the Lease Agreement at the end of the Term on any Renewal Term, or the County's cancellation of the lease by purchase as provided for in Article 6 of this Agreement.

ARTICLE 3
Scope of Agreement

A. Lease of Equipment.

Centel agrees to lease to the County and County agrees to lease from Centel the present Airport System for the term and at the rates provided for herein, and subject to additions and changes as further provided for herein.

Contract No. 6-T-600 and the Proposal of Centel are incorporated herein by reference. In the event of any inconsistencies between the provisions of this Agreement and the provisions of Contract No. 6-T-600 and the Proposal of Centel, the provisions of this Agreement shall govern, followed equally

by Contract No. 6-T-600 and the Proposal of Centel, provided, however, that where the Proposal of Centel conflicts with Contract No. 6-T-600, the Proposal of Centel shall take precedence and govern.

B. Service.

Centel agrees to provide the maintenance and repair services for the Airport and Hotel systems as required herein.

ARTICLE 4
TERM

This Agreement shall commence as of February 7, 1988, and shall continue for an initial period of four (4) years until the end of the business day on February 6, 1992. Thereafter, County shall renew this agreement for five (5) consecutive two (2) year terms, upon the terms and conditions contained herein, unless County gives Centel notice of termination as provided below.

County shall not have the right to terminate the agreement within the initial 4-year term, except for cause as provided in this Agreement; therafter, during the 10-year period, County may terminate this Agreement without cause and solely at its discretion upon the following conditions:

(a) If County exercises it option to purchase all of the equipment under Article 6 of the Equipment Lease Agreement, then County shall give Centel not less than twelve (12) months' notice of termination;

(b) if County does not exercise its right to purchase all of the equipment under such Agreement, County shall give Centel not less than thirty-six (36) months' notice of termination.

If any such termination shall occur during any term or renewal term hereof, then County's 12-month or 36-month notice shall constitute an automatic extension of this Agreement until the effective date of such termination.

ARTICLE 5
Compensation Payable to Centel

A. For Rental of the Equipment.

1. County shall pay to Centel monthly the rental due on the Airport System in accordance with the rental rates provided for in Article 5(A)(3). Centel shall provide County with an invoice on or before the 7th day of each month itemizing the rental charges applicable to the Equipment for the previous calendar month. Such invoice shall also include a listing of all Changes, Additions or Deletions made to the Equipment during the previous month and the effect thereof on the total rental rate. County shall pay Centel the applicable rental amount within 30 days of County's receipt by the County of the invoice less any disputed charges.

2. When an item of Equipment is deleted at DCAD request, the total rental for the following month shall be reduced by the amount then being paid for such item; provided however, that Dade County shall be obligated to rent any item of equipment for a minimum period of 24 months, and if rent for the item has not been paid for a total period of 24 months, then in the month following deletion of the equipment, the County will be billed the monthly lease rate for the deleted item of equipment times the number of months equal to 24 months less the months actually paid. The total rental for all the Equipment leased to County hereunder shall not be below eighty (80) percent of the total rental rate for the Airport System on the highest March 7th invoice, in any prior year, less adjustment for (a) any discounts to the rental rate provided for in this Agreement, and (b) the rental rate applicable to any equipment purchased by the County.

3. The rental rate for the Airport System shall be the Current Rate reflected on Exhibit C. Adjustments to the Current Rate shall be made annually on February 7, to be effective on March 7 of the following month. Adjustments in the rental rate shall not exceed the average increase or decrease in the Consumer Price index of the calendar year preceding the February 7 adjustment date. Beginning February 7th 1990 and for each year thereafter, the Current Rate as adjusted in February of each such year in accordance with the terms of this Article 5(A)(3) shall not exceed Centel's current South Florida After-Cutover List Price for the same equipment times .94, or Northern Telecom's current Commercial List Price times 1.3, whichever is lower.

4. Items that have been billed on five March 7 invoices will be discounted 40% from the Current Rate from and after the 5th March invoice. The discounts will become effective on the March 7 invoices each year. An example of the calculations is as follows:

An item installed on November 1, 1984 would be billed December 1, 1984 and the item would qualify for the 40% discount beginning with the March 7, 1989 invoice, if the item had been billed on the March 7 invoices in 1985, 1986, and 1987 and 1988.

5. The current rental rate as of February 7, 1988 is contained in Exhibit C attached hereto and made a part hereof.

6. The rate for any telephone set includes the rate for the Station Cable associated with such telephone set to the IDF but does not include any Distribution Cable.

B. Hourly Labor Rates

1. County shall compensate Centel separately for any labor services provided for equipment moves, additions, and all changes of rental equipment by Centel personnel pursuant to a Service Order issued by County. For time and material orders performed by Centel personnel, (see Article 7(G) below), compensation shall be computed by multiplying the applicable labor rate by the time actually incurred by Centel personnel for the labor services rendered County pursuant to the Service Order. Applicable labor rates beginning February 7, 1988 shall be:

Customers Service Rep Rate $45.00
Technician Rate $60.00
Engineer Rate $75.00

These rates shall be adjusted annually each February 7th during the Term based on changes in the preceding calendar year in the Consumer Price Index. At the time of any Renewal, the rates for the Renewal period shall be agreed to by Centel and the Department.

2. The cost of maintenance for all rented equipment is included in the monthly rental rate.

3. Centel shall provide maintenance for the Hotel System and on other purchased Equipment at rates specified Section 5 (D).

C. Audit

The County shall have the right to audit at it's cost and discretion the contract adjustments provided for in Article 5(A)(3). Centel agrees to make available in its South Florida office information required by the auditors to such audits.

D. Maintenance of Purchased Equipment

1. Charges for the maintenance for all Hotel and non SATS purchased equipment shall be provided for by Centel at a fixed annual rate payable monthly by County. Except as provided below, notwithstanding any purchases of equipment by County during the following 12-month period, the maintenance rate for the 12-month period shall be determined by the amount of such Hotel and purchased equipment as of February 7 of each year. To determine the maintenance rate, the component quantities shall be multiplied by the unit point values as shown in Exhibit D, multiplied by the per point per month amount shown in Exhibit D, multiplied by 12 to obtain the fixed annual maintenance fee for the subsequent 12-month period.

2. Charges for maintenance for all SATS components which County may purchase from time to time under Article 6, will be billed as at the above described method. However, when County purchases more than 50% of the Airport System or SATS components as measured by their current rental rates, then County shall pay Centel such monthly maintenance fee as determined above or the minimum monthly maintenance charge shown in Exhibit D, whichever is greater; and provided further, that if County purchases any component for which County has paid more than 12 monthly rental payments, then Centel shall charge the applicable maintenance fee for such item effective as of the date of purchase.

ARTICLE 6
Option to Purchase Equipment

A. Centel agrees to sell to the County all or any portion of the Equipment which it rents to the County at the Airport, except that Centel will not sell any part of the Equipment that is required by Centel to provide SATS Service to other telephone users at the Airport if the County does not purchase all of the non-owned Equipment at the Airport. If the County purchases all of the Equipment, (1) Centel agrees after receiving payment in full for all of the Equipment to assign to the County all service and lease agreements between Airport tenants and Centel, and (2) County shall have the option of obtaining Centel's maintenance services for any purchased Airport System or SATS components for

subsequent annual periods at rates determined in accordance with this Agreement.

B. The purchase price to the County for the Airport System will be determined by the following formula:

(Current Rate/.0301) X Purchase Multiplier

The purchase multiplier used for any item as reflected in Exhibit B will be based on the number of months that the item has been installed.

C. The Purchase Price to the County for the Shared Airport Tenant System Equipment shall be the sum of the Equipment price based on the formula(s) agreed to by Centel and DCAD at the time DCAD approves Centel's Shared Airport Tenant Rate(s), plus the County shall pay Centel the amount of the previous three months gross revenues as defined in the SATS Agreement or $100,000.00 whichever is less.

D. The purchase multipliers are listed in Exhibit B attached hereto and made a part hereof.

E. The County must give Centel written notice that the County is exercising its right to purchase hereunder at least six months prior to the purchase of more than 50% of the Airport System by dollar amount. If the County is purchasing 50% or less of the Airport System, then County must give Centel at least two months prior written notice.

F. If County purchases all of the Equipment, Centel shall assign to County any and all service and lease agreement between Centel and its SATS users. County shall agree to assume all rights and obligations under such agreements from and after the effective date of such assignment.

G. For any item purchased by County, Centel shall assign to County all unexpired warranties. If the County does not purchase all of the Equipment, the County shall use Centel's maintenance and repair services in regard to such purchased items for the term of the Agreement. Centel's maintenance services, and the rate applicable to such services, shall be based on the maintenance rates determined above in 5(D).

H. County shall be entitled to acquire from third parties equipment other than hardware or software manufactured or supplied by Centel, Northern Telecom, Inc., or its subsidiaries, associated with the Equipment hereunder, such as, but not limited to, closed circuit TV systems, computers, word processing

equipment, and FAX devices, any portion of which County shall be entitled to connect to the Airport System; provided, however, that such equipment shall not interfere with the maintenance and operation of the Airport System. Centel shall be reimbursed for materials and labor to the extent requested pursuant to terms set forth in Article 5B. Centel shall not warrant or be liable for the maintenance or repair for any equipment purchased by the County form a third party.

I. For the term of this Agreement, County shall have the option of purchasing from Centel additional components for the Airport or SATS equipment and of having Centel provide maintenance services for such equipment, at rates determined in accordance with this Agreement.

ARTICLE 7
Additions to and Relocations of the Equipment

A. Rental rates and installation charges for any Additions to the Equipment shall be in accordance with the Current Rate in Exhibit C as may be amended.

B. The rental rate adjustment to the Current Rate provided for in Article 5(A)(3), shall apply to all Additions.

C. The charges for relocating Equipment provided by Centel under this Agreement shall be the installation charges set forth in the Current Rate or as otherwise specifically agreed upon by the Parties. The discount entitlement of County under Article 5(A)(4), shall not be affected in any way by the relocation of any equipment.

D. A Service Order includes any request by the Department to move, add, change or remove Equipment. Centel shall charge the County a Service Order charge of $44.61 for every Service Order.

E. The Service Order Charge is subject to an annual review on February 7 and adjustment due to CPI (Customer Price Index) changes in the preceding 12 months.

F. The County may rent additional items of Equipment which are not included in Exhibit C. The materials purchase price on which the rental rate will be based will be calculated under the provisions of paragraph G(2) below or on fixed cost quote basis at County's option. The County at the time the work order is placed with Centel will specify if the work is to be done on a fixed cost basis. The monthly rental rate for items not

included in Exhibit C will be determined by multiplying the materials purchase price times .0301. The labor cost will be paid as an installation charge associated with each item of Equipment.

G. The time and materials formula is as follows:

1) The labor rates are the current labor rates as provided for in Article 5(B) above.

2) The materials purchase price will be Northern Telecom's Commercial List Price times 1.3 or Centel's current South Florida After Cutover List Price times .94, which ever is lower.

H. In the event Centel, under the terms of this Agreement or any other agreement with the County, chooses to install any Equipment not required for the Airport System or Hotel System, it shall be without cost to the County.

ARTICLE 8
Obligations of Centel

A. Maintenance, Repair and Service

1. Centel shall provide prompt and efficient maintenance and repair of the Airport and Hotel Systems and its component parts with personnel competent for such function, so that Centel meets or exceeds the following standards on 95% of all requests, except that orders delayed because of scheduled changes or priority moves, changes and additions requested by DCAD shall not be counted as a missed order.

a. Repair service standards:

Respond to minor failure within 24 hours (7 days per week)

Respond to major failure within 2 hours (7 days per week)

b. System up-time:

Shall exceed 99.9% with a Mean time between major failure of 5040 hours.

c. Routine additions, deletions and relocations: (conduit, power, and other required facilities existing at the time of the order)

1 to 5 phones	24 hours from receipt of order
6 to 10 phones	7 days from date of order
11 to 50 phones	10 days from date of order
over 50 phones	individual case basis

d. Priority Moves, Changes and Additions: (priority moves, changes and additions are work orders designated Priority by DCAD)

Priority Orders will supersede all other orders and will be worked on and completed as soon as possible by Centel. The due date for Routine Orders will be adjusted for delays caused by Priority Orders.

2. For purposes of this Agreement, a "Major Failure" shall be defined as an occurrence of any of the following:

a. A failure of the switch, its common equipment, or power supplies which renders it or them incapable of performing normal functions for 5% or more of the stations or trunks.

b. A failure of any or all of the consoles which prevents the attendant(s) from handling incoming or outgoing calls.

c. A failure of over 5% of the trunks or station lines to function.

d. An indication of a major alarm condition as defined by the manufacturer in any of the switching or power equipment.

3. For purposes of this Agreement, a Minor Failure shall be defined as an occurrence of any of the following:

a. A failure to function of less than 5% of the trunks or station lines.

b. A failure to function in the station lines or equipment in up to 30 stations to be designated in writing by DCAD.

c. A failure to function of any ancillary equipment such as intercom circuits, loudspeaker paging system, the paging input arrangement or other equipment failures.

4. Centel shall perform the preventive maintenance as specified by the Equipment manufacturers. A quarterly report shall be submitted detailing the preventive maintenance performed in the previous quarter and specifying the preventive maintenance planned for upcoming quarter.

5. Centel's daily staffing shall include a Project Manager, a project Clerk/CRS and at least four technicians.

6. Centel shall have at lease one technician on-site from 7 AM to 11 PM, five days a week (Monday through Friday).

7. In the event of disaster, which involves a shut-down of electric system caused by something other than equipment malfunction, Centel at a minimum will restore service as follows if the facility is in a condition that will reasonably allow Centel to perform work in a safe craftsman-like manner and if facilities are available that meet the environmental requirements of the Equipment. Centel will coordinate its disaster recovery efforts in accordance with the published DCAD Recovery Plan Procedures.

Item	Time Frame
100 stations	24 hours
300 stations	72 hours
1,000 stations	7 days
2,000 stations	21 days
3,000 stations	35 days
4,000 stations	49 days
Full restoration	60 days

The cost of labor and materials to replace leased equipment will be Centel's responsibility. All other costs associated with the recovery including but not limited to replacement of conduit, necessary electric power, necessary floor plans, locations for equipment, with reasonable access thereto, raceways, holes, wire ways, and equipment not being currently leased from Centel will be reimbursed to Centel by the County, at the rates provided for herein.

B. Telephone Equipment Room

Centel shall maintain, repair, and keep in good order the interior of the Telephone Equipment Room premises including

but not limited to, replacement of light bulbs, ballasts, and tubes, and painting of doors. Upon relocation or removal of any equipment at the termination of this Agreement, Centel shall not be required to restore the telephone equipment room to its original condition but shall be responsible for any damage occasioned by the negligence of Centel in such relocation or removal.

C. Records and Telephone Numbers

Centel shall provide DCAD upon request with current copies of the records pertaining to the cable system, software data base documents, distribution cable diagrams, and telephone equipment room diagrams. Centel shall maintain one duplicate copy of all such records including software and data off-site at Centel's South Florida Office.

D. Reports

On the first and sixteenth day of each month, Centel shall file a report with DCAD that shall include on a month-to-date basis and for a cumulative prior 12-month basis the following items:

- System Availability, including SL-1XT, Fiber DS3 links, Fiber Backbone, SL-1M, SL-1ST(s), S/1-M and other major systems
- Trunk availability
- Average response time for Minor and Major Failures
- Percent of Service Orders completed within specific time frames pursuant to Article 8(A).
- List of completed and pending Service Orders.

E. Software

1. Centel shall install the Automated Trunk Maintenance Software to perform daily trunk tests.

2. Centel shall maintain the message detail recording system rate tables and the SL-1 ARSNNX tables and shall update such tables on a Semi-Annual basis.

F. No Warranties

Centel's duty to maintain the Equipment excludes service in connection with maintenance or repair of the Equipment caused by other's (1) misuse, negligence, accident or abuse, (2) connection to foreign electric current, (3) fire, water, flood, wind, storms, lighting, any act of God, or public enemy, (4) failure to provide a suitable operating environment, or (5) unauthorized attachments and modifications such as, improper software changes, wiring, installation, repair or alteration by anyone other than Centel. Centel may perform repairs necessitated by any of the excluded causes at County's request at Centel's then prevailing rates. Centel will maintain the Equipment and provide the necessary parts and labor to maintain the Equipment provided that the County is current on its payments hereunder and is otherwise in compliance with terms and conditions of this Agreement. CENTEL'S AGREEMENT TO MAINTAIN THE EQUIPMENT IS IN LIEU OF ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE DESIGN, OPERATION OR CONDITION OF THE EQUIPMENT INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO WARRANTIES EXIST IN THIS AGREEMENT.

G. Limitation of Liability

Except for claims for physical injury to persons, Centel and its suppliers or subcontractors will not be liable for any special, incidental, or consequential damages or for loss, damage or expense directly or indirectly arising from County's use of or inability to use the Equipment either separately or in combination with other equipment or sofcware, or for commercial loss of any kind (including loss of business or profits) based upon breach of warranty, breach of contract, negligence, strict tort or any other legal theory whether or not Centel or its suppliers or its subcontractors have been advised of the possibility of such damage or loss. Some states do not allow limits on warranties or on remedies for breach in certain transactions.

H. Software License

Subject to the terms hereinafter set forth, Centel grants to County a personal, nonexclusive license; (1) to use certain Licensed Software, proprietary to Centel or its suppliers, contained as an integral part of the Hardware; and (2) to install and use each item of Licensed Software not an integral part of the Hardware; and (3) to use the associated documentation. County is granted no title or ownership rights in or to the Licensed Software, in whole or in part, which rights shall remain with Centel or its suppliers.

Centel considers the Licensed Software to contain "trade secrets" of Centel and/or its suppliers. Such "trade secrets" include, without limitation thereto, the specific design, structure and logic of individual Licensed Software programs, their interactions with other portions of Licensed Software, both internal and external, and the programming techniques employed therein. In order to maintain the "trade secret" status of the information contained within the Licensed Software, the Licensed Software is being delivered to County in object code form only.

Centel or its suppliers holding any intellectual property rights in the Licensed Software, and/or any third party owning any intellectual property right in software from which the Licensed Software was derived, are intended third party beneficiaries of this License. All grants of rights to use intellectual property intended to be accomplished by this License are explicitly stated and no additional grants of such rights shall be inferred or created by implication.

County warrants to Centel that County is not purchasing the rights granted by this License in present anticipation of reselling those rights.

County shall:

- Hold the Licensed Software in confidence for the benefit of Centel and/or its suppliers; and

- Keep a current record of the location of each copy of Licensed Software made by it; and

- Use each copy of the Licensed Software only on a single CPU, at a time (for this purpose, single CPU shall include systems with redundant processing units); and

- Affix to each copy of Licensed Software made by it, in the same form and location, a reproduction of the copyright notices, trademarks, and all other proprietary legends and/or logos of Centel and/or its suppliers, appearing on the original copy of such Licensed Software delivered to County; and retain the same without alteration on all original copies; and

- Destroy the Licensed Software and all copies at such time as the County chooses to permanently cease using it.

County shall not:

- Use the License Software (i) for any purpose other than County's own internal business purposes and (ii) other than as provided by this License; or

- Allow anyone other than County's employees and agents to have physical access to the Licensed Software; or

- Make any modifications, enhancements, adaptations, or translations to the Licensed Software, except for those resulting from those County interactions with the Licensed Software associated with normal use and explained in the associated documentation; or

- Attempt to reverse engineer, disassemble, reverse translate, decompile, or in any other manner decode the Licensed Software, in order to derive the source code form or for any other reason; or

- Make full or partial copies of any documentation or other similar printed or machine-readable matter provided with Licensed Software unless the same has been supplied in a form by Centel intended for periodic reproduction of partial copies; or

- Export or re-export the Licensed Software and/or associated documentation from the fifty states of the United States and the District of Columbia.

County may assign collectively its rights under this License to any subsequent owner of the Hardware, but not otherwise. No such assignment shall be valid until County (1) has delegated all of its obligations under this License to the assignee; (2) has obtained from the assignee an unconditional written assumption of all such obligations; (3) has provided Centel a copy of such assignment, delegation and assumption; and (4) has transferred physical possession of all Licensed Software and all associated documentation to the assignee and destroyed

all archive copies. Except as provided, neither this License nor any rights acquired by County through this License are assignable. Any attempted assignment of rights and/or transfer of Licensed Software not specifically allowed shall be void and conclusively presumed a material breach of this License.

If Centel claims a material breach of this License and files an action in a court of competent jurisdiction seeking relief, then (1) Centel shall have the right, without further notice, to temporarily terminate County's right to continue to possess and use the Licensed Software; if Centel elects to exercise that right, Centel may enter upon the premises of County and take possession of, remove, and retain the Licensed Software until such time as the court may order otherwise; and (2) County shall be deemed to have agreed that remedies available at law are not adequate to protect the interests of Centel and/or its suppliers, and to have consented to the equity jurisdiction of the court.

IN NO EVENT SHALL NORTHERN TELECOM INC., WHOM DADE COUNTY RECOGNIZES AS CENTEL'S LICENSOR AND AS A THIRD PARTY BENEFICIARY OF THIS CLAUSE, AND/OR ANY OF ITS SUPPLIERS BE LIABLE TO OR THROUGH COUNTY FOR: (1) ANY INDIRECT, SPECIAL, INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SAVINGS, OR INTERRUPTION OF BUSINESS) SUFFERED BY COUNTY FOR ANY RESON; (2) ANY DAMAGES SUFFERED BY COUNTY AS A RESULT OF COUNTY'S FAILURE TO LIVE UP TO COUNTY'S OBLIGATIONS UNDER THIS AGREEMENT; (3) ANY CLAIM AGAINST COUNTY BY ANY THIRD PARTY FOR DAMAGES OF ANY KIND; ANY OR ALL OF WHICH ARISE FROM OR IN CONNECTION WITH THE DELIVERY, USE, OR PERFORMANCE OF SOFTWARE GOVERNED BY THIS EQUIPMENT LEASE AGREEMENT, AND EVEN IF NORTHERN TELECOM AND/OR ANY OF ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS.

EXCEPT AS GRANTED IN THE BODY OF THE AGREEMENT BETWEEN NORTHERN TELECOM AND CENTEL, THE LICENSED SOFTWARE IS PROVIDED BY NORTHERN TELECOM AND CENTEL "AS IS" AND WITHOUT WARRANTY OR ANY KIND OR NATURE, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. THIS LIMITATION OF WARRANTIES WAS A MATERIAL FACTOR IN THE ESTABLISHMENT OF THE LICENSE FEE CHARGES FOR EACH SPECIFIC TERM OF THE SOFTWARE LICENSED.

I. Agency

County shall designate Centel its limited agent and representative to facilitate resolution of issues involving the regulated public telephone companies.

J. Alterations and Attachments

Centel shall not permit any equipment or other items or material (Other Equipment) or software (Other Software) to be used on or in connection with the System, which would detrimentally affect the performance of the Equipment. All Other Equipment and Other Software which may be used on, or in connection with, the System shall be acquired and installed at County's own expense and risk. Centel makes no representations concerning the compatibility of any such Other Equipment and/or Other Software for use with the System.

At the end of the Term, County may remove any additions to the Airport System made by County during the Term and not otherwise subject to this Agreement (Additions), and restore the System, at County's expense, to its original condition, reasonable wear and tear only excepted. In the event that County fails to remove an Addition, it shall become the property of Centel.

ARTICLE 9
Obligations of County

A. Use of Equipment

The County agrees to use due care in the handling and operation of the Equipment and the County agrees to operate the Equipment according to the instructions of Centel. The County agrees to first notify Centel of any difficulties in the operation of the Equipment and first notice will be to Centel as opposed to any other party.

B. Telephone Equipment Room

County at its cost shall provide Centel with a Telephone Equipment Room(s) satisfactory to the Parties and with appropriate electrical circuits and power, an isolated ground, air conditioning, humidity control, lighting protection, fire protection and security normally provided to Airport Terminal Building tenants. In addition, the County shall provide to Centel, without cost to Centel, necessary electric power, excluding back-up power for the Airport System, necessary floor plans, locations for Equipment free of asbestos and other environmental hazards, with reasonable access thereto, raceway, conduit, holes and wire ways.

C. Relationship with Local Exchange Company

The County will make Centel its limited agent and representative to arrange for Installation and Maintenance to the public telephone network, to identify and order with DCAD's prior approval necessary facilities, and to coordinate installation and maintenance.

D. Return of Equipment Upon Termination

Upon deletion of an item of Equipment from this Agreement for any reason, County shall return to Centel the Equipment leased hereunder in good condition, reasonable wear and tear excepted.

E. Travel Expenses

For all travel requested by County or required by this Agreement, County shall reimburse Centel for prior approved travel expenses in accordance with the reimbursement policy of the County as provided in Administrative Order 6-1.

F. Resolution No. R-361-82

The County represents that by virtue of the adoption of Resolution No. R-361-82, by its Board of County Commissioners, Contract DCAD 6-T-600 was awarded to Centel Communications Company (Centel), and the County Manager was duly authorized to execute appropriate contract documents therefor on behalf of Dade County. The County further represents that the said Resolution remains in full force and effect as of the date of execution of this Agreement by the County and Centel.

G. Force Majeure

Centel's performance shall be adjusted or suspended by Centel to the extent performance is beyond Centel's reasonable control including, without limitation, the following: strikes, work shortages, fire, water, flood, wind, storms, lighting, other acts of God or public enemy, delays of suppliers, subcontractors, or the local exchange company, interexchange carrier or any other carrier, except where such delay is caused by Centel, governmental action or any County nonperformance such as County non-payment or failure of County to perform its obligations contained herein.

ARTICLE 10
Indemnification and Insurance

A. Centel shall indemnify and save the County harmless from any and all claims, liability, losses and causes of action which may arise out of or result from this Agreement, or operation of the business of Centel under this Agreement, or the acts or omissions of Centel, its employees, agents or subcontractors, except to the extent any such claim, liability, loss or cause of action is occasioned by the negligence of County.

B. Centel shall obtain and maintain throughout the course of this Agreement insurance coverages required by County. Such insurance shall not limit or relieve Centel from its obligations and liabilities under any other portion of this Agreement.

ARTICLE 11
Termination; County's Right on Expiration

A. Either party may terminate this Agreement for a material breach of the other party, by giving not less than thirty (30) days' notice of the breach to the defaulting party, and, if such breach is not cured within such 30 days or if not curable within that time the defaulting party fails to take reasonable steps to cure such breach thereafter, upon a final written notice of intent to terminate the Agreement immediately. Each party reserves its rights under Florida law to resort to whatever remedies may be provided in the event of such breach or a termination resulting from such breach.

B. At the time of termination of this Agreement by the County, the County will purchase all items of equipment for which 24 Lease Payments have not been paid or pay to Centel an amount equal to the current Monthly Lease for the items of equipment times the difference between 24 months and the number of months rent was paid for the items.

ARTICLE 12
Title to Equipment

The Equipment provided by Centel at its cost hereunder, not paid for or reimbursed by the County, is and shall remain personal property of Centel irrespective of its manner of attachment to realty or use, and title to the Equipment shall at all times be and remain with Centel, unless transferred to County by sale.

ARTICLE 13
Miscellaneous

A. Centel may assign its obligations under this Equipment Lease Agreement to another corporation which controls, is controlled by, or is under common control with Centel, provided that Centel shall not thereby be relieved of liability hereunder.

B. The Terms of this Agreement may not be changed or varied except by written Agreement of both parties.

C. This Agreement contains all the Agreement of the parties relating to the subject matter thereof, and no representation of the employees or principals of either party shall be binding on the parties unless specifically incorporated herein.

D. Notwithstanding the provisions of Article 9(B), Centel acknowledges and agrees that its right to access certain areas of the Airport shall be governed and limited by whatever security requirements may be imposed by County.

E. Any notice to be provided under this Agreement shall be sent by certified mail to the following parties:

To Centel
Regional Vice President
Centel Communications Company
3725 West Grace Street
Tampa, Florida 33607

With a copy to:
Vice President/General Manager
Centel Communications Systems
601 Jefferson - Suite 1000
Houston, Texas 77002

To County
Director
Dade County Aviation Department
5th Floor, Concourse E, Terminal Building
Miami International Airport
Miami, Florida 33122

With copies to:
Dade County Attorney's Office
P. O. Box 592975, AMF
Miami, Florida 33159

Superintendent of Telecommunications
P.O. Box 592075
Miami, Florida 33159

F. Except as provided above in (A), this Agreement may not be assigned by either party without the written consent of the other.

G. This Agreement shall be interpreted, governed and enforced in accordance with the laws of the State of Florida, and venue for any action brought hereunder shall lie in Dade County, Florida.

H. The waiver by either party of a default of the other shall not preclude such party from insisting on due performance of the other in the future and from taking appropriate action if the party defaults in its performance.

I. The Parties acknowledge and agree that this Agreement is the product of negotiations between the parties and has been typed by one party for the benefit of both, and the negotiated terms and conditions herein shall not be construed for or against either party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

CENTEL COMMUNICATIONS COMPANY

By: C. David Cochran

Title: Vice President

Attest: _____ (Secretary)

(Seal)

METROPOLITAN DADE COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____ (County Manager)

Attest: Richard P. Brinker, Clerk

By: _____ (Deputy Clerk)

(Seal)

COUNTY COMMISSIONERS DADE COUNTY FLORIDA

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY.

Assistant County Attorney

EXHIBIT A

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EXHIBIT B

NOTES:

(1) Prior to cutover the Purchase Multiplier is 100%

(2) The Months columns denotes the number of months an item has been installed.

(3) The purchase Multiplier for all items installed over 72 months shall not exceed 13.011341%

Months After Installation	Purchase Multiplier	Months After Installation	Purchase Multiplier
1	100 %	37	52.035801 %
2	100 %	38	53.292215 %
3	100 %	39	48.532747 %
4	100 %	40	46.753902 %
5	100 %	41	44.955498 %
6	100 %	42	43.139012 %
7	98.916339 %	43	41.955498 %
8	97.746446 %	44	39.446753 %
9	96.488115 %	45	37.572264 %
10	95.212668 %	46	35.677285 %
11	93.922315 %	47	33.767620 %
12	92.617627 %	48	31.825408 %
13	91.104218 %	49	29.910281 %
14	89.573498 %	50	27.987736 %
15	88.026028 %	51	27.347490 %
16	86.460955 %	52	26.699550 %
17	84.878131 %	53	26.043776 %
18	83.277756 %	54	25.380193 %
19	81.663150 %	55	24.713129 %
20	80.030353 %	56	24.037818 %
21	78.383386 %	57	23.368920 %
22	79.717935 %	58	22.671499 %
23	75.033840 %	59	21.975399 %
24	73.334762 %	60	21.275104 %
25	71.793469 %	61	20.624709 %
26	70.234893 %	62	19.965790 %
27	68.662697 %	63	19.302830 %
28	67.072922 %	64	18.631046 %
29	65.465405 %	65	17.950275 %
30	63.841895 %	66	17.262667 %
31	62.203655 %	67	16.571755 %
32	60.547204 %	68	15.871384 %
33	58.877615 %	69	15.169709 %
34	57.189504 %	70	14.458263 %
35	55.482700 %	71	13.736865 %
36	53.760355 %	72	13.011341 %

CONTRACT 6-T-600
EXHIBIT C

Item #	Description	Make & Model	Rental Rate	Labor Hours
1	Console	NT-QCW 30	$ 82.31	2
3	DID Trunk Cards	NT-QPC 72	31.50	1
4	Comb Trunk Cards	NTI-QPC 219	26.03	1
5	Line Cards	NTI-QPC 60	36.33	1
	Line Cards	NTI-QPC 61	36.33	1
	Line Cards	NTI-QPC 237	34.92	1
6	Paging Input	NTI-QPC 71	30.10	1
	Equipped PE Shelf (LH)	NTI-QSD 34	57.12	QUOTE
	Equipped PE Shelf (RH)	NTI-QSD 35	57.12	QUOTE
	Peripheral Shelf		57.12	QUOTE
8	Lightweight Headset	QKNI	5.13	1
10	One-Line Desk Set	2500 Set	2.58	2
	One-Line Desk Set/Key	2503 Set	4.59	2
10	One-Line Desk Set/(P)	2500 Set	2.58	2
11	One-Line Wall Set	2554 Set	2.61	2
11	One-Line Wall Set (C)	2554 Set	2.61	2
12	Trendline Desk Set	2000 Set	2.74	2
13	Trendling Wall Set	2000 Set	2.94	2
24	Extension Bell	SAC-7F	0.58	1.5
25	Bell Chime	NTI-QCY 1A1	4.81	1.5
	Long Handset Cord	14 ft. - FM	0.63	
26	Long Handset Cord	25 ft. - FM	0.63	
27	Elevator Set	GB-522 BA-30M	8.21	2
28	Outdoor Set	ATP-GB-5955	14.23	2
29	Speakerphones	NTI-Comp II	9.74	1
33	SL-1 Telephone	NTI-SL1	12.22	1.5
	SL-1 Wall Mount		0.21	0.5
34	Compact 8	Compact 8	18.00	1.5
36	Message Detail Rec.	C-TSD-ID	NA/	N/A
36	Message Detail Rec.	OS System	533.01	QUOTE
37	Battery Back-up	1 Hour	239.63	QUOTE
9A	SL-1 Digit Display	NTI-QSU3-QM	13.59	1.5
10A	10-Button Modules	NTI-QMT1	10.55	2
	20-Button Modules		10.55	2
OPT3	Paging System Maintenance		139.90	QUOTE
	Special Handsets	Amplified	1.51	1
	Confidencer		0.76	0.5
	Speakerphone	Companion III	9.74	1
	Headset Jacks	NTQANI	4.26	1
	FM Line Cord		0.35	0.5
	Beehive Lamp		0.28	1
	Neon Line Lamp		0.55	1
	Belt Cut-Off Key		0.55	1
	Transformer Power Supply		0.34	

Item #	Description	Make & Model	Rental Rate	Labor Hours
	Power Strip		$ 0.82	0.25
	Long Mtg. Cord	14 ft.	0.63	0.5
	Long Mtg. Cord	25 ft.	0.63	0.5
	Post-Cut Cable Addition		0.19	2
38	Prewired Telephone	3-Pair Stand. Cable	0.19	2
38A	Prewired Data Line	3-Pair Stand. Cable	0.19	2
	Paging System	Accounting PA	27.66	QUOTE
	Page ADT Interface	Police PA	0.31	QUOTE
	PA/PWR SUP/MOH IF	Maintenance	9.86	QUOTE
	OPX Locations	NTI-QPC 192	29.18	1
	FET Vantage System	Vantage	350.15	QUOTE
	FET SL-1 System	SL-1	900.78	QUOTE
	3050 Vantage System		765.67	QUOTE
	Cargo Vantage		246.35	QUOTE
	Vantage Modular W/CD		11.93	1.5
	Vantage Standard		7.65	1.5
	Programmable Exp. Module		2.76	2.5
	Group Switch Card		7.10	1
	Line Card/Vantage (4X0)		8.30	1
	Set Card/Vantage (0X4)		5.31	1
	Handsfree/Vantage		5.82	1
	QPC51		199.64	QUOTE
	Basic System		7,769.02	QUOTE
	ACD System Tram Control		1,007.63	QUOTE
	QSD34 Shelf Equipped		503.57	QUOTE
	Parking Lot SL-IMS		2,751.38	QUOTE
	Cabinet		762.41	QUOTE
	POS Cable Plant		165.28	QUOTE
	Term News System		502.29	QUOTE
	Speaker/PA		1.77	2
	XT-Upgrade		4,067.77	QUOTE
	Post Distribution Cable Additions	Dobbs	163.25	QUOTE
	Rexall Distribution Cable Additions	IDF	5.54	QUOTE
	Trendline Wall	3254	2.94	2
	Trendline Desk	3200	2.74	2
	Dobbs Terminal	SL-1	909.62	QUOTE
	Dobbs Terminal	Vantage	398.66	QUOTE

Notes

1. The Service Order charge is $44.61 per Service Order.

CONTRACT 6-T-600
EXHIBIT D

MAINTENANCE WORKSHEET FORM

EQUIPPED SWITCH PORTS		QTY.		VALUE		TOTAL
1.	Single Extension		X	1	=	
2.	ACD Agent Position		X	1	=	
3.	Electronic Extension		X	1	=	
4.	Console Port		X	1	=	
5.	Page/Ran Ports		X	1	=	
6.	CO, WATS, FX, Trunks		X	1	=	
7.	DID and DOD Trunks		X	1	=	
8.	Release Link Trunks		X	1	=	
9.	Digitone Receivers		X	1	=	
10.	Other Common Carrier		X	1	=	
11.	Date Ports		X	1	=	
12.	Power Bypass Circuits		X	1	=	
13.	Dictation Trunks		X	1	=	
14.	DTI/CPI Trunks		X	24	=	
15.	SDI Ports		X	1	=	
16.	Vantage KSU		X	1	=	
17.	Other		X	QUOTE	=	
				TOTAL		

ADDITIONAL PORT CHARGES						
1.	C.O. Trunks		X	0.5	=	
2.	FTS Trunks		X	1	=	
3.	DID Trunks		X	0.5	=	
4.	DOD Trunks		X	0.5	=	
5.	OPX, FX, SSPC, TIE Trunks		X	5	=	
6.	Private Lines		X	0.5	=	
7.	2 & 4 Wire RLT's		X	2	=	
8.	Special Circuits		X	1.5	=	
9.	E & M Apparatus		X	1	=	
10.	Verlink Customer Service/DTI		X	5	=	
11.	Wats		X	0.5	=	
12.	Remote/Local R.P.E. Interface		X	5	=	
13.	Voice Mail Ports		X	20	=	
14.	Other		X	QUOTE	=	
				TOTAL		

CONTRACT 6-T-600
EXHIBIT D

	SYSTEM CONFIGURATION EQUIPMENT	QTY.		VALUE		TOTAL
1.	Vantage KSU		X	10	=	
2.	Vantage Modular Set		X	1	=	
3.	Vantage Expansion Module		X	0.5	=	
4.	Console/ACD Agent Sets		X	1	=	
5.	Headsets		X	0.5	=	
6.	SL-1 Electronic Telephones		X	1	=	
7.	Line Drivers		X	1	=	
8.	Data Modem Pool		X	1.5	=	
9.	Data Modem		X	1	=	
10.	Compact & Telephone		X	1	=	
11.	Bells/Chimes, Horns, Lamps		X	0.25	=	
12.	D.S.S.		X	1	=	
13.	Busy Lamp Field		X	1	=	
14.	10 and 20 Button Modules		X	0.5	=	
15.	Digital Sets (2009, 2018)		X	1	=	
16.	Digital Sets (2317, 2112)		X	1.5	=	
17.	Call Detail Recorder (OS 2500)		X	14	=	
18.	ONEAC CD31750		X	30		
19.	ACD, Adapter (KTI/KTU)		X	0.5		
20.	Decwriters/Printers		X	10		
21.	CRTS		X	8		
22.	Lead Calcium Batteries		X	20		
23.	ST R.P.E. Cabinet		X	30		
24.	Single Line Sets (2500/Unity)		X	0.5		
25.	Other		X	QUOTE		
				TOTAL		

CONTRACT 6-T-600
EXHIBIT D

PERIPHERAL EQUIPMENT		QTY.		VALUE		TOTAL
1.	Speakerphone	0	X	1	=	0
2.	External Dialer	0	X	1	=	0
3.	Music Tuner	0	X	0.25	=	0
4.	Amplifiers	0	X	0.5	=	0
5.	Zone Paging	0	X	0.25	=	0
6.	Speakers/Horn	0	X	0.25	=	0
7.	Paging Microphone	0	X	0.25	=	0
8.	Dictation Equipment	0	X	0.5	=	0
9.	Ext. Transfer Circuit	0	X	1	=	0
10.	Answer/Recording Device	0	X	1.5	=	0
11.	Drum Recorders	0	X	2	=	0
12.	FMT 45	0	X	QUOTE	=	0
13.	FMT 150A	0	X	QUOTE	=	0
14.	Facsimile Equipment	0	X	4	=	0
15.	Teleconference (Conf 2000)	0	X	1	=	0
16.	Trendline Set	0	X	1	=	0
17.	Elevator/Outdoor Set	0	X	1	=	0
18.	Amplified Handset	0	X	0.25	=	0
19.	Fiber Cable	0	X	QUOTE		
20.	Fiber Patch Panel	0	X	QUOTE		
21.	New Bridge Channel Bank	0	X	QUOTE		
22.	Cable Addition	0	X	QUOTE		
23.	Other	0	X	QUOTE		
				TOTAL		0

Period	Charge Per Month	Airport System Minimum Monthly Charge
Feb. 7, 1988 to Feb. 6, 1989	$ 2.10	$ 6,000.00
Feb. 7, 1989 to Feb. 6, 1990	2.25	6,500.00
Feb. 7, 1990 to Feb. 6, 1991	2.45	7,000.00
Feb. 7, 1991 to Feb. 6, 1992	2.70	7,500.00
Feb. 7, 1992 to Feb. 6, 1993	2.95	8,000.00

At the time of Renewal, the Rates for the Renewal period shall be agreed to by Centel and the Department.

EXHIBIT E

Item #	Description	Make & Model	1984 Qty	1985 Qty	1986 Qty	1987 Qty	1988 Qty
1	Console	NT-QCW 3B	2	2	2	0	0
3	DID Trunk Cards	NT-QPC 72	20	21	19	13	13
4	Comb Trunk Cards	NTI-QPC 219	23	25	25	31	37
5	Line Cards	NTI-QPC 60	145	119	134	136	190
	Line Cards	NTI-QPC 61	0	61	66	71	89
	Line Cards	NTI-QPC 237	0	0	4	2	2
6	Paging Input	NTI-QPC 71	3	4	4	4	5
	Equipped PE Shelf (LH)	NTI-QSD 34	0	0	2	2	3
	Equipped PE Shelf (RH)	NTI-QSD 35	0	0	2	2	2
	Peripheral Shelf		0	1	1	1	1
8	Lightweight Headset	QKNI	0	7	7	14	43
10	One-Line Desk Set	ITT-2500	150	151	175	201	270
	One-Line Desk Set/XKey	ITT-2503	0	0	0	0	1
10	One-Line Desk Set/(P)	ITT-2500	8	8	8	8	8
11	One-Line Wall Set	ITT-2554	70	119	103	133	148
11	One-Line Wall Set (C)	ITT-2554	0	9	36	35	35
12	Trendline Desk Set	ITT-2000	13	18	18	17	3
13	Trendling Wall Set	ITT-2200	38	29	34	41	106
24	Extension Bell	SAC-7F	8	18	21	22	22
25	Bell Chime	NTI-QCY 1A1	2	2	0	4	10
	Long Handset Cord	14 ft. - FM	0	0	3	3	3
26	Long Handset Cord	25 ft. - FM	7	26	34	37	38
27	Elevator Set	GB-522 BA-30M	0	10	40	40	58
28	Outdoor Set	ATP-GB-5955	0	24	20	21	22
29	Speakerphones	NTI-Comp II	2	1	1	1	2
33	SL-1 Telephone	NTI-SL1	148	211	228	139	306
	SL-1 Wall Mount		0	1	2	2	2
34	Compact 8	Compact 8	0	0	0	2	4
36	Message Detail Rec.	C-TSD-ID	0	1	1	0	0
36	Message Detail Rec.	OS System	0	0	0	1	1
37	Battery Back-up	1 Hour	1	1	1	1	1
9A	SL-1 Digit Display	NTI-QSU3-QM	16	18	15	17	17
10A	10-Button Modules	NTI-QMT1	14	19	23	25	33
	20-Button Modules		0	2	2	3	3
11A	Single Line Dialer	ZTI-Hotshot	0	0	0	0	0
OPT3	Paging System Maint.		1	1	2	2	2
	Special Handsets	Amplified	12	16	16	16	17
	QPC103JM Modem		0	1	0	0	0
	212A Modem		0	1	0	0	0
14A	Digit Display Terminal		0	1	0	0	0
	Data Module		0	1	0	0	0
	BT QIC 311 Card		0	1	0	0	0
	Printer		0	1	0	0	0
	Confidencer		0	2	2	2	2
	Speakerphone	Companion III	0	6	11	15	26
	Headset Jacks	NTQANI	0	8	8	8	16
	FM Line Cord		0	4	4	4	4

EXHIBIT E

Item #	Description	Make & Model	1984 Qty	1985 Qty	1986 Qty	1987 Qty	1988 Qty
	Beehive Lamp		0	1	1	1	1
	Neon Line Lamp		1	1	1	1	1
	Belt Cut-Off Key		1	1	1	1	1
	Transformer Power Supply		0	10	20	20	20
	Power Strip		0	1	1	1	1
	Long Mtg. Cord	14 ft.	0	0	8	1	10
	Long Mtg. Cord	25 ft.	4	17	25	31	31
	Postcut Cable Addition		0	1	1	1	1
	Speakers (Orators)	ITT-Orator	8	3	0	0	0
38	Prewired Telephone	Superior Cable	8	10	21	29	63
38A	Prewired Data Line	Superior Cable	0	0	34	34	34
	Paging System	Accounting PA	0	0	1	1	1
	Page ADT Interface	Police PA	0	0	1	1	1
	PA/Power Sup. MOH IF	Maintenance	0	0	0	0	1
	OPX Locations	NTI-QPC 192	0	4	6	7	8
	FET Vantage System	Vantage	0	0	0	1	1
	FET SL-1 System	SL-1	0	0	0	0	1
	3050 Vantage System		0	0	0	1	1
	Cargo Vantage		0	0	0	0	1
	Vantage Modular W/CD		0	0	0	0	5
	Vantage Standard		0	0	0	0	3
	Programmable Ex. Mod.		0	0	0	0	5
	Group Switch Card		0	0	0	0	1
	Line Card/Vantage		0	0	0	0	2
	Set Card/Vantage		0	0	0	0	2
	Handsfree/Vantage		0	0	0	0	1
	QPC51		0	0	0	0	2
	Basic System		1	1	1	1	1
	Common Equip. Cable Conduit & Misc. Equip	NTI-SL-1LE					
	ACD System Tram Control		0	0	0	0	1
	QSD34 Shelf Equipped		0	0	0	0	1
	Parking Lot SL-IMS		0	0	0	0	1
	Cabinet		0	0	0	0	1
	POS Cable Plant		0	0	0	0	1
	Term News System		0	0	0	0	1
	Speaker/PA		0	0	0	0	5
	XT-Upgrade		0	0	0	0	1
	Post Cable Additions	Dobbs	0	0	0	0	1
	Cable Addition	IDF	0	0	0	0	1
	Trendline Wall	254	0	0	0	0	4
	Trendline Desk	3200	0	0	0	0	49

SHARED AIRPORT
TENANT SERVICE AGREEMENT

THIS SERVICE AGREEMENT, entered into as of this _____ day of _____, by and between METROPOLITAN DADE COUNTY, a political subdivision of the State of Florida, and CENTEL COMMUNICATIONS COMPANY, ("Centel") a Delaware corporation doing business in Fort Lauderdale, Florida,

WHEREAS, pursuant to County's Resolution No. R-361-82, County and Centel entered into two separate agreements involving telecommunications equipment for the Airport and Hotel Systems; and

WHEREAS, County and Centel have negotiated new terms and conditions applicable to County's lease of the Telecommunications Equipment for the Airport System and the maintenance thereof by Centel, and have incorporated such terms into a separate Equipment Lease and Maintenance Agreement (hereafter the "Equipment Lease Agreement"); and

WHEREAS, County and Centel desire in this agreement to provide for the parties' rights and obligations relevant to Shared Airport Tenant Service (SATS) to be provided to tenants and users of the Airport,

NOW THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Introductions.**

This agreement covers only the parties' rights and obligations relating to SATS provided at the Airport. The parties' agreements relating to lease of the telecommunications equipment for the Airport System and its maintenance, as well as Centel's maintenance of the County's Hotel System, are covered by the Equipment Lease Agreement.

2. **Definitions.**

a. The definitions provided in the Lease Agreement between the parties are hereby incorporated herein by reference, unless specifically modified herein.

b. Calling Services shall mean the mechanical process of placing, timing, and pricing each long distance or otherwise chargeable telephone call placed with a carrier or other suitable means and for which Centel Charges a resale fee to the equipment user.

DEFENDANT'S EXHIBIT
6

c. Department means the Dade County Aviation Department, and shall be interchangeable with "County" as used herein.

d. Equipment Charges shall mean all charges including flat rate local service, related to the rental, sale, or provided equipment served from the Airport System to Airport tenants or users, other than DCAD.

e. Gross Revenues shall mean all moneys paid or payable to, or considerations of determinable value received by Centel from Equipment Charges made to tenants and users of SATS provided at the Airport, for transactions had or services rendered in connection with such equipment regardless of when or where the order therefor is received, or the goods delivered, or services rendered, whether paid or unpaid, whether on a cash or credit basis, or in consideration of any other thing of value. Provided, however, that any taxes imposed by law which are separately stated to and paid by a customer and directly payable by Centel to a taxing authority, refunds provided customers in connection with equipment, and all moneys collected from the County for equipment charges under the Lease Agreement with County shall be excluded therefrom.

f. Gross Profits shall mean all gross revenues for calling services less the costs to Centel for all leased lines, circuits, trunks, and network usage charges paid to carriers (including, but not limited to, Common Carriers, Other Common Carriers, and Specific Common Carriers) associated with calls placed, any other non-overhead or non-administrative expenses incurred by Centel to the extent required to provide services called for herein, any taxes imposed by law which are separately stated to and paid by a customer and directly payable by Centel to a taxing authority, and refunds, regardless of when or where the request for such refund is received, or the goods delivered, or services rendered, whether paid or unpaid, whether on a cash or credit basis, or in consideration of any other thing of value.

g. Equipment Lease Agreement shall mean that separate agreement between the parties providing for County's lease from Centel of telecommunications equipment for the airport system and Centel's obligation to maintain and repair such equipment.

h. Termination shall mean the expiration of the Lease Agreement at the end of the Term or any renewal term, or the County's cancellation of the lease for cause as provided for in the Equipment Lease Agreement.

3. Scope of Agreement

a. Centel agrees to use its best efforts to establish, market, and sell SATS to tenants and users at the airport and at the hotel (except for the department itself and those department accounts specifically identified by the Department), consistent with the authority granted from time-to-time by the Public

Service Commission of Florida or whatever governmental entity has jurisdiction over SATS, and all other applicable laws.

b. County agrees to allow Centel the use of the telecommunications equipment of the Airport System for such shared tenant services and agrees that Centel may use the telephone equipment room identified in the Equipment Lease Agreement for such purpose without obligation to compensate County therefor, provided, however, that such use is consistent with and limited by the other provisions of this agreement.

c. Centel shall maintain and repair the equipment so that the shared tenant service is operating in accordance with the standards provided herein or in the Equipment Lease Agreement, whichever standards apply, and County shall pay Centel the costs thereof in accordance with the provisions of such individual agreements as provided in such Equipment Lease Agreement. County shall not be obligated to pay Centel for maintenance costs related to any equipment leased by County from Centel.

d. Centel shall pay County, as compensation for the above, a minimum monthly payment plus a percentage of Centel's gross profits in accordance with the provisions of Section 7 below.

4. **Shared Airport Tenant Service**

Centel also acknowledges that, because the Florida PSC only recently approved the SATS concept at airports, and because such approval was based in large part upon the showing that airports in Florida needed a reliable internal telephone system that would allow emergency and security problems to be handled in a prompt and most efficient manner without having to access off-campus local telephone company equipment, the Centel-provided SATS at Miami International Airport will require the most efficient, effective and reliable telephone service possible. Centel therefore agrees to use its best efforts to make certain that the equipment being used in the Airport and the service being provided to those customers agreeing to make use of SATS users are of the highest quality and with the least downtime record as may be possible.

5. **Term**

This agreement shall commence as of February 7, 1988, and shall continue for an initial period of four (4) years until the end of the business day on February 6, 1992. Thereafter, County shall renew this agreement for five (5) consecutive two (2) year terms, upon the terms and conditions contained herein, unless County give Centel notice of termination as provided below.

County shall not have the right to terminate the agreement within the initial 4-year term, except for cause as provided in this Agreement; thereafter, during the 10-year period, County may

terminate this Agreement without cause and solely at its discretion upon the following conditions:

(a) if County exercises its option to purchase all of the equipment under Article 6 of the Equipment Lease Agreement, then County shall give Centel not less than twelve (12) months' notice of termination;

(b) if County does not exercise its right to purchase all of the equipment under such Agreement, County shall give Centel not less than thirty-six (36) months' notice of termination.

If any such termination shall occur during any term or renewal term hereof, then County's 12-month or 36-month notice shall constitute an automatic extension of this Agreement until the effective date of such termination.

6. **Centel's Use of Equipment**

a. Centel is hereby authorized to use the equipment and facilities for the purpose of operating the Airport System and providing Shared Airport Tenant Service to tenants and users of the Airport, including storage of equipment and parts associated with such systems, administration thereof, and other related functions reasonably necessary to operate such systems and service.

b. Centel agrees that the County shall be the preferred customer for telephone switching equipment service and that Centel will use best efforts to provide County with preferential service, without substantial harm to other tenants and users of the service.

c. Centel shall provide Shared Airport Tenant Service that meets or exceeds the following standards on 95% of all requests, except that orders delayed because of Scheduled or Priority moves, changes, and additions requested by DCAD or SATS Users shall not be counted as a missed order.

Repair Service Standards

Respond to Minor Service: 24 hours
Respond to Major Service: 2 hours
System up-time shall exceed 99%

Routine Moves and Changes and Additions (conduit, power, and other required facilities existing at the time of the order)

a. Repair service standards:
Respond to minor failure — Within 24 hours (7 days per week)

b. Respond to major failure — Within 2 hours (7 days per week)

Shall exceed 99.9% with a Mean time between failure of 5040 hours

c. Routine additions, deletions and relocation:

(conduit, power, and other required facilities existing at the time of the order)

1 to 5 phones	24 hours from receipt of order
6 to 10 phones	7 days from date of order
11 to 50 phones	10 days from date order
over 50 phones	Individual case basis

d. Priority Moves, Changes and Additions:

Priority moves, changes, and additions are work orders designated priority by DCAD.)

Priority Orders will supersede all other orders and will be worked on and completed as soon as possible by Centel. The due date for Routine Orders will be adjusted for delays caused by Priority Orders.

7. **Centel Payments to County**

a. Minimum Monthly Payment: Centel shall credit to County, and County shall automatically be entitled to take as a credit commencing February 7, 1989, and thereafter on the first day of each and every monthly billing, as a deduction from DCAD's monthly rental payments under the Lease Agreement, a minimum monthly credit in the amount of ONE THOUSAND DOLLARS ($1,000.00).

b. Percentage Fees: In addition to the monthly minimum payment set forth in Section 7 (a) above, to the extent that such percentage fees exceed the monthly minimum payments, Centel shall credit to the County monthly the following amounts:

(1) Ten percent (10%) of the Gross Revenues derived by Centel from Equipment charges; plus

(2) Thirty-five percent (35%) of the first $10,000 of Gross Profits derived by Centel from the sale of Calling Services; forty-five percent (45%) of the second $10,000; and fifty percent (50%) of all additional Gross Profits in excess of

such $20,000.00 derived from the sale of Calling Services at Miami International Airport.

c. Payment: Said percentage fees shall be paid to the County as follows:

(1) For rental of equipment by customers, which is billed by Centel for the month in advance: on or before the 20th day of the month following the month for which equipment rental was billed.

(2) For moves, changes, additions and deletions of rented equipment and calling services which are billed after the end of the month in which the activity occurred: within 50 days following the end of said month.

d. In the event that Centel bids or enters into similar agreement(s) with any of the top fifty (50) Commercial Service Airports in the United States, as defined by the Federal Aviation Administration, and said agreement(s or bid(s) provides for percentage fees higher than those provided in Section (b) above, this Agreement shall be automatically amended to provide for payment to County at such higher fees as of the effective date of such higher bid or agreement.

e. In the event Centel fails to credit the minimum monthly payments, fees or charges as required to be paid under the provisions of this Agreement within (30) days after the same shall become due, interest at one and one-half percent (1½%) per month shall accrue against the delinquent credit(s) from date due until the same are credited. Implementation of this provision shall not preclude the County from terminating this Agreement for Centel's default in the payment of monthly minimum payments, fees or charges, pursuant to the procedures set forth herein or form enforcing any other provisions contained herein, or pursuing other remedies provided by law.

8. Centel Records

a. Centel shall make available, upon request of the County, during the term of this Agreement, all books of account and records customarily used in this type of operation, as may from time to time be required by the County, in accordance with generally accepted accounting practices and standards, and for such period of time thereafter as provided herein, unless otherwise approved by the County. The County shall be permitted to audit and examine all such records and books of account relating to the operation of Centel hereunder, provided that Centel shall not be required to maintain such records for more than three (3) years after the end of each twelve month period. In the event is becomes necessary for County to cause an audit of books and records in a location outside the limits of South Florida, (Dade, Broward or Palm Beach Counties) all expenses of the County for travel outside South Florida, accordance with

Administrative Order No. 601, shall be reimbursed by Centel upon billing by County.

b. Centel shall within sixty (60) days following each anniversary of the commencement date for the payment of the Gross Revenues and Gross Profits as provided herein, submit to the County a certified report, prepared and attested to by an independent Certified Public Accountant, approved by the Department, as to the correct Gross Revenues and Gross Profits per month for the operation of Centel under this Agreement. Said report shall be prepared in conformance with the American Institute of Certified Public Accountants' requirements for special reports. The first such report shall contain twelve (12) full calendar months of operation. The last such report shall include the last day of operation.

c. Centel shall also submit by the 20th day of every month a statement of the monthly Gross Revenues and monthly Gross Profits, in total and by customers. The statement shall be signed by Centel certifying as to the accuracy of such Gross Revenues and Gross Profits in the form prescribed by the Department.

9. Centel Contract and Other Documents Used in SATS.

a. Centel and the Department shall jointly determine what contractual and other documents will be used by Centel in providing SATS, and that such documents shall not be placed in use until specifically approved by the Department, which approval shall not be unreasonably withheld.

b. Because the parties contemplate that County may provide the SATS for the Airport and Hotel Systems at some point in the future, such documents shall provide at a minimum that the contracts with customers are fully assignable to County by Centel.

10. Insurance and Indemnification.

a. Centel shall from time to time provide insurance, with County named as an additional insured, in the amounts and with the coverage customarily specified by County for Airport Tenants.

b. The termination for any reason of the Equipment Lease Agreement shall not affect Centel's obligation under this agreement to maintain insurance required hereunder.

c. Centel shall indemnify and save the County harmless from any and all claims, liability, losses and causes of actions which may arise out of or result from this Agreement, or operation of the business of Centel under this Agreement, or the acts or omissions of Centel, its employees, agents or subcontractors,

except to the extent any such claim, liability, loss or cause of action is occasioned by the negligence of County.

11. **Cancellation of Agreement.**

a. The County shall have the right to cancel this Agreement upon the effective date of County's assumption of operating control of SATS following County's exercise of its option to purchase all of the SATS equipment as provided in the Lease agreement.

b. Failure of Centel to promptly make all credits or payments required to be paid herein shall constitute a default, and the County may at its option cancel this Agreement after thirty (30) days notice in writing, unless the default be cured within the notice period. Provided, however, that Centel shall not be deemed to be in default of its obligations under this Agreement for failure to provide such credit pending the outcome of any legal proceeding instituted in a court of competent jurisdiction to determine the validity of any such credits or payments.

c. The County shall have the right after thirty (30) calendar days written notice sent by registered or certified mail to Centel to terminate this Agreement upon the occurrence of any one or more of the following, unless the same shall have been corrected within such period:

(1) A material breach by Centel of any of the terms, covenants, or conditions of this Agreement, excluding the covenants to make payments herein contained.

(2) Conducting any business or performing any acts not specifically authorized herein.

d. The County shall have the right to terminate this Agreement within thirty (30) days after the happening of any one or more of the following:

(1) A final judicial determination that litigation instituted by Centel against the County was groundless and frivolous.

(2) In the event of total destruction of Terminal Building Area.

(3) Institution by or against Centel of any Federal or State bankruptcy or like proceeding, unless termination is prohibited by Federal or State Law.

12. **Termination by Centel and Suspension of Payments.**

Centel shall have the right upon thirty (30) calendar days written notice to the County to terminate this Agreement at any time after the occurrence of one or more of the following events:

a. Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes, and the remaining in force of said injunction for a period of more than ninety (90) calendar days.

b. A breach by the County of any of the material terms, covenants or conditions contained in this Agreement and failure of the County to remedy such breach within a period of thirty (30) calendar days after receipt of written notice sent by registered or certified mail from Centel of the existence of such breach.

c. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, or the operation, control or use of the airport facilities or any substantial part, or parts thereof, in such manner as substantially to restrict the operations of Centel for a period of ninety (90) days.

d. Purchase by County of all of the equipment under Article 6 of the Equipment Lease Agreement.

13. **Nondiscrimination.**

a. Centel shall not discriminate against any employee or applicant for employment in the performance of this Agreement with respect to hire, tenure, terms conditions, or privileges of employment, or any matter directly or indirectly related to employment because of age, sex or physical handicaps (except where based on a bona fide occupational qualification), or because of race, color, religion, national origin or ancestry.

b. Centel, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with this Agreement that (1) no person on the grounds of race, color, or national origin shall be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of the facilities, (2) that in the construction of any improvements on, over, or under such facilities and furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

c. In the event of a breach of any of the above nondiscrimination covenants the County shall have the right to terminate this Agreement and to reenter and repossess the facilities thereon, and hold the same as if said Agreement had

never been make or issued. Any termination pursuant to section shall not be effective until the procedures specified in Part 152 of Title 14, Code of Federal Regulations, or established by the County are completed including any appeal rights.

d. As to the provisions of 14 CFR Part 152, (1) Centel acknowledges that such provisions are applicable to the activities of Centel under the terms of the Agreement, unless exempted by said regulations, and hereby agrees to comply with all requirements of the Department, the Federal Aviation Administration and the U.S. Department of Transportation, and (2) these requirements may include, but not be limited to affirmative action efforts, the keeping of certain records relating to equal employment opportunity, and good faith compliance efforts, and the submission of various reports, including, if directed by the Department, and to the extent consistent with Federal and State Law, the contracting of specified percentages of goods and services contracts to Minority Business Enterprises. Failure to comply with these requirements shall be grounds for default and termination of this Agreement. Any termination pursuant to this section shall not be effective until the procedures specified in said Federal regulations or as established by the County are completed, including any appeals.

14. **Rules and Regulations.**

a. Centel notwithstanding anything to the contrary herein, shall comply with ordinances of the County including the Rules and Regulations of the Department, Chapter 25, Code of Metropolitan Dade County, Florida, operational directives issued thereunder, and all additional laws, ordinances, regulations and rules of the Federal, State and County Governments, which may be applicable to Centel's operation under the Agreement.

b. Centel shall obtain, pay for, and maintain current all permits and licenses as required for its operation.

15. **Payment of Taxes.**

Centel shall pay all taxes lawfully assessed against its operations at the Airport, provided, however, that Centel shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in a court of competent jurisdiction to determine the validity of such taxes.

16. **Alterations.**

Centel shall not alter or modify the facilities provided herein without first obtaining written approval from the Department. If so approved by County, Centel may be authorized to make repairs, alterations and/or additions to the facilities at the airport. Compensation for such repairs, alterations

and/or additions shall be as mutually agreed upon by both parties.

17. **Inspection by County.**

Centel shall maintain the facilities in good repair and in a neat and orderly condition. The county may make periodic inspections to determination if such are being maintained in said manner and also to determine whether Centel is operating in compliance with the terms and provisions of this Agreement.

18. **Signs.**

No signs, posters, or advertising devices may be installed, erected or displayed by Centel without prior written approval by the Department.

19. **Rights of County in Airport facilities.**

The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to the facilities at the Airport, except that alterations or additions to the interior and exterior of the facilities provided under this Agreement shall be made only in the event of need and without substantial inconvenience to Centel. The County shall, in the exercise of such right, be free from any and all liability to Centel for partial loss of business or damages occasioned during the making of such repairs, alterations and additions, except those occasioned by the negligence of the County, its employees, or agents.

20. **Federal Government Agreements and Powers.**

a. This Agreement shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent of the Airport.

b. All provision of the Agreement shall be subordinate to the rights of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of the Agreement inconsistent with the provisions of such lease to the United States of America shall be suspended, except the right of Centel to cancel this Agreement pursuant to Section 12 (c) hereof.

21. **Personnel.**

a. Centel shall ensure that all its personnel present a neat, clean and professional appearance at all times.

b. Centel shall require all personnel to wear visibly on their person, at all times while on duty, a distinctive name tag, identifying the individual by name, title, if appropriate, and as an employee of Centel. Such personnel must be able to satisfy the Department's security requirements.

22. **Security.**

a. Centel fully understands that the Police security protection provided by the County for the Airport facilities is limited to that provided to any other business situated in Dade County by the Metro-Dade Police Department.

b. Centel fully understands that the safety, police, fire or security protection measures deemed necessary for additional protection of the facilities shall be the sole responsibility of Centel.

c. Centel acknowledges and accepts full responsibility for the security and protection of all contents, inventory, and equipment within the facilities and for the prevention of unauthorized access to its facilities or contents thereof.

d. Centel agrees to furnish all personnel in its employ, who are authorized access to the airfield operations area and other restricted areas as determined by the County, with identification badges as required to comply with the security program established by the Department and to furnish the Department with the names and additional pertinent data of such persons so authorized. Centel shall be fully responsible for such identification badges.

23. **Notices.**

Any notices required herein shall be sent by Registered or Certified mail to the parties as follows:

To the County:
Director
Dade County Aviation Department
Post Office Box 592075
Miami, FL 33159

County Attorney's Office
Post Office Box 592075
Miami, FL 33159

Superintendent of Telecommunications
Post Office Box 592075
Miami, FL 33159

To Centel:
Centel Communications Company Vice President
Centel Communications Systems-Southeast
3725 West Grace Street
Tampa, FL 33067

and

With a Copy to:
Vice president/General Manager
Centel Communications Systems
601 Jefferson - Suite 1000
Houston, Texas 77002

or to such other address as either party may designate in writing.

24. **Termination.**

a. Centel shall vacate the facilities and remove all its personal property and trade fixtures from the facilities at the termination of this Agreement, unless otherwise authorized in writing by the Department, whether by lapse of time or otherwise, as provided in Section C below.

b. Centel within thirty (30) calendar days following the termination of this Agreement, shall remove all of its personal property and any trade fixtures forthwith. Failure on the part of Centel to remove its property within thirty (30) days from the date of termination shall constitute a gratuitous transfer of title hereof to the County for whatever use and disposition is deemed to be in the best interest of the County. If County does not permit Centel to remove its personal property or trade fixtures or make them available for removal by Centel, then in addition to all other remedies at law or equity available to Centel, all obligations of County under this Agreement shall remain in force and effect until system is returned to Centel.

c. Any personal property of Centel, or of others, placed in the facilities shall be at the sole risk of Centel or the owners thereof, and County shall not be liable for any loss of damage thereto, irrespective of the cause of such loss or damage.

25. The Service Agreement of September 9, 1982, between the parties is hereby cancelled in its entirety and superseded by the terms of this Shared Airport Tenant Service Agreement.

26. **Assignment and Subletting.**

This Agreement shall not be assigned, transferred, pledged or otherwise encumbered by Centel, except to another corporation which controls, is controlled by, or is in under common control with Centel, provided that Centel shall not be relieved of its

liabilities or responsibilities hereunder without the prior written consent of the Department.

27. Limitation for Liability.

Except for claims for physical injury to persons, Centel and its suppliers or subcontractors will not be liable for any special, incidental, or consequential damages or for loss, damage or expense directly or indirectly arising from County's use of or inability to use the Equipment either separately or in combination with other equipment or software, or for commercial loss of any kind (including loss of business or profits) based upon breach of warranty, breach of contract, negligence, strict tort or any other legal theory whether or not Centel or its suppliers or its subcontractors have been advised of the possibility of such damage or loss. Some states do not allow limits on warranties or on remedies for breach in certain transactions.

IN WITNESS WHEREOF, the parties hereto have caused this service agreement to be executed by their appropriate officials as of the date first above written.

BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA

By: _____

ATTEST: Clerk

By: _____
Deputy Clerk

COUNTY COMMISSIONERS DADE COUNTY FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

_____
Assistant County Attorney

CENTEL COMMUNICATIONS COMPANY

By: C. David Cochran

Title: Vice President

Attest: _____
Secretary

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

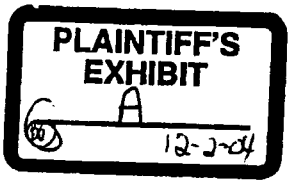
vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

DEPOSITION OF CORPORATE REPRESENTATIVE(S) OF BELLSOUTH TELECOMMUNICATIONS, INC.

December 2-3, 2004



IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

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FILE COPY

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
Plaintiff,

vs

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,
Defendant.
_____/

RE-NOTICE OF TAKING DEPOSITION

TO: Martin B. Goldberg, Esq.
LASH & GOLDBERG, LLP
1200 Bank of America Tower
100 Southeast Second Street
Miami, Florida 33131

YOU ARE NOTIFIED that the undersigned will take the deposition of the following party:

Deponent: Corporate representative(s) of BellSouth Telecommunications, Inc. ("BellSouth") with the most knowledge of: (i) BellSouth's provision of two-way telecommunications service within its service area in Florida, including Miami-Dade County (the "County"); (ii) BellSouth's allegation in paragraph 7 of its Complaint for Declaratory and Injunctive Relief and for Issuance of Writ of Mandamus (the "Complaint") that "[t]he County offers two-way telecommunications service to the public for hire ... at Miami International Airport ("MIA") and other general aviation airports ..."; (iii) BellSouth's allegation in paragraph 11 of its Complaint that "[t]he County ... is operating a Telecommunications Company ..."; (iv) BellSouth's allegation in paragraph 22 of its Complaint that "the County offers shared tenant services to at least one hotel, to retail shops, and to other commercial entities which are 'facilities such as hotels, shopping malls and industrial parks'"; (v) BellSouth's allegation in

paragraph 30 of its Complaint that "[p]rior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company ..." (vi) BellSouth's allegation in paragraph 32 of its Complaint that "based solely on the Resolutions, the County now owns and operates a telephone utility .. "; (vii) BellSouth's allegation in paragraph 38 of its Complaint that "BellSouth, . ., provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, ..."; (viii) BellSouth's allegation in paragraph 46 of its Complaint that "BellSouth ... has a special injury ..."; (ix) BellSouth's allegation in paragraph 47 of its Complaint that "the County's operation of a telephone utility ... affects BellSouth's business opportunities with, and potential income from, customers at MIA and the Other Airports"; and (x) BellSouth's statement in its Reply to the County's Answer and Affirmative Defenses to Second Amended Complaint that "BellSouth denies and avoids this 'Second Defense - Laches.'"

before a person authorized to take depositions in the State of Florida. The deposition is for the purpose of discovery, use at trial, or any other purpose permitted pursuant to Fla. Rule Civ. P. 1.310. The deposition will commence at the location and time listed on this notice, and continue from day to day until completed.

Place of Deposition: **County Attorney's Office**
Miami International Airport
Terminal Building, Concourse A, 4th Floor
Miami, Florida 33122

Date/Time: **Thursday, December 2, 2004 @ 10:00 a.m.**
Friday, December 3, 2004 @ 10:00 a.m.

Respectfully submitted,

ROBERT A. GINSBURG
Miami-Dade County Attorney
Aviation Division
P.O. Box 592075 AMF
Miami, Florida 33159-2075
(305) 876-7040 / FAX (305) 876-7294

By: _____
David Stephen Hope
Florida Bar No. 87718
Cynji Lee
Florida Bar No. 537705
Assistant County Attorneys

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was facsimiled and mailed this *26th* day of October 2004, to ***Martin B. Goldberg, Esq.***, Lash & Goldberg LLP, 1200 Bank of America Tower, 100 Southeast 2nd Street, Miami, Florida, 33131; ***Dorian Denburg, Esq.***, BellSouth Corporation, 1155 Peachtree Street, Suite 1700, Atlanta, Georgia 30309-3610, and ***Sharon Liebman, Esq.***, BellSouth Telecommunications, Inc., 150 West Flagler Street, Suite 1910, Miami, Florida 33130.

David Stephen Hope
Assistant County Attorney

Copies furnished to:

KRESSE, VALDES-PRIETO & ASSOCIATES, INC.
Court Reporters
44 West Flagler Street
Suite 300
Miami, Florida 33130

In accordance with the American with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact ADA Coordinator no later than seven (7) days prior to the proceeding. Telephone: (305)375-2008 or (305)375-2006 for Court ADA. If hearing impaired, telephone (305)375-2007 or 1-800-955-8771 for assistance.

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION

CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.

Plaintiff,

v.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant

_____/

THE ORIGINAL FILED
ON MAY 27 2004
IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL

SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND FOR ISSUANCE OF WRIT OF MANDAMUS

Plaintiff, BellSouth Telecommunications, Inc. ("BellSouth"), files this Second Amended Complaint for Declaratory and Injunctive Relief and for issuance of a Writ of Mandamus against Defendant, Miami-Dade County (the "County"), and alleges.

JURISDICTION AND PARTIES

1 BellSouth brings this action for declaratory and injunctive relief pursuant to Chapter 86 and Section 26.012(3), Florida Statutes (2002), based upon the County's violation of The Home Rule Amendment and Charter of Miami-Dade County, Florida (the "Charter") as well as the County's violation of Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, which incorporate certain prior provisions of the Constitution of 1885, as amended

2 BellSouth further brings this action for issuance of a Writ of Mandamus to compel the County to perform its ministerial obligation pursuant to Chapter 364 of the Florida Statutes, and its accompanying regulations as set forth in the Florida Administrative Code governing the regulation of telecommunications companies.

3. BellSouth is a Georgia corporation doing business in Miami-Dade County.

4. BellSouth is a local exchange telecommunications company, as defined in Chapter 364, Florida Statutes.

5. Pursuant to its Certificate of Public Convenience and Necessity issued by the Florida Public Service Commission ("FPSC"), BellSouth "offer[s] two-way telecommunications service to the public for hire . . by use of a telecommunications facility" within its service area in Florida, including Miami-Dade County.

6 The County is a political subdivision of the State of Florida and is located in Miami-Dade County.

7 The County "offer[s] two-way telecommunications service to the public for hire . . . by use of a telecommunications facility," at Miami International Airport ("MIA") and other general aviation airports within Miami-Dade County, including Kendall, Tamiami, Homestead and Opa-Locka (the "Other Airports) (collectively MIA and the Other Airports may be referenced as, "airports")

Bank of America Tower
Suite 1200
100 Southeast 2nd Street

LASH&GOLDBERG

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FACTUAL ALLEGATIONS

A THE LEGAL FRAMEWORK

8 Section 1 01(A)(14)(b) of the Charter states:

> The county shall not operate a . . telephone utility to serve any territory in the county which is being supplied with a similar service except by a majority vote of those qualified electors voting in an election held not less than six (6) months after the Board has passed an ordinance to that effect by a two-thirds (2/3) vote of the members of the Board present. Such ordinance shall contain information on cost, method of financing, agency to regulate rates, agency to operate, location and other information necessary to inform the general public of the feasibility and practicability of the proposed operation. (Emphasis added).

9 A "telephone utility," as used in the Charter, is a "Telecommunications Company" as provided in Section 364 02 (13), Fla. Stat. and the regulations promulgated thereunder.

10. Section 364.02 (13), Fla. Stat. defines a Telecommunications Company, and thus a telephone utility, as:

> 13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. (Emphasis added).

11 The County, a political subdivision, is operating a Telecommunications Company and is thus subject to regulation by, and the exclusive jurisdiction of, the FPSC with respect to the County's offering two-way telecommunications services to the public for hire.

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12. Rule 25-9.002 of the Florida Administrative Code, governing the FPSC's regulatory authority, defines the terms "utility" or "public utility" as follows:

> "For the purposes of these regulations the following definitions shall apply: . . (2) Except where a different meaning clearly appears from the context, the word or words "utility" or "public utility" as used in these rules shall mean and include all electric and gas utilities, water systems, wastewater systems, telephone companies and telegraph companies which are, or may hereafter be, subject to the jurisdiction of this Commission. (Emphasis added).

13 Moreover, Rule 25-4.003(10) of the Florida Administrative Code, governing the FPSC's regulation of Telephone Companies, provides the following definitions:

> "Company," "Telecommunications Company," "Telephone Company," or "Utility." These terms may be used interchangeably herein and shall mean "telecommunications company" as defined in Section 364.02(12) [sic], Florida Statutes (Emphasis added)

14. By operating a "Telecommunications Company," the County is *a fortiori* operating a "Telephone Utility"

15. Before the County can operate a telephone utility in a territory within the County where similar services are already supplied, the Charter requires the Board of County Commissioners (the "Board") first to pass an ordinance by 2/3 vote of the members of the Board present, and to obtain the approval of a majority of the qualified electors in Miami-Dade County

16. In addition to the requirements imposed by the Charter, the Board's authority to authorize the provision of telecommunications services to the public for hire is further circumscribed by general law which explicitly grants the FPSC exclusive jurisdiction over the regulation of such services

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17 The Florida Legislature, by general law, provided in § 364.01(2) the following:

> It is the legislative intent to give exclusive jurisdiction in all matters set forth in this chapter to the Florida Public Service Commission in regulating telecommunications companies, and such preemption shall supersede any local or special act or municipal charter where any conflict of authority may exist (Emphasis added.)

18 The County is presently operating a Telecommunications Company, as evidenced by its offering and providing telecommunications services, including shared tenant services, to airport tenants, the provision of which are subject to regulation by, and the exclusive jurisdiction of, the FPSC.

19 Section 364 339, governing the provision of shared tenant services ("STS"), states that "the [Florida Public Service] Commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which:

> (a) Duplicates or competes with local service provided by an existing local exchange telecommunications company, and
>
> (b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company." (emphasis added)

20 Pursuant to its authority under § 364.339, Fla. Stat., the FPSC enacted a limited "Airport Exemption." The "Airport Exemption" states:

> Airports shall be exempt from the other STS rules due to the necessity to ensure the safe and efficient transportation of passengers and freight through the airport facility. The airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks. However, if the airport partitions its trunks, it shall be exempt from the other STS rules for service provided only to the airport facility (Emphasis added).

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Rule 25-24.580, F.A.C.

21 As the plain language of the rule makes clear, the Airport Exemption does not grant the County an exemption from the certification requirement applicable to all STS providers with respect to the County's provision of shared tenant services to facilities such as hotels, shopping malls and industrial parks.

22. As set forth below, the County offers shared tenant services to at least one hotel, to restaurants, to retail shops, and to other commercial entities which are "facilities such as hotels, shopping malls and industrial parks."

23. Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, incorporates certain prior provisions of the Constitution of 1885, as amended, that expressly limit the authority of Miami-Dade County as follows:

> Section 11 (5) Nothing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the state of Florida . . . and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County . . . nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein. (emphasis added)
>
> Section 11(9): . . . [I]t is further declared to be the intent of the Legislature and of the electors of the State of Florida that the provisions of the Constitution and general laws which shall relate to Dade County and any other one or more counties of the State of Florida or to any municipality in Dade County and any other one or me municipalities of the State of Florida enacted pursuant thereto by the Legislature shall be the supreme law in Dade County, Florida, except as expressly provided herein and this section shall be strictly construed to maintain such supremacy of this Constitution and of the Legislature in the enactment of general laws pursuant to this Constitution. (emphasis added)

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24. Consequently, the County, through the Board, both (1) violated the Charter and (2) exceeded its constitutional authority, by purporting to authorize the County Manager and the Miami-Dade Aviation Department ("MDAD") to operate a telephone utility by offering telecommunications services to the public for hire, including to facilities such as hotels, shopping malls and industrial parks, based solely on the County's resolutions, without the prior approval of the FPSC, and without passing the required Ordinance or obtaining the required vote of a majority of the qualified electors.

B. THE BOARD VIOLATED THE CHARTER AND ENACTED RESOLUTIONS THAT UNCONSTITUTIONALLY CONFLICT WITH GENERAL LAWS GRANTING EXCLUSIVE JURISDICTION TO THE FPSC.

25. On January 29, 2002, the Board approved Resolution No R-31-02 authorizing the County to enter into a Non-Exclusive Telecommunications, Data Network, and Shared Airport Tenant Services Management Agreement (the "Agreement") with NextiraOne, LLC ("Nextira").

26. Under the Agreement, among other things, the County acquired title to Nextira's telecommunications facilities, and Nextira assigned its agreements with customers for telecommunications service to the County. See County Manager's Memorandum and Resolution R-31-02, dated January 29, 2002, attached as Composite Exhibit A

27. Under the Agreement, the County acquired telecommunications facilities, authorized MDAD to operate the facilities to provide telecommunications services to customers for hire, and authorized the County to receive all gross revenues from the provision of the telecommunications services.

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28. During 2001, the year prior to the County's acquisition and operation of the telephone utility at the airports, the gross revenues for the provision of telecommunications services to airport tenants totaled approximately $2,670,024

29. On September 24, 2002, the Board adopted Resolution No. R-1091-02 (collectively, R-1091-02 and R-31-02 are referenced hereinafter as the "Resolutions") authorizing the County Manager or his/her designee to negotiate and execute new Airport Rental Agreements between the County and customers at the airports to govern the County's provision of telecommunications services to these tenants, including hotels, restaurants, retail shops and other commercial entities ('Commercial Tenants"). See Resolution R-1091-02, County Manager's Memorandum and Miami-Dade Aviation Department Airport Rental Agreement attached as Composite Exhibit B.

30. Prior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company because it did not offer two-way telecommunications services to the public for hire by use of a telecommunications facility at MIA or the Other Airports.

31. Nextira and, upon information and belief, its predecessor private entities offered the two-way telecommunications services to the airport tenants for hire using telecommunications facilities owned by these private entities prior to the passage of the Resolutions.

32. Thus, by passing the Resolutions, and, based solely on the Resolutions, the County now owns and operates a telephone utility by offering two-way telecommunications

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services to the public for hire, including to Commercial Tenants, at MIA and the Other Airports using telecommunications facilities.

33. As testified to by Pedro Garcia, MDAD's Chief of Telecommunications, the County, through its legal counsel and management, and with the participation of the management of the airport, determined that the County had the authority to authorize MDAD and the County Manager to operate the telephone utility/telecommunications company at the airports without seeking prior approval from the FPSC.

34. Thus, the County never submitted an application to the FPSC to obtain a certificate of public convenience and necessity.

35. The Commercial Tenants to which the County currently offers and provides two-way telecommunications services for hire at the airports include at least one hotel, several restaurants, retail shops and other commercial entities. A list of the County's customers, as of the date of that list, is attached hereto as Exhibit "C," and Pedro Garcia's deposition testimony confirming that MDAD provides STS to a hotel tenant at MIA is attached hereto as Exhibit "D."

36. By offering telecommunications services to Commercial Tenants, the County is in direct competition with other telecommunications companies operating at the airports, including BellSouth.

37. Indeed, the County's professed goal, as testified to by Pedro Garcia, in offering telecommunications services to Commercial Tenants is to make money and to compete with BellSouth and other telecommunications companies operating at the airports

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38. BellSouth, the incumbent local exchange telecommunications company in Miami-Dade County, provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, subject to the regulation of the FPSC

39. In fact, by offering shared tenant services to Commercial Tenants at the airports, the County is necessarily offering similar services to those already offered at the airports by BellSouth because shared tenant services, by definition, are services which duplicate or compete with local service provided by an existing local exchange telecommunications company.

40. The provision of shared tenant services to these Commercial Tenants at the airports is not necessary to ensure the safe and efficient transportation of passengers and freight through the airports' facilities.

41. The Commercial Tenants at the airports to which the County offers shared tenant services are facilities, such as hotels, shopping malls and industrial parks.

42. Accordingly, the County's provision of shared tenant services to these Commercial tenants is not exempt from the certification requirements and other regulations enacted by the FPSC and as provided in Chapter 364 of the Florida Statutes.

43. Thus, by passing the Resolutions, the Board purported to authorize the County, based on its own authority and without prior approval of the FPSC, to offer shared tenant services to the Commercial Tenants at MIA and the Other Airports

44. Moreover, whether or not the County, pursuant to the "Airport Exemption," is entitled to a limited exemption from "other STS rules" governing the provision of shared

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tenant services, the County is still operating a telecommunications company, and thus a telephone utility, in violation of the Charter, and the County is still subject to FPSC jurisdiction by virtue of its operation as a telecommunications company.

45. MIA and the Other Airports are territories in Miami-Dade County.

46. BellSouth has standing to bring this action because it has a special injury resulting from the County's violation of Section 1.01(A)(14)(B) of the Charter, as it relates to the operation of a telephone utility by the County.

47. Specifically, BellSouth's injuries are different in kind from that of the general public. The County's operation of a telephone utility in violation of the Charter affects BellSouth's business opportunities with, and potential income from, customers at MIA and the Other Airports.

48. BellSouth also has standing to compel the County to comply with its statutory and regulatory obligations under Chapter 364, Florida Statutes, because those statutes and related rules expressly govern all telecommunications companies and the provision of telecommunications services.

49. The statutory scheme explicitly promotes and seeks to ensure fair and effective competition amongst telecommunications companies, including BellSouth and the County.

50. Finally, BellSouth has standing to bring this action because it is challenging the constitutionality of the County's Resolutions purporting to authorize the County to operate a telecommunications company independently, and in direct conflict with, general

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law passed by the Florida Legislature which grants exclusive jurisdiction to the FPSC to authorize persons to provide such services and regulate providers thereof.

COUNT I
DECLARATORY JUDGMENT
(The County's Violation of the Charter)

51 BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint

52 An actual and justiciable controversy exists between BellSouth and the County as to whether the County's operation of a telephone utility in Miami-Dade County, absent the necessary votes of the qualified electors and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter, violate the Charter

53 There is a present, bona-fide need for a declaration that the County's actions violate the Charter.

54 The declaration is ascertainable based on the current state of the facts.

55 BellSouth has an actual, present, and adverse interest in the subject matter of this declaration, which is before this Court by proper process, and the relief it seeks is not merely the giving of legal advice or the answer to questions propounded from curiosity.

WHEREFORE, BellSouth requests this Court issue a judgment declaring that the County is violating Section 1.01(A)(14)(b) of the Charter, declaring that any existing contracts relating to the operation of a telephone utility in violation of Section 1.01(A)(14)(b) of the Charter are void, and further declaring that Resolution No. R-31-02 and Resolution R-1091-02, to the extent they authorize the County to operate a telephone

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utility in violation of the Charter, are void, and to award Plaintiff its costs pursuant to Section (C) of the Charter's Bill of Rights.

COUNT II
INJUNCTION
(To Prohibit the County from Continuing to Violate the Charter)

56. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint.

57. This is an action for injunctive relief to prevent the County from continuing to operate a telephone utility absent the votes and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter.

58. BellSouth has no adequate remedy at law. If the County is permitted to continue to operate its telephone utility at the airports without the majority vote of the qualified electors and the enactment of an ordinance as required under Section 1.01(A)(14)(b) of the Charter, BellSouth will suffer irreparable harm.

WHEREFORE, BellSouth requests that this Court issue an injunction enjoining the County from continuing to operate a telephone utility in the County absent the required votes of the qualified electors and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter, and further enjoining the County from continuing to operate a telephone utility in violation of Section 1.01(A)(14)(b) of the Charter, and to award it costs pursuant to Section (C) of the Charter's Bill of Rights.

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COUNT III
DECLARATORY JUDGMENT
(Constitutional Challenge to the County's Passage of the Resolutions)

59. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint

60. An actual and justiciable controversy exists between BellSouth and the County as to whether the County's Resolutions authorizing the County Manager and MDAD to operate a telecommunications company as a shared tenant service provider to certain airport tenants is an unconstitutional exercise of authority that is inconsistent with and conflicts with the general law applicable to the regulation of telecommunications companies under Chapter 364 of the Florida Statutes, thereby violating Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985 which incorporate Sections 11(5) and 11(9) of the 1885 Constitution.

61. There is a present, bona-fide need for a declaration that the County's actions violate the Florida Constitution.

62. The declaration is ascertainable based on the current state of the facts.

63. BellSouth has an actual, present, and adverse interest in the subject matter of this declaration, which is before this Court by proper process, and the relief it seeks is not merely the giving of legal advice or the answer to questions propounded from curiosity.

WHEREFORE, BellSouth requests this Court issue a judgment declaring the following: (1) that the County is a "Telecommunications Company" as defined in § 364.02(13); (2) that the County is offering shared tenant services as defined in §364.339, Fla. Stat.; and (3) that the County's passage of Resolution No. R-31-02 and Resolution R-

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1091-02, to the extent they authorize the County to operate a telecommunications company providing shared tenant services in conflict with the general law granting the exclusive jurisdiction for the regulation of telecommunications companies to the Florida Public Service Commission, is a violation of Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, incorporating Sections 11(5) and 11(9) of the 1885 Constitution, and declaring such Resolutions, to the extent they violate the Florida Constitution, null and void

COUNT IV
PETITION FOR ISSUANCE OF WRIT OF MANDAMUS
(Compelling the County to Comply with Its Statutory and Regulatory Obligations as a Telecommunications Company)

64. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint

65. Miami-Dade County has a clear legal duty to perform certain ministerial acts required by Chapter 364 of the Florida Statutes, and the regulations enacted pursuant thereto, which exclusively govern the regulation of telecommunications companies.

66. Section 364.02 (13) defines Telecommunications Company to include political subdivisions, and §364.32(1)(a), Fla. Stat., defines "Person" to include any county.

67. Section 364.33, Fla. Stat. then provides that:

> A person may not begin the construction or operation of any telecommunications facility, or communications services to the public, or acquire ownership or control thereof, in whatever manner, . . . without prior approval. (Emphasis added).

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68. With respect to the provision of shared tenant services, §364.339(2), Fla. Stat., further states that "No person shall provide shared tenant services without first obtaining from the commission a certificate of public convenience and necessity to provide such service."

69. To obtain "prior approval," from the FPSC, and to obtain a certificate of public convenience and necessity, the "person" must satisfy the ministerial requirements described in §§ 364.33 and 364.335, Fla. Stat

70. Enacted pursuant to Section 364.339, Fla Stat., Rule 25-24 567 of the Florida Administrative Code sets forth additional ministerial requirements that the County must satisfy before it can provide shared tenant services.

71. Alternatively, to the extent the County seeks to take an assignment of an existing certificate for the provision of shared tenant services which may have previously been held by NextiraOne, the County is required to satisfy the requirements set forth in Rule 25-24.569 of the Florida Administrative Code before it can offer the shared tenant services.

72. BellSouth has the right to demand that the County perform the ministerial obligations set forth in the above-referenced statutory and regulatory provisions because the County competes with BellSouth One of the purposes of Chapter 364 is to promote the development of fair and effective competition with respect to the provision of telecommunications services in Florida.

73. There is no room for the County to exercise discretion in the performance of the stated obligations, and the performance thereof is directed by law.

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74. BellSouth has no other legal remedy available to it

WHEREFORE, BellSouth requests this Court issue a Writ of Mandamus (1) compelling the County to perform the ministerial duties required by §§364.32 – 364.335 and §364.339, Fla Stat and as required by the Florida Administrative Code, including Rule 25-24.567 or Rule 25-24.569, F.A.C. and (2) enjoining the County from continuing to operate a telecommunications company and to offer shared tenant services to facilities such as hotels, shopping malls, and industrial parks until the County complies with its statutory and regulatory obligations under Chapter 364, Fla Stat , in addition to the obligations set forth in the Charter.

Respectfully submitted:

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Counsel for Plaintiff, BellSouth Telecommunications, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Overnight Mail on this 27th day of May, 2004 to David Hope, Asst. County Attorney, Miami-Dade County Attorneys Office, 111 N.W. 1st Street, Miami, Florida 33130.

BY: Martin B. Goldberg
Martin B. Goldberg

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No 6(A)(1)(D)
1-29-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY FLORIDA

RESOLUTION NO. R-31-02

RESOLUTION RELATING TO TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES AT MIAMI-DADE COUNTY AIRPORT SYSTEM FACILITIES; AUTHORIZING PURCHASE OF LEASED EQUIPMENT; AUTHORIZING APPROVAL AND EXECUTION OF NON-EXCLUSIVE MANAGEMENT AGREEMENT WITH NEXTIRAONE, LLC FOR INTERIM TWO-YEAR PERIOD; AND WAIVING COMPETITIVE BID PROCEDURES AND PROVISIONS

WHEREAS, Miami-Dade County, Florida (the "County") and Centel Communications Company ("Centel") entered into an Equipment Lease and Maintenance Agreement, as of July 24, 1990, and retroactive to February 7, 1988 (the "ELM Agreement") which ELM Agreement terminates on February 6, 2002; and

WHEREAS, the County and Centel also entered into a Shared Airport Tenant Service Agreement (the "SATS Agreement") which SATS Agreement terminates on February 6, 2002; and

WHEREAS, NextiraOne, LLC ("Nextira") is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC)[1] under both the ELM Agreement and the SATS Agreement; and

WHEREAS, it is in the best interest of the County to acquire title to all telecommunications, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as detailed on Schedule A of the ELM Agreement and Schedule E of the SATS Agreement, as of February 6, 2002 (the "Assets"); and

1 In 1991, Centel Communications Company ("Centel") was acquired by WilTel Communications System ("WilTel"), and in 1997, Williams Communications Solutions, LLC was created from the merger of WilTel and Nortel Communications Systems

EXHIBIT
A
tabbies

WHEREAS, an interim manager is necessary to operate, maintain, and manage the Assets, until a telecommunications and data network request for proposal ("RFP") is circulated and a new manager is selected; and

WHEREAS, Nextira, as the owner and operator of the Assets, has the personnel, technical and product knowledge, expertise, and market recognition to manage the Assets,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board:

Section 1. Authorizes the payment of $6,450,000 to Nextira, for the purchase of the Assets, to be used and operated by or for the Miami-Dade County Aviation Department.

Section 2. Authorizes the approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with Nextira for an interim two (2) year period, and delegates to the County Manager the authority to negotiate all terms and conditions necessary to consummate the Agreement. The Agreement shall contain a random audit provision to be conducted by the Office of the Inspector General, pursuant to § 2-1076(c)(5), Code of Miami-Dade County Florida (the "Code"). The Agreement shall also contain a provision for the County to retain the services of an independent private sector Inspector General ("IPSIG"), pursuant to Administrative Order No. 3-20.

Section 3. Waives competitive bid provisions of Administrative Order Nos. 3-4 and 3-16 related to the procurement of professional services.

Section 4. Waives competitive bid provisions of Section 4.03(D) of the Home Rule Charter and the requirements of Administrative Order No. 3-2 in connection with the purchase by the County for (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications

equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport system facilities. Such waiver is by a two-thirds (⅔) vote of the Board members present.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Katy Sorenson and upon being put to a vote, the vote was as follows:

Dr Miriam Alonso	absent	Bruno A. Barreiro	aye
Dr. Barbara Carey-Shuler	aye	Betty T. Ferguson	absent
Gwen Margolis	absent	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
	Javier D. Souto aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 29th day of January, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

dsh

David Stephen Hope

MEMORANDUM

TO:	Honorable Chairperson and Member Board of County Commissioners	DATE:	January 29, 2002
FROM:	Steve Shiver County Manager	SUBJECT:	Telecommunications Services at the Aviation Department

RECOMMENDATION

It is recommended that the Board of County Commissioners (the "Board") approve the attached resolution waiving the competitive bid requirements of Administrative Order No. 3-2 related to the procurement of commodities and services and approve in principle the non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement ("Agreement") between Miami-Dade County, (the "County") and NextiraOne, LLC[1] ("Nextira"), substantially in the form attached hereto, which provides for: 1) the acquisition of, in accordance with the principles delineated in the Agreement, title to all telecommunications network, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as described in Schedule A to the Equipment Lease and Maintenance agreement ("ELM Agreement") and Schedule E to the Shared Airport Tenant Services agreement ("SATS Agreement"), as of February 6, 2002 for the acquisition price of $6,450,000 which will be amortized at five (5) percent over five (5) years; 2) resolution of various claims arising out of the ELM Agreement and SATS Agreement; 3) assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at Miami International Airport ("MIA") or the County's other owned or operated general aviation airports; and, 4) Nextira to become the interim telecommunications infrastructure manager, to provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD") and shared airport tenant services customers at MIA and the General Aviation Airports ("GAAs") until a new provider is selected, but for no longer than a period of twenty-four (24) months.

In addition, it is recommended that the Board approve the attached resolution authorizing the County to make direct purchases of the following equipment: (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport systems facilities. Under this system the County will purchase directly, certain commodities as indicated by Nextira and be exempt from paying state sales taxes and mark-up

[1] NextiraOne, LLC is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.

costs on these purchases It is also recommended that the Board authorize, in accordance with Ordinance No. 99-63, the inclusion of a random audit provision, including the one quarter (1/4) of one percent assessment, in the Agreement. It is further recommended that the County Manager be authorized to execute the Agreement.

BACKGROUND

The County is currently under contract with Nextira. Nextira leases to the County, and manages, operates and maintains all the telecommunications infrastructure and services serving MIA and the GAAs at an approximate annual cost of $7,300,000. MDAD's agreement with Nextira expires on February 6, 2002.

NEGOTIATIONS

In July 2001, the Board approved Resolution No. R-852-01, approving a professional services agreement between the County and ResAvia. ResAvia is providing specialized technical and negotiation services to resolve the various claims arising out of the ELM Agreement and SATS Agreement entered into between the County and Nextira, and to negotiate a buy-out and new agreement with Nextira to allow MDAD an opportunity to finalize its long term voice and data telecommunications strategy.

INTERIM MANAGER FOR TELECOMMUNICATIONS INFRASTRUCTURE

MDAD is simultaneously working to develop a request for proposal ("RFP") to award a contract to a service provider to serve as the manager of the telecommunications infrastructure. Due to time constraints, the County will not be able to award this contract before February 6, 2002, when the Nextira contract expires. To assure the uninterrupted operation of the County airports, ResAvia, MDAD and the County Attorney's Office negotiated a proposed management agreement type contract (the "Agreement") with Nextira, to retain it as manager of the installed telecommunications infrastructure based upon County ownership of the equipment as further described below:

PROJECT LOCATION:	Miami International Airport and General Aviation Airports
PROJECT DESCRIPTION:	Provides for the operations, management, maintenance, service, support and equipment and supplies of the telecommunications and data, infrastructure, hardware and software systems for the MDAD and the shared airport tenant services customers at Miami International Airport and the General Aviation Airports. The scope of services includes the management of the shared airport tenant services for the County, including CUTE, to tenants and users at the Airport. In addition, Nextira will be

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required to implement a transition program, one hundred and twenty (120) days prior to the expiration of the term of this Agreement, to ensure that either the new vendor selected as a result of the RFP process or MDAD's operating and maintenance personnel are trained in all aspects of the telecommunications and data infrastructure.

FIRM: NextiraOne, LLC

LOCATION OF FIRM: Houston, Texas

TERM OF AGREEMENT: The Agreement shall be for a duration of twenty-four (24) months. The County may terminate the Agreement with or without cause on thirty (30) days written notice to Nextira, provided however, the Agreement shall have a minimum term of eighteen (18) months unless terminated earlier for cause.

AMOUNT OF AGREEMENT:

Compensation to the Contractor

One-Time Acquisition Price:

Acquisition of the telecommunications, data network, and CUTE infrastructure, software licenses, permits, and other assets in Schedule A to the ELM Agreement and Schedule E to the SATS Agreement of $6,450,000 which will be amortized at five (5) percent over five (5) years.

Fixed Management Fee:

This Agreement provides for a fixed management fee of $6,144,067 for the first year, which includes overhead and profit, staff transition costs, vendor agreements and spare parts carrying charge.

The compensation for the second year is based on this Management Fee as adjusted by the budgeting process that incorporates the requirements of the Capital Improvement Program (CIP) and the change in the Consumer Price Index (CPI) for the salaries of the personnel.

Variable Costs:

The Agreement also provides for the variable costs, when authorized by the Department, and includes: 1) the procurement of parts, materials and software ($2,680,000), 2) On-call after hour services ($273,000), and 3) subcontractor services for wiring installation and maintenance, as necessary ($899,415).

SATS Revenue:

Per the SATS Agreement, last year MDAD received $267,000 which was based on ten (10) percent of gross revenues. Under this new Agreement, MDAD will receive all SATS gross revenues which last year was $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

Compensation to the County

The Contractor will pay to the County the sum of $110,000, on February 6, 2002, on account of excess space occupied without lease by the Contractor in Building 3030 at MIA for the period from November 1, 1997 to and including February 6, 2002.

RECOMMENDED CONTRACT MEASURES:	No measure
USING AGENCY:	Miami-Dade Aviation Department
FUNDING SOURCE:	Miami-Dade Aviation Department Operating Budget for Consulting Services and Aviation Revenue Bonds.
APPROVED FOR LEGAL SUFFICIENCY:	Yes

CONTINGENCY PLAN

As reported to the Board at its December 18, 2001 meeting, in the event that the negotiations with Nextira fail and no agreement is reached by the contract expiration date, the Department has a contingency plan to assure continuity in the provision of telecommunication services

SUMMARY

In summary, our preferred outcome is a negotiated buyout of the telecommunications equipment and infrastructure, retaining Nextira for a limited time to act as manager of the telecommunications infrastructure, and obtaining a long-term contract for telecommunications infrastructure management through a competitive request for proposal. In addition, the above recommendation begins the implementation of MDAD's long-term, cost-effective strategy to enable better management and control of our telecommunications infrastructure. In the alternative, MDAD has a plan to continue services without Nextira while procurement processes and legal remedies are undertaken.

Attachment

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

Agenda Item No. 6(A)(1)(A

TO:	Honorable Chairperson and Members Board of County Commissioners	DATE:	September 24, 2002
FROM	Steve Shiver County Manager	SUBJECT:	Resolution approving recommendations relating to shared airport tenant services for the Aviation Department

RECOMMENDATION

It is recommended that the Board approve the attached resolution that will authorize the County Manager or his designee to: (i) execute standard form airport rental agreements for shared airport tenant services ("SATS") to offer telecommunications and network access to airport tenants; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and event of default notices, and in the instance of default, to take necessary termination actions for failures to correct defaults on a timely basis all in accordance with the airport rental agreement.

BACKGROUND

On January 29, 2002, the Board of County Commissioners (the "Board") approved Resolution No. R-31-02 relating to the telecommunications, data network, and shared airport tenant services at Miami-Dade Aviation Department ("MDAD"), and entered into a non-exclusive management agreement with NextiraOne, LLC (the "Contractor") wherein MDAD receives all SATS gross revenues.

Shared airport tenant services consist of telecommunications, voice and data network services which MDAD offers to its tenants. The Contractor is required to use its best efforts to establish, market, maintain, operate and manage SATS for the County to tenants and users at Miami International Airport ("MIA") and the General Aviation Airports ("GAA"), consistent with the requirements of the Public Service Commission of Florida ("PSC") or whatever other governmental entity has jurisdiction over SATS, if and where applicable, and all applicable laws.

It is requested that the Board delegate to the County Manager or his designee certain specific and limited authority that would provide for more efficient management of airport properties, maximization of revenues, and better operational flexibility for users of said facilities. Given the changing or different needs of each tenant requesting SATS, it is also requested that the Board delegate the authority to negotiate such terms and conditions as may be necessary, on a tenant by tenant basis, to allow the County to be responsive to the needs of the MIA and GAA business partners. The rental term may vary depending on the [illegible] in no occasion will any airport rental agreement exceed forty-eight (48) months

EXHIBIT
Tabbies
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The installation and monthly rental fees for SATS is dependent on the scope of the tenant's request for services.

The following chart provides a sampling of three levels of service (i.e., small, medium, and large tenant) that is presently offered by MDAD:

Tenant	Type of Service	Number of Subscribers	Installed Costs	Actual Monthly Rental Fee (period 5/1/02 – 5/31/02)
Air Jamaica (small)	Telecommunications Access	6 Subscribers	$860.00	$208.88
Miami Airport Duty Free (medium)	Network Access	46 Subscribers	$15,690.00	$ 2,516.44
United Airlines (large)	Telecommunications Access	593 Subscribers	$99,297.00	$16,142.86

The requested delegation of authority is similar to that which has existed for standard form aviation leases for the use and occupancy of real property at MDAD facilities.

At present, there are fifty-five (55) tenants with existing SATS agreements with MDAD. These agreements must be renewed, and as MDAD takes additional tenants into service, it is expected the number of users of our telecommunications and data network system and resulting revenues will increase. Per the previous SATS agreement with NextiraOne, LLC[1], last year the MDAD received $267,000, which was based on ten (10) percent of gross revenues. Under the new non-exclusive management agreement with NextiraOne, LLC, approved by the Board on January 29, 2002, MDAD will receive all SATS gross revenues which last year totalled $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

[1] NextiraOne, LLC was the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 6(A)(1)(A)
9-24-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

RESOLUTION NO. R-1091-02

RESOLUTION AUTHORIZING THE COUNTY MANAGER OR DESIGNEE TO EXECUTE AIRPORT RENTAL AGREEMENTS FOR AIRPORT TENANT TELECOMMUNICATIONS SERVICES AND NETWORK ACCESS; NEGOTIATE TERMS AND CONDITIONS; AND ISSUE RENEWAL AND DEFAULT NOTICES AND TAKE NECESSARY TERMINATION ACTION FOR FAILURE TO CORRECT DEFAULTS.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the County Manager or designee to: (i) execute the standard form of an airport rental agreement attached to the accompanying memorandum for shared airport tenant telecommunications services and network access; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and default notices and, in the instance of default, to take necessary termination actions for failure to timely correct defaults all in accordance with the agreement.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Gwen Margolis and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro	absent	Jose "Pepe" Cancio, Sr.	aye
Dr. Barbara Carey-Shuler	absent	Betty T. Ferguson	absent
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye

Sen. Javier D. Souto absent

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of September, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency. dsh

David Stephen Hope

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MIAMI-DADE AVIATION DEPARTMENT — Airport Rental Agreement

This Agreement is made as of _____, 20__ between Miami-Dade County (the "County"), a political subdivision of the State of Florida, and _____, a _____ corporation/partnership/sole proprietorship (the "Customer"), conducting business at Miami International Airport ("MIA" or the "Airport").

1) Agreement. The County agrees to deliver, install, rent, and maintain telecommunications systems and services consisting of: (1) switch access to its common carrier communications switching equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" or the "Department") and its tenants at the Airport ("Switch Access"); (2) network access to the local telephone exchange carrier ("Network Access"); and (3) telecommunication terminal equipment and cabling, when itemized and executed on Schedule I. Such equipment and services are described in the Equipment and Services Schedule I and Maintenance Schedule III attached hereto including optional services and features and made a part hereof (collectively, the "System") and the Customer agrees to rent the System (the "Rental") subject to the terms and conditions of this Agreement.

This Agreement is subject to credit approval by the County. The Customer agrees to cooperate with the County by providing all credit and financial information that may be required by the County. Upon the County's approval of the Customer's rental application, the Customer agrees to execute all documents relating to the Rental and promptly return them to the County. In the event all required and properly executed documents and advance payments are not provided to the County, the County may, in addition to other delineated rights and remedies, delay cutover until such executed documents and advance payments are received and approved by the County.

2) Schedules. The attached schedules (the "Schedules") are part of this Agreement:

- Schedule I — Equipment and Services Schedule
- Schedule II — Acknowledgment and Certificate of Acceptance
- Schedule III — Maintenance Schedule

3) Installation.

a) The Customer will be responsible for, and provide or arrange for at its own expense (in a timely manner as required or directed by the County): (1) necessary building plans and accessible System locations free from environmental hazards; (2) reasonable access for the County; (3) completed copies of database feature forms; (4) necessary conduit, boxes and wiring; (5) where not otherwise provided herein; and (6) easements and right-of-way licenses.

b) The System will meet Federal Communications Commission Part 68 regulations regarding connection to the public telephone network. The County will install the System in a workmanlike manner without damage to the Customer's premises and will obtain necessary work permits to install the System. The County will not be responsible for removing any cabling or equipment of the Customer's old telephone system.

4) Force Majeure. The County's performance under this Agreement shall be excused to the extent and for the time compliance is beyond the County's reasonable control, to reasons that include but are not limited to: strikes, work stoppage, fire, water, wind, acts of God, disruption in service for any cause, storms, lightning, delays by suppliers and subcontractors, delays of power company, delays of the local exchange company, interexchange carrier or any other carrier, governmental action, or any Customer non-performance such as (i) non-payment, or (ii) failure to execute an acceptance certificate or rental document.

5) Term and Acceptance. This Agreement shall be effective upon execution by the Customer and the County, but the term of this Agreement (the "Rental Term") shall commence on the "Commencement Date" (as hereinafter defined) and shall terminate on the last day of the Rental Term stated in Schedule I, provided, however, the Customer's indemnities, assumption of liabilities, and other duties, and all of the County's disclaimers herein shall survive the termination of this Agreement. The Customer shall be deemed to have accepted the System for all purposes of this Agreement, including the payment of rent hereunder, with the Customer's execution of the "Acknowledgment and Certificate of Acceptance" contained in Schedule II, attached hereto and made a part hereof. The date of execution of the Acknowledgment and Certificate of Acceptance shall be the Commencement Date under this Agreement. The Customer shall execute the Acknowledgment and Certificate of Acceptance with the County's completion of installation and pre-operational testing and first connection of the equipment to the public telephone network in a manner permitting calls to or made through the System (the "Cutover").

6) Payment of Rent. The rent for the System (the "System Rent") shall be as listed in Schedule I and shall be payable, without notice or demand, pursuant to said Schedule.

7) Cancellation. After paying the first twelve (12) monthly payments under this Agreement including twelve (12) months of payments for any additions, the Customer may cancel this Agreement by giving sixty (60) days written notice to the County and by paying a cancellation fee equal to: (a) seventy percent (70%) of the unpaid System Rent, AND (b) three (3) monthly payments for Switch Access and Network Access. With the County's prior written approval, the cancellation fees will be waived if this Agreement is assigned to a MDA tenant who assumes all the obligations of this Agreement.

8) Training. The County will provide instruction and training in the use of the System, to employees of the Customer for a reasonable time (not to exceed thirty (30) days) after the Cutover.

9) Maintenance. The County will maintain the System in good repair, and will provide the necessary parts and labor to maintain the System as provided in Schedule III, provided the Customer is current on its payments hereunder and is otherwise in compliance with terms and conditions of this Agreement. The Customer's SOLE AND EXCLUSIVE REMEDY for the County to correct a defect in the System is limited to the County's performance under this Section 9.

The County's duty to maintain the System:

a) Excludes any service in connection with maintenance or repair of the equipment caused by negligence, theft or unexplained loss, abuse, connection to foreign power, fire, water, wind, storms, lightning, acts of God, acts of public enemies, improper testing, installation of equipment, items, material or software by the Customer or third parties, failures or changes resulting from local exchange company, failures or changes resulting from local power company, failures or changes resulting from other transmission providers, or repair or alteration of the equipment or software by anyone other than the County; and

b) requires that Customer maintain a suitable operating environment for the System.

BY CUSTOMER REQUEST, REPAIRS NECESSITATED BY ANY OF THE EXCEPTED CAUSES IN SECTION 9(a) ABOVE, SHALL BE PERFORMED BY THE COUNTY AT ITS THEN PREVAILING RATES. THIS MAINTENANCE AGREEMENT IS IN LIEU OF ANY WARRANTY OR OTHER OBLIGATION, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY, AGREEMENT OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COUNTY DISCLAIMS ANY WARRANTY TO PREVENT UNAUTHORIZED USE OF THE SYSTEM, INCLUDING TOLL FRAUD.

10) LIMITATION OF LIABILITY. THE COUNTY WILL BE LIABLE FOR PHYSICAL INJURIES TO INDIVIDUALS AND DAMAGES TO TANGIBLE PHYSICAL PROPERTY (OTHER THAN THE SYSTEM WHICH IS COVERED BY THE MAINTENANCE PROVISIONS OF THIS AGREEMENT) CAUSED BY THE COUNTY'S NEGLIGENCE. IN NO EVENT HOWEVER WILL THE COUNTY AND ITS CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR: (A) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (B) COMMERCIAL LOSS OF ANY KIND (INCLUDING LOSS OF BUSINESS OR PROFITS); OR (C) ANY DAMAGE OF ANY KIND RESULTING FROM UNAUTHORIZED USE OF THE SYSTEM (INCLUDING TOLL FRAUD). THIS LIMITATION SHALL APPLY TO ANY CLAIM OF THE CUSTOMER WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OF THE COUNTY, ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS, STRICT TORT OR ANY OTHER LEGAL THEORY WHETHER OR NOT THE COUNTY OR ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

11) Title. The County shall retain title to the System and the Customer shall have no interest in the System other than the rights acquired as a customer hereunder. The Customer acknowledges the County may affix to and maintain on such System identifying labels indicating the County's ownership. The System shall remain County personal property and not become a fixture or part of any Customer real estate, regardless of the manner in which it may be installed or attached. If requested by the County, the Customer will, at the Customer's expense, furnish a landlord and/or mortgagee waiver with respect to the System. The Customer shall protect and defend the County's title and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those which, through the County, and shall not permit the County's rights or interest hereunder to be subject to any lien, charge or encumbrance, including, but not limited to: (a) any lien of the owner of real property upon which the System is installed; or (b) of any purchaser of or future creditor obtaining a lien on, said real property. The Customer shall give the County immediate notice of any attachment or judicial process affecting any item of the System.

12) Use of the System(s); Inspections and Reports. The Customer shall use the System(s) solely for business and not for personal, family or household purposes. The Customer may only use the System at the location set forth in Schedule I. The Customer's use of the System shall conform with all applicable federal, state and local laws and rules. The County shall have the right to inspect the System at all reasonable times during the Customer's normal business hours.

Additional Terms and Conditions

13) Alterations and Attachments. The Customer shall not permit any equipment or other items or material (the "Other Equipment") or software (the "Other Software") to be used on or in connection with the System, which does not meet the specifications of the manufacturer of the equipment in the System. All Other Equipment and Other Software which may be used on or in connection with the System shall be acquired and installed by the Customer at Customer's own expense and risk. The County makes no representation concerning the compatibility of any such Other Equipment and/or Other Software for use with the System.

Without the prior written approval of the County, at the end of the Rental Term, the Customer must remove any additions to the System not otherwise subject to this Agreement (the "Additions") made by Customer during the Rental Term and restore the System at the Customer's expense to its original condition, reasonable wear and tear only excepted. In the event the Customer fails to remove an Addition, it shall become the property of the County.

14) Indemnification. The County will be responsible only for physical injury to persons (including death) and damage to tangible physical property to the extent caused by its negligence during delivery, installation or maintenance of the System and which is reported to the County in writing within sixty (60) calendar days of the incident.

The Customer shall indemnify and hold harmless the County and its officers, employees, agents and authorized representatives and instrumentalities from any and all claims, liabilities, losses, damages and causes of action including attorney's fees and costs of defense which may arise or be incurred as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Customer or its employees, agents, servants, partners, principals, or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay all claims and losses of any nature whatsoever in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be issued thereon. The Customer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Customer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and authorized representatives, and instrumentalities as herein provided. Nothing contained in this Section 14 shall be construed so as to require the Customer to indemnify the County's employees, agents and authorized representatives for their own negligence.

15) Return of System. Upon termination of this Agreement, excepting equipment covered under a renewal agreement, the Customer will make the System available for removal which shall be accomplished in a careful and reasonable fashion by the County. The System will be returned to the County in the same condition as originally installed, ordinary wear and tear excepted, or the Customer will pay for the restoration of the System to such condition. The County shall not be obligated to restore the premises to its original condition. If the Customer does not return the System or make it available for removal by the County, then in addition to all other remedies in this Agreement, the County has available all other remedies available at law or equity. All obligations of the Customer under this Agreement shall remain in force and effect until the System is returned to the County.

16) Events of Default by the Customer. The occurrence of any one or more of the following events (an "Event of Default") shall constitute a default under this Agreement:

a) Failure by the Customer to pay any installment of System Rent or any other amount payable hereunder as and when the same becomes due and payable and the continuation of such failure for a period of ten (10) calendar days thereafter;

b) Failure by the Customer to perform or observe any other term, covenant or condition of this Agreement or any Schedule, or the inaccuracy in any material respect of any representation, warranty or statement made by the Customer in this Agreement, any Schedule or any document or certificate furnished to the County at any time, which such failure or inaccuracy shall continue for a period of ten (10) calendar days after notice from the County;

c) dissolution, termination, or discontinuance of the Customer's business (including, without limitation, the death of the proprietor if the Customer is a sole proprietorship or the death of a general partner if the Customer is a partnership), the sale of substantially all of the Customer's assets, or the sale or pledge of the controlling interest in the Customer;

d) the Customer's insolvency, the appointment of a receiver for any property of the Customer, assignment by the Customer for the benefit of creditors, admission by the Customer in writing of its inability to pay its debts as they become due, or the commencement of a proceeding under any bankruptcy, reorganization or similar laws by or against the Customer or any property it possesses, or if the Customer enters into an agreement of composition with its creditors; or

e) the attempted sale by the Customer of a System or any part thereof, or the issuance of any levy, seizure, or attachment thereon or pertaining thereto.

17) Remedies of the County. At any time after the occurrence of an Event of Default, the County may exercise any one or more of the following remedies:

a) The County may, upon seven (7) days written notice, terminate this Agreement with respect to any System, or portion thereof, or all of the Systems.

b) The County may demand and recover from the Customer all System Rent and other amounts then due.

c) The County or its agents may take possession of any portion or all of the Systems, wherever the same be located, on reasonable notice, without any court order or other process of law and without liability to the Customer for any damages occasioned by such taking or possession, and any such taking or possession shall constitute a termination of this Agreement, and whereupon all rights and interest of the Customer to possess and use the Systems shall absolutely cease, but the Customer shall remain liable as provided herein.

d) The County may demand the Customer return any System or portion thereof, or all of the Systems to the County in accordance with this Section 17 hereof; and

e) The County may pursue any other remedy available at law or in equity, including, without limitation, seeking damages, specific performance, and/or an injunction. None of the remedies under this Agreement is intended to be exclusive but shall be cumulative and in addition to any other remedy referred to herein or otherwise available to the County in law or in equity. Any repossession or subsequent sale or lease by the County of any portion of the System shall not bar any action for a deficiency as herein provided, and the bringing of any action or the entry of a judgment against the Customer shall not bar the County's right to repossess any System or portion thereof, or all of the Systems.

18) County Event of Default and Customer Remedy. The Customer may terminate this Agreement upon thirty (30) days written notice in the event of the County's material breach of this Agreement. Such written notice shall identify the material breach(es) and provide a reasonable time to cure in the notification to remedy the cause(s). The County has fifteen (15) days to cure the cause of the termination (the "Cure Period"). Such Cure Period commences the day after the thirty (30) day written notice period runs. The Customer may extend the Cure Period. This shall be the Customer's exclusive remedy.

19) Insurance. In addition to such insurance as may be required by law, the Customer shall maintain during the term of this Agreement the following insurance:

a) Public Liability Insurance on a comprehensive basis, including contractual liability, products and completed operations, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.

b) Automobile Liability Insurance coverage for all owned, non-owned and hired vehicles used in connection with this agreement in amounts not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

c) Property Damage. The Customer will bear the risk of loss or damage to the leased equipment for the replacement cost and will reimburse the County for any damages to the equipment.

The insurance coverage required shall include those classifications as listed in the standard liability manuals, which most nearly reflect the operations of the Customer as this Agreement. All insurance policies required herein shall be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B" as to management and no less than "V" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc. or its equivalent as approved by the Miami-Dade County Risk Management Division.

Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division, which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classification as required for strict compliance with this Section 19; (2) any material change or cancellation of the insurance shall not be effective without thirty (30) days prior written notice to the County; and (3) that Miami-Dade County is named as an Additional Insured with respect to the Public Liability coverage.

The County reserves the right to require the Customer to provide such reasonably amended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to the Customer, which notice shall automatically amend this Agreement effective thirty (30) days after such notice. Compliance with the foregoing requirements shall not relieve the Customer of its liability under any other portion of this Agreement.

20) Further Assurances. The Customer will execute and deliver to the County, such additional instruments as the County deems necessary hereunder.

Additional Terms and Conditions

21) County's Performance of the Customer's Obligations. If the Customer fails to perform any of its obligations under this Agreement, the County may perform any or make any payment which the County deems necessary for the maintenance and preservation of the Systems and the County's title thereto. All sums so paid by the County (together with all related "Late Payment Charges", as hereinafter defined) and reasonable attorney's fees incurred by the County in connection therewith shall be added to System Rent immediately due and payable by the Customer to the County. The performance of any act or payment by the County shall not be deemed a waiver or release of any obligation or default on the part of the Customer.

22. Severability. Any provision of this Agreement prohibited by the laws of a state shall as to such state be ineffective to the extent of such prohibition, but shall not affect the other provisions of this Agreement.

23. Amendments and Waivers. This Agreement and the Schedules constitute the entire agreement between the County and the Customer with respect to the rental of the Systems, and supersede all previous communications, understandings and agreements whether oral or written, between the parties with respect to such subject matter. Any representations, warranties or statements made by an employee, salesperson, agent, or authorized representative of the County and not expressed in this Agreement are not binding upon the County. No provision of this Agreement may be changed, waived or amended except by written agreement signed by both the County and the Customer, except that the County may insert the serial number of any portion of a System on the applicable Schedule after delivery of such portion of the System and the County may insert the Commencement Date for this Agreement after receiving the Acknowledgment and Certificate of Acceptance.

24. Late Payment Charge. In the event the Customer fails to make any payments as required to be paid under the provisions of this Agreement, within ten (10) calendar days of the due date, interest at the rates established from time to time by the Miami-Dade Board of County Commissioners and/or Florida Statutes (currently set at one and one-half percent (1 1/2%) per month) shall accrue against all such delinquent payment(s) from the original date due until the Department actually receives payment. The right of the County to require payment of such interest and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's rights to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.

25. Assignment. The Customer shall not assign this Agreement without the County's written consent. No assignment or transfer of any sort shall relieve the Customer of its obligations hereunder. The County may assign any rights under this Agreement to an affiliate or any other assignee, and the Customer agrees to execute any documents that such assignee may reasonably require. The Customer acknowledges that if this Agreement is assigned to a governmental entity, the indemnity obligations under Section 14 herein may not apply in full to such assignee.

26. Applicable Law. This Agreement shall be governed by, construed and enforced in accordance with the applicable laws of the County, including (a) the rules and regulations of the Department, (b) Chapter 25, Code of Miami-Dade County, Florida, and (c) operational directives issued thereunder, in addition to all additional laws, ordinances, administrative orders, regulations, and rules of the federal, state, and local governments, and any and all plans and programs developed in connection therewith, which may be applicable to the operations of this Agreement.

27) Customer's Representations. The Customer represents that this Agreement is a lawful, binding and valid obligation of the Customer enforceable in accordance with its terms and has been duly authorized, executed and delivered by the Customer, and that all information concerning the Customer's financial condition which has been or will be supplied to the County is and will be true and correct.

28) Notices. All notices, demands and other communications shall be transmitted in writing by hand delivery or by United States Mail, addressed to such party set forth below or at such other address as may be subsequently submitted by written notice of either party. Notice given pursuant to this Section 28 shall be deemed effective four (4) days after the date it is mailed or upon receipt, whichever is earlier.

For the Department:

Manager, Information Services Division
Miami-Dade Aviation Department
PO Box 592075
Miami, Florida 33159-2075

For the Customer:
[Billing Customer Name] _____
[Customer Address] _____
[City, State & Zip Code] _____
[Billing Contact] _____
[Telephone Number] _____

29) Miscellaneous.

a) If the Customer uses a purchase order or similar document to order a System or add-on thereto, the Customer acknowledges that the terms and conditions of such purchase order or document shall not apply and that the terms and conditions of this Agreement shall exclusively apply thereto.

b) The waiver by either party of any default will not operate as a waiver of any subsequent default.

c) The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.

d) Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.

e) This Agreement shall be binding upon and in use to the benefit of the County and the Customer and their respective successors and assigns.

f) Rights to be Exercised by Department. Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

Additional Terms and Conditions

30) Terms and Execution

a) This Agreement binds the Customer when it is executed by the Customer and binds the County when executed by the County and delivered to the Customer.

b) This Agreement allocates the risks of the System's delivery, installation, operation and maintenance between the County and the Customer. The County has provided the Customer a favorable rent in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized by both parties and is reflected in the System Rent. The Customer acknowledges that it has read this Agreement, understands it and is bound by its terms.

c) The Customer agrees that the County shall not be obligated under this Rental Agreement if the federal, state, or county statutory or regulatory authority permitting the County's performance hereunder is withdrawn, abridged, or amended so as to preclude the effective delivery by the County of services hereunder. In such event, the County shall notify the Customer in writing and the Customer's sole obligation thereafter shall be to compensate the County for the equipment then in service rendered by the County to date.

Miami-Dade Aviation Department	Customer
By:	By:
Title:	Title:
Date:	Date:

MIAMI-DADE AVIATION DEPARTMENT — Equipment and Services Schedule I

Rental # _____ Date _____

With respect to the certain Airport Rental Agreement dated _____ _____, 20___ (the "Agreement") between the County and _____ (the "Customer"), the County and the Customer agree to incorporate the following additional terms and conditions into said Agreement:

1) Location: Miami International Airport

2) Rental Term: _____ ( ) months

3) Payment: The Customer shall pay to the County the total rental (which includes maintenance) for the Rental Term of the Agreement, which shall be the total amount of the rental payments set forth on this Schedule plus any such additional amounts as may arise hereunder or pursuant to any additions hereto as described in Paragraphs 11 and 12 of this Schedule. Except as otherwise specified in this Schedule, rental payments pursuant to this Schedule (each monthly payment of System Rent) shall be made and shall be due and payable in advance on the first day of each calendar month during the Rental Term, provided however that the Customer shall pay to the County the first monthly System Rent payment with respect to the System when the Customer delivers to the County the Schedule I and Schedule II executed by the Customer. In the event the Customer does not accept the System for any reason the County shall be entitled to retain such payment, in addition to its other rights hereunder unless the parties agree in writing to the contrary. All amounts due hereunder from the Customer shall be paid to the County by check, in immediately available funds, at the address of the County as set forth in the Agreement or at such other place as the County shall designate in writing. Whenever any payment (of System Rent or otherwise) is not made within ten (10) days of the date when due hereunder, the Customer shall pay the "Late Payment Charge" (as defined in Section 24 of the Agreement), calculated from the eleventh (11th) day after the due date to the date of actual receipt of payment.

4) System Rent: _____ Dollars ($_____) (Monthly System Rent during Rental Term $_____ per month during the term of this Agreement, except as it may be increased or decreased by amendment or by an inflation and/or utility company adjustment, plus applicable taxes. Unless otherwise specified, telephone numbers, directory listings, and all other charges of the local exchange company or any interexchange carrier are not included in the rental price unless indicated on a schedule. No cabling, wiring, or other items are included unless specifically noted in this Agreement and indicated on this Schedule.

5) Security Deposit: The Customer shall pay two (2) months rent as a security deposit that shall be held as long as the Customer is current on its System Rent and applicable taxes, and that shall be returned without interest to the Customer at termination of this Agreement. If not current on either System Rent or applicable taxes, the County may deduct from the Security Deposit any and all amounts due from the Customer under the Agreement. The Customer must maintain the two (2) month rent security deposit amount balance, and must tender to the County the amount needed to maintain this threshold, if a deduction or deductions are made by the County.

6) Estimated Commencement Date: _____, 20__

7) Attachments: The following Schedules are attached to and made a part of this Agreement: Schedules I, II, & III

8) Installation: The total amount due for installation of the System is _____ Dollars ($_____) plus applicable taxes. This amount is due and payable on the Agreement execution date and is non-refundable.

9) Maintenance Hours: The County will respond to System failures during the hours specified by the maintenance plan chosen by the Customer (see Schedule III).

10) Equipment and Features: The equipment and features subject to the Agreement are set forth below:

1)	Switch Access	$	/month
2)	Network Access	$	/month
3)	Systems - Terminal Equipment	$	/month
4)	System - Other	$	/month
	Monthly Rent	$ (See Attached quote #_____)	

(A continuation sheet may be added if more room is needed)

11) Pre-Cutover Changes: In the event that additions and/or deletions to the equipment and/or features described in Section 10 above are made in accordance with the Agreement before the Commencement Date, the monthly Rental shall be adjusted by the charge caused by applicable Installation Change Notices ("ICNs"). The County and the Customer hereby agree that any ICN executed by the Customer and delivered to the County in accordance with this Section 11 shall constitute an amendment to the Agreement and this Schedule, thereby adding to each such document the descriptions and rental information with respect to the equipment and the software included in such ICN.

12) Post-Cutover Changes: If the Customer wishes to add additional County equipment and/or features to the System (excluding however, minor equipment and/or features with maintenance related thereto which the Customer purchases from the County for cash) during the Rental Term of the Agreement, the Customer shall add additional equipment and/or features to the Agreement on such terms as the County and the Customer may agree in a Customer Service Order ("CSO") executed by the County and the Customer, and such equipment and/or features shall become, upon amendment of the Agreement and acceptance by the Customer pursuant to the Agreement, subject to the terms of the Agreement, provided the Customer is not in default under the Agreement and has not suffered a material adverse change in its financial condition since the execution of the Agreement. Pricing for additions may be adjusted for changes in tax laws and regulations.

The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operational as part of the System and shall have a term of sixty (60) months unless stated otherwise on this Schedule.

13) Renewal: If the Customer is not in default under this Agreement, the Customer can either (a) renew this Agreement on its termination at the then current market monthly rate or (b) return the System to the County. Renegotiation of any such renewal can be initiated by the Customer's written notice of its willingness to negotiate a renewal not earlier than one hundred twenty (120) days but not later than sixty (60) days prior to the end of the Rental Term. The Agreement can be automatically renewed at the County's discretion for a minimum period of one (1) year if a renewal is not finalized. Renewals will be at the price and on the terms and conditions of the County in effect at the time of renewal unless otherwise agreed to in writing by the parties.

14) Miscellaneous: All terms defined in the Agreement shall have the same meaning herein.

IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorized representative and this Schedule shall be incorporated into and made a part of the Agreement.

Miami Dade Aviation Department	Customer
By	By:
Title	Title:
Date	Date:

10

PSC 6264

M AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule II

To: Aviation Department

The _____ acknowledges, represents and warrants to the Co equipment subject to the Rental Agreement dated _____ _____, 20__ by and the undersigned (a) has been delivered, installed and subjected to all necessary pre op ing, (b) has been inspected; (c) is operating in accordance with the manufacturer's specifications (d) used or made available to be placed in service for its specifically assigned function for the first time the date indicated below as the "Commencement Date"; and (e) was first connected to a public in a manner permitting calls to be made through the equipment to and from the facility in which located on such Commencement Date.

Commencement Date: _____

Customer: _____

By: _____

Title: _____

Date: _____

The maintenance plan features the following services:

1. Types of Failures:

Trouble reported by the Customers will fall into two categories a) Major Failures, and b) Minor Failures

a Major Failures are those that severely impede the ability for a Customer to conduct business at the Airport and shall be defined as an occurrence of any of the following

1 A failure of the telephone switch, its common equipment or power supplies which renders it or them incapable of performing normal functions for five percent (5%) or more of the stations or trunks

2 A failure of network components that will render over five percent (5%) of work stations inoperable

b Minor Failures are any other failures including a failure of any ancillary equipment such as intercom circuits, paging input arrangement, or any other telecommunications equipment or component

2. Response and Repair Time:

Based on the trouble classification, the response will be in the following manner

a Major Failure- Immediate response during business hours (Monday-Friday, 7 A.M – 11 P.M., Eastern Time) and within two (2) hours for off hours (Monday-Friday, 11 P.M – 7 A.M., Eastern Time, and twenty-four (24) hours a day Saturday, Sunday, and holidays).

Remedial maintenance will begin immediately for a major malfunction, which may consist of remote diagnostics during the first fifteen (15) to thirty (30) minutes, after the repair notification time by the Customer, via the service provider tracking processes with the appropriate service ticket number, however if not corrected, the service provider's personnel must be on-site no less than forty-five (45) minutes during business hours and no less than two (2) hours during off hours from the repair notification time. Repair work shall start immediately and continue until the problem is resolved. All commercially reasonable efforts will be made to complete repairs within eight (8) hours from the time the Customer reported the incident.

b Minor Failure - Response within eight (8) business hours.

Repairs not defined as a major failure will begin as expeditiously as possible, and all commercially reasonable efforts shall be made to complete repairs within one (1) business day from the time the Customer reported the incident. Repairs may be made by a certified technical personnel either through a premise visit or via electronic access through the use of a remote maintenance terminal. However, in all cases, the repair must be confirmed and the status updated by the next business day by notification to the service provider. Response to minor service interruptions will take place within eight (8) business hours.

"Respond" is equated to having technical support and/or troubleshooting the problem within aforementioned times. Note that during the troubleshooting process, the service provider is coordinating directly with the Customer until the problem is resolved.

3. Miscellaneous:

- All parts and labor are included, unless the failure is due to abuse or misuse of the equipment or facilities
- Preventive maintenance routines are included.
- Utility coordination with the local telephone company and other common carriers are provided
- Consultation services on the Customer's system are included.
- User training (beyond that provided in Section 8 of the Agreement) is optional, and at an additional cost
- Traffic studies to determine adequate system utilization (not to exceed two (2) annual Customer requested studies) are included.

Exhibit 6
SATS Airport Rental and CUTE Agreements

[illegible]	Airtele Customers (Excluding MDAD)	Customer Number
1	Abalis International	10391420
2	Aces - CUTE & Voice	10338645
3	ADT Securities	10506587
4	AeroMexico	10506587
5	Aeropostal - CUTE & Voice	10427644
6	Air France - CUTE	10450333
7	Air Jamaica	10518850
8	Air Tran Airways	10354515
9	American Airlines - CUTE & Voice	10363503
10	ASI Baggage	10381495
11	ASIG Miami Inc	10377170
12	Aserca Airlines	10519350
13	Atlas Air	10337970
14	AT&T	10344625
15	Avianca - CUTE & Voice	10484758
16	British Airways CUTE & Voice	10408278
17	Cafe Versailles	10339696
18	Carne Ice Cream Shop	10351663
19	Centers for Disease Control	10396494
20	Cirilio Rodriguez d/b/a Bright Additions	10363032
21	Commodore Aviation	10415024
22	Communitel	10404505
23	Continental Airlines	10421360
24	Copa - CUTE	10494895
25	Cyber Express	10464227
26	Evergreen International	10338837
27	Flagship (American Eagle)	10338283
28	Gray Construction	10497202
29	Gulfstream Airlines	10341784
30	Host Marriott	10406827
31	ICI	10422707
32	Lan Chile - CUTE	10377882
33	Martin Air - CUTE & Voice	10411203
34	Mexicana	10505015
35	Miami Airport Duty Free Joint Venture	10396900
36	Midway Airlines	10506157
37	National Airlines	10477140
38	Polar Air	10345528
39	Sirgany Bencomo	10407537
40	Sita Communications	10459735
41	Smarte Carte	10428523
42	Swiss Air	10462868
43	Taca International	10518491
44	Underground Construction	10514494
45	United Airlines	10342394
46	USDA - Cargo	10344972
47	USDA - Network	10427656
48	USDA - Terminal	10370069
49	USDA - Operations	10517502
50	USDA - Bldg 100	10518439
51	USDA - Bldg 701	10518440
52	Varig Brasil - CUTE	10467672
53	Virgin Atlantic - CUTE	10467591
54	Worldwide Concessions	10518818
55	Worldwide Flight Services	10464296
	Expected New Contracts	
	Global Concessions	TBD

EXHIBIT
C

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

ORIGINAL

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

EXHIBIT 1

APPEARANCES:

MITCHELL R. BLOOMBERG, ESQ. and
NATALIE-CARLOS, ESQ.,
of the firm of ADORNO & YOSS, P.A.
on behalf of the Plaintiff

DAVID STEPHEN HOPE, and
CYNJI A. LEE,
Assistant Miami-Dade County Attorneys
on behalf of the Defendant

Also present:

Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS	EXAMINATION	PAGE
PEDRO J. GARCIA		
	BY MR. BLOOMBERG	4

A. No, sir.

Q. Now, the first sentence of this regulation says that airports are -- essentially I'm paraphrasing -- airports are exempt from other STS rules due to the necessity to ensure safe and effective transportation of passengers and freight; fair paraphrase?

A. Yes.

Q. The second sentence says the airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks.

Do you see that?

A. Yes, I see it.

Q. And are you providing facilities, shared local services to facilities such as hotels, shops and so forth?

A. We're not providing service to any shopping malls.

Q. Hotels?

A. We're providing service to hotels -- there's a management company that manages the hotel and it's a pass-through situation. We're not making any profit from that.

Q. So is that why you determined you don't need a certificate?

A. It was determined that we didn't need a certificate based on the overall interpretation of this paragraph. We're now providing services within the airport. We're not going outside to shopping malls or to outside hotels or any outside the airport property, which belongs to Miami-Dade County.

Q. And the hotel belongs to whom?

A. The hotel building belongs to Miami-Dade County, and we have a management company managing the operation.

Q. You mentioned that you started the process of applying for a certificate at some point?

A. Yes, sir.

Q. Who decided to apply? Who decided you needed to apply?

A. I don't believe it was anybody in particular. It was something that it was just decided to -- let's do it -- at the time we were engaged in purchasing the infrastructure from the service provider NextiraOne which was -- they were the owners of all the infrastructure at the time.

FILE COPY

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,
Defendant.
_____/

MIAMI-DADE COUNTY'S ANSWER AND AFFIRMATIVE DEFENSES TO SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND FOR ISSUANCE OF WRIT OF MANDAMUS

Defendant, Miami-Dade County, by and through its undersigned counsel, hereby files its Answer and Affirmative Defenses, to the Second Amended Complaint for Declaratory and Injunctive Relief and for Issuance of Writ of Mandamus of Plaintiff, BellSouth Telecommunications, Inc. ("BellSouth") and states:

1. Miami-Dade County (the "County") admits the allegations contained in Paragraphs 3, 6, and 15.

2. The County denies the allegations contained in Paragraphs 7, 14, 21, 22, 24, 27, 28, 30, 31, 32, 33, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 55, 57, 58, 60, 61, 63, 65, 72, 73, and 74 and therefore demands strict proof thereof.

3. The County is without knowledge as to the allegations contained in Paragraphs 4, 5, 54, and 62, and therefore denies the same and demands strict proof thereof.

4 Regarding Paragraph 8, the Miami-Dade County Home Rule Charter (the "Charter") speaks for itself.

10 dsup 7/24

5 Regarding Paragraph 9, the definition of "telephone utility" as used in the Charter speaks for itself.

6. Regarding Paragraph 10, § 364.02(13), Florida Statutes speaks for itself.

7. Regarding Paragraph 11, the County denies operating a telecommunications company offering two-way telecommunications services to the public for hire

8 Regarding Paragraph 12, Florida Administrative Code Rule 25-9.002 speaks for itself.

9. Regarding Paragraph 13, Florida Administrative Code Rule 25-4.003(10) speaks for itself.

10. Regarding Paragraph 16, the County admits that the authority of the Miami-Dade County Board of County Commissioners (the "Board") shall not conflict with applicable general laws related or applying to Miami-Dade County.

11. Regarding Paragraph 17, § 364.01(2), Florida Statutes speaks for itself.

12. Regarding Paragraph 18, the County admits providing shared airport tenant services to airport tenants at Miami International Airport ("MIA").

13. Regarding Paragraphs 19 and 20, § 364.339, Florida Statutes speaks for itself.

14. Regarding Paragraphs 23, Article VIII, Florida Constitution of 1985 speaks for itself.

15. Regarding Paragraph 25, on January 29, 2002, the Board passed and adopted Resolution No. R-31-02 related to telecommunications, data network, and shared network services at County airport system facilities. The resolution authorized the: (i) purchase of leased telecommunications, data network, and common use terminal equipment infrastructure, software, licenses, permits, and other assets; and (ii) approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with NextiraOne, LLC for an interim two (2) year period.

16 Regarding Paragraph 26, the Agreement speaks for itself.

17. Regarding Paragraph 29, on September 24, 2002, the Board passed and adopted Resolution No. R-1091-02 authorizing the County Manager or designee to negotiate and execute airport rental agreements with tenants for shared airport tenant services telecommunications and data network access.

18. Regarding Paragraph 34, the County admits it has not submitted an application to the Florida Public Service Commission to obtain a certificate of public convenience and necessity.

19. Regarding Paragraph 35, the County denies providing two-way telecommunications services for hire at the airports.

20. Regarding Paragraph 38, the County denies that BellSouth: (i) provides similar services, as such services are defined by the Charter, to tenants at Miami International Airport ("MIA"); and (ii) has been providing such services at all times relevant. The County has no knowledge of any other statements in this paragraph, not specifically denied above.

21. Regarding Paragraph 66, §§ 364.02(13) and 364.32(1)(a), Florida Statutes speak for themselves.

22. Regarding Paragraphs 67, § 364.33, Florida Statutes speaks for itself.

23. Regarding Paragraphs 68, § 364.339(2), Florida Statutes speaks for itself.

24. Regarding Paragraphs 69, §§ 364.33 and 364.335, Florida Statutes speak for themselves.

25. Regarding Paragraph 70, Florida Administrative Code Rule 25-24.567 speaks for itself.

26. Regarding Paragraph 71, Florida Administrative Code Rule 25-24.569 speaks for itself.

27 Any allegations of the complaint not specifically responded to above are hereby denied, and therefore the County demands strict proof thereof.

AFFIRMATIVE DEFENSES

FIRST DEFENSE
(Failure to State a Claim)

1. For each cause of action of the Second Amended Complaint asserted against Defendant, Plaintiff has failed to state a claim for which relief can be granted.

SECOND DEFENSE
(Laches)

2. The County has operated a telecommunications, data network, and shared airport tenant services infrastructure and system, and provided such services at MIA since circa 1982 BellSouth has had knowledge of said infrastructure and system since its inception. The doctrine of laches is a bar to any and all claims of Plaintiff, given BellSouth's approximate twenty (20) year knowledge of the operation of the system and provision of services now challenged.

ROBERT A. GINSBURG
Miami-Dade County Attorney
Aviation Division
P.O. Box 592075 AMF
Miami, Florida 33159-2075
(305) 876-7040 / FAX (305) 876-7294

By: _____
David Stephen Hope
Assistant County Attorney
Florida Bar No. 87718

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this *19th* day of July 2004, to ***Martin B. Goldberg, Esq.***. Lash & Goldberg LLP, 1200 Bank of America Tower, 100 Southeast 2nd Street, Miami, Florida, 33131; ***Dorian Denburg, Esq.***, BellSouth Corporation, 1155 Peachtree Street, Suite 1700, Atlanta, Georgia 30309-3610, ***Sharon Liebman, Esq.***, BellSouth Telecommunications, Inc., 150 West Flagler Street, Suite 1910, Miami, Florida 33130.

David Stephen Hope
Assistant County Attorney

2. BellSouth further brings this action for issuance of a Writ of Mandamus to compel the County to perform its ministerial obligation pursuant to Chapter 364 of the Florida Statutes, and its accompanying regulations as set forth in the Florida Administrative Code governing the regulation of telecommunications companies.

3. BellSouth is a Georgia corporation doing business in Miami-Dade County.

4. BellSouth is a local exchange telecommunications company, as defined in Chapter 364, Florida Statutes.

5. Pursuant to its Certificate of Public Convenience and Necessity issued by the Florida Public Service Commission ("FPSC"), BellSouth "offer[s] two-way telecommunications service to the public for hire . . . by use of a telecommunications facility" within its service area in Florida, including Miami-Dade County.

6. The County is a political subdivision of the State of Florida and is located in Miami-Dade County.

7. The County "offer[s] two-way telecommunications service to the public for hire . . . by use of a telecommunications facility," at Miami International Airport ("MIA") and other general aviation airports within Miami-Dade County, including Kendall, Tamiami, Homestead and Opa-Locka (the "Other Airports) (collectively MIA and the Other Airports may be referenced as, "airports").

BANK OF AMERICA TOWER
SUITE 1200
100 SOUTHEAST 2ND STREET

LASH&GOLDBERG

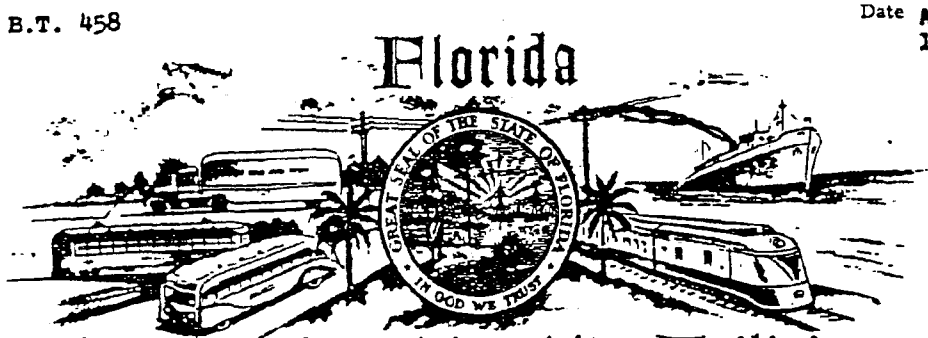
WESTON CORPORATE CENTER
SUITE 400
2500 WESTON ROAD
FT. LAUDERDALE, FLORIDA

Docket No. 4733-TP

Order No. B.T. 458

Certificate No. 8

Date April 25, 1926



Railroad and Public Utilities Commission

TELEPHONE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Upon consideration of the record in the above numbered docket, it is ORDERED That authority be and it is hereby granted to

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

whose principal address is **Atlanta, Georgia**

to construct and operate a telephone plant or system in the hereinafter described territory professed to be served by said Southern Bell Telephone and Telegraph Company in accordance with the provisions of Chapter 28013, Laws of Florida, Acts of 1953, the Rules and Regulations of this Commission, and the conditions and provisions prescribed in Order No. BT 458 The territory professed to be served by said telephone company is described as follows:

The territory described in Appendix "A" of said Order No. B. T. 458, copy of said Appendix "A" being hereto attached.

BST1601

Docket No. 4227-TP

Order No 2138

FILE COPY

Certificate No. 8

Date January 17, 1955

Florida



Railroad and Public Utilities Commission

TELEPHONE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Upon consideration of the record in the above numbered docket, it is ORDERED That authority be and it is hereby granted to:

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

whose principal address is Atlanta, Georgia

to construct and operate a telephone plant or system

in the hereinafter described territory professed to be served by said Southern Bell Telephone and Telegraph Company by its Orlando Exchange in accordance with the provisions of Chapter 28013, Laws of Florida, Acts of 1953, the Rules and Regulations of this Commission, and the conditions and provisions prescribed in Order No. 2138. The territory professed to be served by such company by its Orlando Exchange is described as follows:

The territory described in Appendix "A" of said Order No. 2138, copy of said Appendix "A" being hereto attached.

Canceled on 4-25-56, by Order No. 4-733-TP and reissued to Southern Bell Tel. & Tel. Co. Docket No. 4227-TP, as BT-458, on 4-25-56

BST1602

This Certificate shall remain in force and effect until amended, suspended, cancelled or revoked by Orders of this Commission.

By Order of the FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION.

(Seal)

Executive Secretary

Chairman

DESCRIPTION OF AREA SERVED
BY SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY BY
ITS ORLANDO, FLORIDA EXCHANGE

Course No. 1. Beginning on the Orange-Seminole County Line of the N. W. cor. of the S. W. ¼ of S. W. ¼ Sec. 18 Twp. 21-S, R. 29 E. thence East along the North ¼-¼ Line 5280' plus/minus to the N. E. cor. of the S. E. ¼ of the S. E. ¼ of said Sec. 18; thence still East along the North ¼-¼ Line of Sec. 17, 2640' plus/minus to the N. E. cor. of the S. E. ¼ of S. W. ¼ of said Sec. 17.

Course No. 2. Thence South 1320' plus/minus to the S. W. cor. of the S. E. ¼ of said Sec. 17.

Course No. 3. Thence East 2640' plus/minus to the S. E. cor. of said Sec. 17; thence still East 5280' plus/minus along the South Line of Sec. 16 to the S. E. cor. of said Sec. 16.

Course No. 4. Thence South 15,840' plus/minus along the West Lines Secs. 22, 27, & 34 to the S. W. cor. of Sec. 34.

Course No. 5. Thence East 3960' plus/minus to the S. W. cor. of the S. E. ¼ of the S. E. ¼ of said Sec. 34.

Course No. 6. Thence South 5,280' to the S. E. cor. of the S. W. ¼ of the S. E. ¼ of Sec. 3, Twp. 22 S R. 29 E. which is the center line of Fairbanks Avenue.

Course No. 7. Thence East 630 feet along the South line of Sec. 3 of the center line of Fairbanks Avenue to the intersection of the center line of Shorecrest Drive of the Biltmore Shore subdivision as such subdivision was recorded at the Orange County Circuit Court on March 13, 1952 in Plat Book S, Page 30.

Course No. 8. Thence South eastwardly following the center line of Shorecrest Drive to the intersection of that center line with a northerly extension of the West boundary line of Lot 1, Block E, Biltmore Shores.

8-A. Thence South along the extended west lot line of Lot 1, Block E, Biltmore Shores Plat to the south edge of Lot 1, Block E, Biltmore Shores Plat to the S. W. cor. of said lot.

8-B. Thence East along the South lot line of Lots 1, 2 and 3 of Block E, Biltmore Shores Plat to the S. E. cor. of Lot 3, Block E of said subdivision.

8-C. Thence South along an extension of the east line of Lot 3, Block E, Biltmore Shores Plat 455' plus/minus into Little Lake Fairview.

APPENDIX "A"

BST1603

Course No. 9. Thence Northeasterly 1678' plus/minus to a point in Little Lake Fairview said point being 685' West of the East line of the N. W. ¼ of Sec. 11.

Course No. 10. Thence South and parallel to the East line of the N. W. ¼ of said Sec. 11 1020' plus/minus to the South line of said N. W. ¼ of Sec. 11, thence East 685' to the intersection of Minnesota & Greens Aves. as shown on a plat of Dubsdread Heights, recorded in the Public Records of Orange County, Fla.

Course No. 11. Thence East along the South boundary of the N. E. ¼ of said Sec. 11, 2640' plus/minus to the S. E. cor. of the N. E. ¼ of said Sec. 11, which is also the intersection of Minnesota & Formosa Aves. as shown on a map of Golfview, filed in the Public Records of Orange County, Florida.

Course No. 12. Thence South along the West line of the S. W. ¼ of Sec. 12 to the S. W. cor. of said Sec. 12, it also being the center line of Formosa Ave. and intersecting Par Ave.

Course No. 13. Thence East 1320' plus/minus along the South line of Sec. 12 to the S. W. corner of the S. E. ¼ of the S. W. ¼ of Sec. 12, it also being the intersection of the center lines of Par Ave. and Clay Street.

Course No. 13A. Thence North 1320' plus/minus along the center line of Clay Street to the N.W. cor. of the S.E.¼ of the S.W.¼ of Sec. 12, it also being the intersection of the center lines of Clay & Harmon Streets.

Course No. 13B. Thence East 1320' plus/minus along the center line of Harmon Street to the N. E. corner of the S. E. ¼ of the S. W. ¼ of Sec. 12, it also being the intersection of the center lines of Harmon St. & Buckingham Rd.

Course No. 13C. Thence South 1320' plus/minus along the center line of Buckingham Rd. to the S. E. cor. of the S. E. ¼ of the S. W. ¼ of Sec. 12.

Course No. 13D. Thence East 2640' plus/minus along the South line of Sec. 12 to the S. E. cor. of said Sec. 12.

Course No. 14. Thence still East 1320' plus/minus along the North line of Sec. 18 to the N. E. cor. of the N. W. ¼ of the N. W. ¼ of said Sec. 18, which is also a canal connecting Lake Sue and Lake Virginia.

Course No. 15. Thence South 2640' plus/minus along the East line of the N. W. ¼ and the S. W. ¼ of the N. W. ¼ of said Sec. 18.

Course No. 16. Thence Southeasterly 2100' plus/minus to the N. W. cor. of Beeman Park as shown on a plat thereof filed in the Public Records of Orange Cty., Fla.

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Course No. 17. Thence still Southeasterly along the North boundary of said Beeman Park 677' to the N. E. cor. of said Beeman Park.

Course No. 18. Thence North 90' along the West line of the N. E. ¼ of the S. E. ¼ of Sec. 18 to the N. W. cor. of Parklando, as shown on a map thereof filed in the Public Records of Orange County, Florida.

Course No. 19. Thence East 393.48' along the North boundary of said Parklando to the N. E. cor. of Lot No. 7 Block "G" of said Parklando.

Course No. 20. Thence South 768.35' along the East boundary of said Lot No. 7 Block "G" and the East boundary of Lots 15 & 8, Block "H" and Lot No. 6, Block "J" to the South boundary of said Parklando.

Course No. 21. Thence still South 500' plus/minus to the N. E. cor. of Lot No. 5, Block "A" of Ohio Terrace as shown on a plat thereof filed in the Public Records of Orange County, Florida.

Course No. 22. Thence still South 500' along the East Line of said Lot No. 5, Block "A", Lots 6 & 13 Block "B" of said Ohio Terrace to the center line of Corrine Dr., which is also the South line of Sec. 18, Twp. 22S, Rge. 30 E.

Course No. 23. Thence East 341.8' along the South boundary of Sec. 18 to the S. E. cor. of said Sec. 18.

Course No. 24. Thence East along the South line of Secs. 17, 16 and 15 to the center line of Lake Barton Road, Twp. 22 S. R. 30 E. as shown on a plat of Leawood as recorded in the Public Records of Orange County S 122.

24-A. Thence North approximately 295 feet along the center line of Lake Barton Road to the center line of Cornelia Avenue of Leawood.

24-B. Thence East and Southeast approximately 1,290 feet along the center line of Cornelia Avenue to the point of intersection of the projected south line of Lot 108 of Leawood.

24-C. Thence Northeast approximately 610 feet along the South line of Lot 108 of Leawood to the intersection of the south line of Sec. 15, Twp. 22 S. R. 30 E.

24-D. Thence East to the S. E. cor. of Sec. 15, Twp. 22 S. R. 30 E.

Course No. 25. Thence North 2640' along the East boundary of said Sec. 15 to the N. E. cor. of the S. E. ¼ of said Sec. 15.

Course No. 26. Thence East 2 Miles plus/minus along the ¼ Sec. Lines of Sec. 14 & 13, Twp. 22 S. R. 30 E. to the S. E. cor. of the N. E. ¼ of said Sec. 13.

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Course No. 27. Thence still East 5280' plus/minus along the ¼ Sec. Line of Sec. 18, Twp. 22 S. R. 31 E. to the S. E. cor. of the N. E. ¼ of said Sec. 18, it also being the center line of County Road No. 411.

Course No. 28. Thence North along the center line of County Road No. 411, a distance of 5280' plus/minus to the S. E. cor. of the N. E. ¼ of said Sec. 7.

Course No. 29. Thence East 5280' plus/minus along the ¼ Sec. Line of Sec. 8 to the S. E. cor. of the N. E. ¼ of said Sec. 8.

Course No. 30. Thence still East 1320' plus/minus along the ¼ Sec. Line of Sec. 9 to the intersection of County Road No. 412.

Course No. 31. Thence North 7920' plus/minus through Secs. 9 & 4 and along the center line of County Road No. 412 to the South Line of Sec. 33, Twp. 21 S. R. 31 E., which is the north boundary of Orange County.

Course No. 32. Thence East 8 3/4 miles plus/minus along the North boundary of Orange County, to the Northeast corner of Section 2, Township 22 South, Range 32 East.

Course No. 33. Thence South 18 miles plus/minus along successive section lines to the Southeast cor. of Sec. 35, Township 24 South, Range 32 East.

Course No. 34. Thence West 22 miles plus/minus along the South boundary of Orange County, to the Southwest cor. of Sec. 32, Township 24 South, Range 29 East.

Course No. 35. Thence North 4 miles plus/minus along successive section lines to the Southwest cor. of Sec. 8.

Course No. 36. Thence West 3 3/4 miles plus/minus along successive section lines to the Southwest cor. of the Southeast ¼ of the S. W. ¼ of Sec. 10, Township 24 South, Range 28 East.

Course No. 37. Thence North 7 miles plus/minus along the East boundaries of the West quarters of successive Sections, to the South S. W. cor. of the S. E. ¼ of the S. W. ¼ of Sec. 3, Township 23 South, Range 28 East.

Course No. 38. Thence West 1 ½ miles plus/minus along the south boundaries of the West quarter of Sec. 3 and Sec. 4, Township 23 South, Range 28 East, to the Southeast corner of Sec. 5 in Lake Down.

Course No. 38-A. Thence continue West 1/3 mile plus/minus along the South boundary of Sec. 5 to the Southwest corner of the East 1/3 of Sec. 5 in Lake Down.

Course No. 39. Thence North 5 miles plus/minus along the West boundaries of the East 1/3 of Sec. 5, Township 23 South, Range 28 East and Sections 32, 29, 20 and 17, Township 22 South, Range 28 East, to the Northwest corner of the East 1/3 of Section 17.

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Course No. 40. Thence East 1/3 mile plus/minus along the North boundary of Sec. 17 to the Northeast corner of Section 17.

Course No. 41. Thence North Easterly to the N. E. cor. of Sec. 9.

Course No. 42. Thence North 1 mile plus/minus along the West boundary of Section 3 to the North West cor. of said section.

Course No. 43. Thence northeasterly to the North West cor. of Sec. 35, Township 21 South, Range 28 East.

Course No. 44. Thence East 1 mile plus/minus along the North boundary of Sec. 35, to the N. E. cor. of said Section.

Course No. 45. Thence North 1 mile plus/minus along the West boundary of Sec. 25 to the N. W. cor. of said Sec.

Course No. 46. Thence East 1 mile plus/minus along the north boundary of Sec. 25 to the N. E. cor. of said Sec.

Course No. 47. Thence North 1¼ miles plus/minus to point of beginning.

BST1607

Docket No. 4733-TT

Order No. B.T. 458

Certificate No. 8

Date April 25, 1926



Railroad and Public Utilities Commission

TELEPHONE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Upon consideration of the record in the above numbered docket, it is ORDERED. That authority be and it is hereby granted to:

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

whose principal address is Atlanta, Georgia

to construct and operate a telephone plant or system in the hereinafter described territory professed to be served by said Southern Bell Telephone and Telegraph Company in accordance with the provisions of Chapter 28013, Laws of Florida, Acts of 1953, the Rules and Regulations of this Commission, and the conditions and provisions prescribed in Order No. BT 458. The territory professed to be served by said telephone company is described as follows:

The territory described in Appendix "A" of said Order No. B. T. 458, copy of said Appendix "A" being hereto attached.

BST1608

This Certificate shall remain in force and effect until amended, suspended, cancelled or revoked by Orders of this Commission.

By Order of the
FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION.

(Seal)

Executive Secretary

Chairman

BEFORE THE FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION

In re: Application of Southern Bell Telephone and Telegraph Company for a certificate of public convenience and necessity to authorize the operation of a telephone plant or system.	DOCKET NO. 4733-TP ORDER NO. B.T. 458

Chairman Wilbur C. King, Commissioner Jerry W. Carter and Commissioner Alan S. Boyd each participated in the disposition of this cause.

ORDER CANCELING AND REISSUING CERTIFICATE NO. 8 TO COVER THE TERRITORY PROFESSED TO BE SERVED BY SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY IN FLORIDA.

BY THE COMMISSION:

Chapter 28013, Laws of Florida, Acts of 1953, provides the procedure for issuance by the Florida Railroad and Public Utilities Commission of certificates of public convenience and necessity authorizing the construction or operation of any telephone line, plant or system or any extension thereof, and said law requires any person prior to beginning said construction or operation or prior to acquiring ownership or control of a telephone line, plant or system, to first obtain a certificate of public convenience and necessity from the Commission. Section 4 of said law (Section 364.36, Florida Statutes) provides as follows:

> "Any person engaged in the construction or operation of any line, plant or system, or any extension thereof, on May 19, 1953, shall be entitled to receive a certificate of convenience and necessity from the commission authorizing such person to continue the construction or operation of such line, plant or system, or extension thereof, in the territory professed to be served by such person on May 19, 1953, if within 60 days thereafter such person files maps with the commission showing his existing lines and facilities, his lines or extensions thereof under construction, and the territory professed to be served by such person."

Southern Bell Telephone and Telegraph Company, Atlanta, Georgia, is a telephone company which was operating under the jurisdiction of this Commission prior to and on May 19, 1953. On July 16, 1953, it filed maps pursuant to the above statute and requested the issuance to it by the Commission of a certificate of

public convenience and necessity under the provisions of said statute. Subsequently, said company has filed metes and bounds descriptions of its territory and revised or amended metes and bounds descriptions eliminating certain overlaps in service areas and other boundary discrepancies with other telephone companies.

By Order No. 2138, heretofore entered in Docket No. 4227-TP, the Commission, under the above statute, granted Southern Bell Telephone and Telegraph Company Certificate of Public Convenience and Necessity No. 8 authorizing the construction and operation by said company of a telephone plant or system within the territory professed to be served by its Orlando Exchange. At that time the Commission contemplated that a separate certificate would be issued to said company for each of its various exchanges in Florida. Subsequent to the entry of said order, however, Southern Bell Telephone and Telegraph Company requested that it be issued one certificate covering all of the Florida territory professed to be served by it.

In consideration of the premises, the Commission has determined that Certificate No. 8 heretofore issued pursuant to this Commission's Order No. 2138 should be canceled and reissued to said telephone company covering all of the territory professed to be served by it in Florida. After due consideration of the application, the Commission finds that Southern Bell Telephone and Telegraph Company has complied with the provisions of Section 4 of Chapter 28013 and one certificate of public convenience and necessity should be issued to it in accordance with its application. It is, therefore,

ORDERED by the Florida Railroad and Public Utilities Commission that Telephone Certificate of Public Convenience and Necessity No. 8, heretofore issued to Southern Bell Telephone and Telegraph Company by Order No. 2138 in Docket No. 4227-TP be and it is hereby canceled. It is further

ORDERED that Telephone Certificate of Public Convenience and Necessity No. 8 be and it is hereby reissued to Southern Bell Telephone and Telegraph Company, Atlanta, Georgia, authorizing the construction and operation by said company of a telephone plant or system within the territory professed to be served by said company as set forth in Appendix "A" hereto attached.

By Order of the Commission at Tallahassee, Florida, this 25th day of April, 1956.

Bolling C. Stanley
EXECUTIVE SECRETARY

(S E A L)
GPM

BST1610

DESCRIPTION OF EXCHANGE SERVICE AND TOLL SERVICE AREAS
OF
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY IN FLORIDA

PART I - ALACHUA COUNTY

All of Alachua County located south of the following irregular line.

Course No. 1 - Beginning at the southwest corner of Sec. seven (7), Twp nine (9) S, R seventeen (17) E, thence east along the south boundary of said Sec. seven (7) and other sections and their eastward extension to the intersection of the south boundary of Sec. nine (9), Twp nine (9) S, R seventeen (17) E, with the Atlantic Coast Line Railroad.

Course No. 2 - Thence northward along the Atlantic Coast Line Railroad to its intersection with the north boundary of said Sec. nine (9).

Course No. 3 - Thence east along the north boundary of said Sec. nine (9) and part of the north boundary of Sec. ten (10), Twp nine (9), R seventeen (17) E to the northeast corner of the north east quarter of said Sec. ten (10).

Course No. 4 - Thence south along the half section line of said Sec. ten (10) to the southeast corner of the southwest quarter of said Sec. ten (10).

Course No. 5 - Thence east along the south boundary of said Sec. ten (10) and other sections and their eastward extension to the west boundary of Sec. fourteen (14), Twp nine (9) S, R eighteen (18) E.

Course No. 6 - Thence north along the west boundary of said Sec. fourteen (14), Sec. eleven (11) and Sec. two (2), Twp nine (9) S, R eighteen (18) E to the northwest corner of said Sec. two (2).

Course No. 7 - Thence east along the township line dividing townships eight (8) and nine (9) south to the southeast corner of Sec. thirty-five (35), Twp eight (8) S, R nineteen (19) E.

Course No. 8 - Thence north along the east boundary of said Sec. thirty-five (35) and other sections to the northeast corner of Sec. twenty-four (24), Twp eight (8) S, R nineteen (19) E.

Course No. 9 - Thence southeast through said Sec. twenty-four (24) to its southeast corner.

Course No. 10- Thence southeasterly through Sec. thirty (30) Twp eight (8) S, R nineteen (19) E to the center of the south boundary of said Sec. thirty (30).

Course No. 11- Thence east along the south boundary of said Sec. thirty (30) and other sections to the northeast corner of the northwest quarter of Sec. thirty-three (33) Twp eight (8) S, R twenty-one (21) E.

Course No. 12- Thence southward through said Sec. thirty-three (33) to the southwest corner of the southeast quarter of said Sec. thirty-three (33).

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PART I - ALACHUA COUNTY (CONT'D)

Course No. 13 - Thence west along the south boundary of said Sec. thirty-three (33) and Sec. thirty-two (32), Twp eight (8) S, R twenty-one (21) E to the southwest corner of the southeast quarter of said Sec. thirty-two (32).

Course No. 14 - Thence southward through the northern portion of Sec. five (5), Twp nine (9) S, R twenty-one (21) E and along the west boundary of the southern portion of Sec. four (4), Twp nine (9) S, R twenty-one (21) E and the west boundary of Sec. nine (9), Twp nine (9) S, R twenty-one (21) E to the southwest corner of said Sec. nine (9).

Course No. 15 - Thence east along the south boundary of said Sec. nine (9) and other sections to the northeast corner of Sec. fourteen (14) Twp nine (9) S, R twenty-one (21) E.

Course No. 16 - Thence south along the east boundary of said Sec. fourteen (14) and other sections to the southwest corner of Sec. twenty-five (25), Twp nine (9) S, R twenty-one (21) E.

Course No. 17 - Thence east along the south boundary of said Sec. twenty-five (25) and other sections to the northeast corner of Sec. thirty-three (33), Twp nine (9) S, R twenty-two (22) E.

Course No. 18 - Thence south along the east boundary of said Sec. thirty-three (33) to the southwest corner of Sec. thirty-four (34), Twp nine (9) S, R twenty-two (22) E.

Course No. 19 - Thence east along the south boundary of said Sec. thirty-four (34) to the northeast corner of Sec. three (3), Twp ten (10) S, R twenty-two (22) E.

Course No. 20 - Thence south along the east boundary of said Sec. three (3) to the southwest corner of Sec. two (2), Twp ten (10) S, R twenty-two (22) E.

Course No. 21 - Thence east along the south boundary of said Sec. two (2) and Sec. one (1), Twp ten (10) S, R twenty-two (22) E to the southeast corner of said Sec. one (1).

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PART II - BAKER COUNTY

All of Baker County located south and west of the following line.

Course No. 1 - Beginning at the southwest corner of Sec. eighteen (18), Twp one (1) S, R nineteen (19) E thence east along the south boundary of said Sec. eighteen (18) and other sections to the northwest corner of Sec. nineteen (19), Twp one (1) S, R twenty (20) E.

Course No. 2 - Thence south along the west boundary of said Sec. nineteen (19) and other sections to the southeast corner of Sec. thirteen (13), Twp four (4) S, R nineteen (19) E.

PART III - BAY COUNTY

All of Bay County except the Peninsula part connected to Gulf County and located south of the bodies of water known as East Bay and Horseshoe Bayou.

PART IV - BRADFORD COUNTY

That part of Bradford County lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. twenty-three (23), Twp eight (8) S, R twenty-two (22) E thence east along part of the south boundary of said Sec. twenty-three (23) to the northeast corner of the northwest quarter of Sec. twenty-six (26) Twp eight (8) S, R twenty-two (22) E.

Course No. 2 - Thence south along part of the half section line of said Sec. twenty-six (26) to the southeast corner of the northwest quarter of said Sec. twenty-six (26).

Course No. 3 - Thence east along part of the half section line of said Sec. twenty-six (26) to the southeast corner of the northeast quarter of said Sec. twenty-six (26).

Course No. 4 - Thence south along part of the east boundary of said Sec. twenty-six (26) to the northeast corner of the southeast quarter of the southeast quarter of said Sec. twenty-six (26).

Course No. 5 - Thence east along the north boundary of the south quarter of Sec. twenty-five (25) Twp eight (8) S, R twenty-two (22) E to the northeast corner of the southeast quarter of the southeast quarter of said Sec. twenty-five (25).

Course No. 6 - Thence north along the county boundary between Bradford and Clay Counties to the northeast corner of Sec. twenty-four (24), Twp seven (7) S, R twenty-two (22) E.

Course No. 7 - Thence west along the north boundaries of Sec. twenty-four (24) and twenty-three (23), Twp seven (7) S, R twenty-two (22) E to the northwest corner of said Sec. twenty-three (23).

Course No. 8 - Thence south along the west boundary of said Sec. twenty-three (23) and other sections to the point of beginning.

PART V - BREVARD COUNTY

All of Brevard County

PART VI - BROWARD COUNTY

All of Broward County

PART VII - CITRUS COUNTY

Those parts of Citrus County lying within the following boundaries:

Course No. 1-A - Beginning at the mouth of the Withlacoochee River at the intersection of the boundary between Citrus and Levy Counties with the Gulf of Mexico, thence southeastward along the shore of the Gulf of Mexico to the intersection of the shore with the north boundary of Sec. nineteen (19) Twp seventeen (17) S, R sixteen (16) E.

Course No. 2-A - Thence east along the north boundary of said Sec. nineteen (19) and other sections to the northeast corner of Sec. twenty-three (23) Twp seventeen (17) S, R sixteen (16) E.

Course No. 3-A - Thence north along the west boundary of Sec. thirteen (13) Twp seventeen (17) S, R sixteen (16) E to the northwest corner of said Sec. thirteen (13).

Course No. 4-A - Thence east along the north boundary of said Sec. thirteen (13) to the northeast corner of said Sec. thirteen (13).

Course No. 5-A - Thence north along the east boundary of Sec. twelve (12) Twp seventeen (17) S, R sixteen (16) E to its intersection with the Withlacoochee River.

Course No. 6-A - Thence westward along the thread of the Withlacoochee River to the point of beginning.

Course No. 1-B - Beginning at the intersection of the Withlacoochee River and the west boundary of Sec. thirty-one (31) Twp sixteen (16) S, R eighteen (18) E thence south along the said west boundary of Sec. thirty-one (31) and other sections to the southwest corner of Sec. thirty (30) Twp seventeen (17) S, R eighteen (18) E.

Course No. 2-B - Thence east along the south boundary of said Sec. thirty (30) and other sections to the northeast corner of Sec. thirty-five (35) Twp seventeen (17) S, R eighteen (18) E.

Course No. 3-B - Thence south along the east boundary of said Sec. thirty-five (35) and other sections to the southwest corner of the northwest quarter of the southwest quarter of Sec. twelve (12) Twp eighteen (18) S, R eighteen (18) E.

Course No. 4-B - Thence east along the south boundary of said northwest quarter of the southwest quarter of Sec. twelve (12) and other quarter quarter lines and their extension due east to their intersection with the east boundary of Sec. fifteen (15) Twp eighteen (18) S, R nineteen (19) E.

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RT VII - CITRUS COUNTY (CONT'D)

se No. 5-B - Thence north along the east boundary of said Sec. fifteen (15) and other sections to their intersection with the Withlacoochee River.

e No. 6-B - Thence northwestward along the thread of the Withlacoochee River to the point of beginning.

VIII - CLAY COUNTY

All of Clay County except the areas lying within the following boundaries:

ourse No. 1-A - Beginning at the southwest corner of Sec. six (6) Twp five (5) S, R twenty-three (23) E, thence east along the south boundary of said Sec. six (6) and other sections to the northeast corner of Sec. eleven (11), Twp five (5) S, R twenty-three (23) E.

urse No. 2-A - Thence south along the east boundary of said Sec. eleven (11) and other sections to the southeast corner of Sec. twenty-six (26) Twp seven (7) S, R twenty-three (23) E.

rse No. 3-A - Thence west along the south boundary of said Sec. twenty-six (26) and other sections to the southwest corner of Sec. thirty (30) Twp seven (7) S,R twenty-three (23) E.

urse No. 4-A - Thence north along the west boundary of said Sec. thirty (30) and other sections to the point of beginning.

Course No. 1-B - Beginning at the southwest corner of Sec. thirty-one (31) Twp eight (8) S, R twenty-four (24) E, thence northeast along the boundary between Clay and Putnam Counties to its intersection with the north boundary of Sec. twenty-nine (29), Twp eight (8) S, R twenty-four (24) E.

Course No. 2-B - Thence west along the north boundary of said Sec. twenty-nine (29) and Sec. thirty (30), Twp eight (8) S, R twenty-four (24) E to the northwest corner of said Sec. thirty (30).

Course No. 3-B - Thence south along the west boundary of said Sec. thirty (30) and Sec. thirty-one (31) Twp eight (8) S, R twenty-four (24) E to the point of beginning.

Course No. 1-C - Beginning at the intersection of the boundaries of Clay, Putnam and Bradford Counties, thence northeast along the boundary between Clay and Putnam Counties to the intersection of that line with the east boundary of Sec. four (4) Twp nine (9) S, R twenty-three (23) E.

Course No. 2-C - Thence north along the east boundary of said Sec. four (4) to the northeast corner of said Sec. four (4).

Course No. 3-C - Thence west along the north boundary of said Sec. four (4) to the southwest corner of Sec. thirty-three (33), Twp eight (8) S, R twenty-three (23) E.

Course No. 4-C - Thence north along the west boundary of said Sec. thirty-three (33) to its intersection with the south shore of Lake Geneva.

Course No. 5-C - Thence northwestward through Lake Geneva to the boundary between Clay and Bradford Counties.

Course No. 6-C - Thence south along the boundary between Clay and Bradford Counties to the point of beginning.

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PART VIII - CLAY COUNTY (CONT'D)

Course No. 1-D - Beginning at the intersection of the west boundary of Sec. sixteen (16) Twp eight (8) S, R twenty-four (24) E with the boundary between Clay and Putnam Counties, thence northeast along the county boundary to its intersection with the north boundary of Sec. thirteen (13) Twp eight (8) S, R twenty-four (24) E.

Course No. 2-D - Thence west along the north boundary of said Sec. thirteen (13) and other sections to the northwest corner of Sec. sixteen (16) Twp eight (8) S, R twenty-four (24) E.

Course No. 3-D - Thence south along the west boundary of said Sec. sixteen (16) to the point of beginning.

PART IX - COLUMBIA COUNTY

All of Columbia County lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. thirty-five (35) Twp five (5) S, R fifteen (15) E, thence east along the south boundary of said Sec. thirty-five (35) and other sections to the northeast corner of Sec. one (1) Twp six (6) S, R sixteen (16) E.

Course No. 2 - Thence south along the east boundary of said Sec. one (1) and other sections to the southwest corner of Sec. nineteen (19) Twp six (6) S, R seventeen (17) E.

Course No. 3 - Thence east along the south boundary of said Sec. nineteen (19) and other sections to the northeast corner of Sec. twenty-nine (29) Twp six (6) S, R seventeen (17) E.

Course No. 4 - Thence south along the east boundary of said Sec. twenty-nine (29) to the southwest corner of Sec. twenty-eight (28) Twp six (6) S, R seventeen (17) E.

Course No. 5 - Thence east along the south boundary of said Sec. twenty-eight (28) and other sections to the shore of the Santa Fe River.

Course No. 6 - Thence along the thread of the Santa Fe River, which is the boundary between Columbia and Alachua Counties, to the mouth of the Olustee Creek at the intersection of the boundaries of Columbia, Alachua and Union Counties.

Course No. 7 - Thence northward along the thread of the Olustee Creek to its intersection with the east boundary of Sec. thirteen (13) Twp four (4) S, R eighteen (18) E, which is on the boundary between Columbia and Baker Counties.

Course No. 8 - Thence north along the boundary between Columbia and Baker Counties to the boundary between Florida and Georgia.

Course No. 9 - Thence west along the boundary between Florida and Georgia to its intersection with the Suwannee River which is also the boundary between Columbia and Hamilton Counties.

Course No. 10- Thence southward along the thread of the Suwannee River to its intersection with the west boundary of Sec. eleven (11) Twp two (2) S, R sixteen (16) E.

PART IX - COLUMBIA COUNTY (CONT'D)

Course No. 11- Thence south along the west boundary of said Sec. eleven (11) and other sections to the southeast corner of Sec. fifteen (15) Twp two (2) S, R sixteen (16) E.

Course No. 12- Thence west along the south boundary of said Sec. fifteen (15) and another section to the northeast corner of Sec. twenty (20) Twp two (2) S, R sixteen (16) E.

Course No. 13 - Thence south along the east boundary of said Sec. twenty (20) to the southeast corner of said Sec. twenty (20).

Course No. 14- Thence west along the south boundary of said Sec. twenty (20) and other sections to the northwest corner of Sec. twenty-six (26) Twp two (2) S, R fifteen (15) E which is on the boundary between Columbia and Suwannee County.

Course No. 15- Thence south along the boundary between Columbia and Suwannee County to the point of beginning.

PART X - DADE COUNTY

All of Dade County

PART XI - DIXIE COUNTY

All of Dixie County

PART XII - DUVAL COUNTY

All of Duval County

PART XIII - ESCAMBIA COUNTY

All of Excambia County except that lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the boundary between Florida and Alabama and the south boundary of Sec. twenty-five (25) Twp two (2) N, R thirty-two (32) W, thence east along the south boundary of said Sec. twenty-five (25) and other sections to the intersection of the south boundary of Sec. twenty-nine (29) Twp two (2) N, R thirty (30) W, with the Escambia River, which is the boundary between Escambia and Santa Rosa Counties.

Course No. 2 - Thence north along the boundary between Escambia and Santa Rosa Counties to its intersection with the township line between townships three (3) and four (4) north.

Course No. 3 - Thence west along said township line to its intersection with the range line between ranges thirty-one (31) and thirty-two (32) west.

Course No. 4 - Thence north along said range line to its intersection with the boundary between Florida and Alabama.

Course No. 5 - Thence west and south along the boundary between Florida and Alabama to the point of beginning.

PART XIV - FLAGLER COUNTY

All of Flagler County

PART XV - GADSDEN COUNTY

All of Gadsden County lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the westward extension of the south boundary of Sec. one (1) Twp 1 N, R 3 W and the shore of Little River in Twp 1 N, R 3 W thence east five and one-half miles plus/minus to the S. E. corner of Sec. 4 Twp 1 N, R 2 W, in Gadsden County.

Course No. 2 - Thence north one (1) mile plus/minus to the N. E. corner of said Sec. 4.

Course No. 3 - Thence east .9 mile plus/minus to the S. E. corner of Sec. 34, Twp 2 N, R 2 W.

Course No. 4 - Thence north four (4) miles plus/minus to the N. W. corner of Sec. 14, Twp 2 N, R 2 W.

Course No. 5 - Thence east two and one-quarter ($2\frac{1}{4}$) miles plus/minus to the intersection of the south boundary of Sec. 7, Twp 2 N, R 1 W and the west shore of the Ochlockonee River which is also the boundary between the Gadsden and Leon Counties.

Course No. 6 - Thence north along the Ochlockonee River towards the boundary between the State of Florida and the State of Georgia to the point which is the boundary between Gadsden and Leon Counties and the Florida-Georgia border.

Course No. 7 - Thence west nine and seven-tenths (9.7) miles plus/minus along the boundary between the State of Florida and the State of Georgia to that boundary's intersection with Swamp Creek in Sec. 83, Twp 3 N, R 2 W.

Course No. 8 - Thence south westerly along the course of the Swamp Creek, the Attapulous Creek and the Little River to the point of beginning.

PART XVI - GILCHRIST COUNTY

All of Gilchrist County lying south of the following described line:

Course No. 1 - Beginning at the intersection of the north boundary of Sec. twenty (20) Twp eight (8) S, R fourteen (14) E with the boundary between Gilchrist and Dixie Counties thence east to the northeast corner of Sec. nineteen (19) Twp eight (8) S, R fifteen (15) E.

Course No. 2 - Thence south along the east boundary of said Sec. nineteen (19) to the southeast corner of said Sec. nineteen (19).

Course No. 3 - Thence east along the south boundary of Sec. twenty (20) Twp eight (8) S, R fifteen (15) E and other sections to the northeast corner of Sec. twenty-six (26) Twp eight (8) S, R sixteen (16) E.

Course No. 4 - Thence south along the east boundary of said Sec. twenty-six (26) and other sections to the southwest corner of Sec. one (1) Twp nine (9) S, R sixteen (16) E.

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PART XVI - GILCHRIST COUNTY (CONT'D)

Course No. 5 - Thence east along the south boundary of said Sec. one (1) to the southeast corner thereof, which is on the boundary between Gilchrist and Alachua County.

PART XVII - HERNANDO COUNTY

All of Hernando County except the part lying east of a line running along the quarter quarter line between the southeast corner of the southwest quarter of the southwest quarter of Sec. sixteen (16) Twp twenty-three (23) S, R twenty-one (21) E and the intersection of the east boundary of the southwest quarter of the northwest quarter of Sec. sixteen (16) Twp twenty-two (22) S, R twenty-one (21) E.

PART XVIII - HOLMES COUNTY

All of Holmes County lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. sixteen (16) Twp six (6) N, R fourteen (14) W, thence southeast to the intersection of the south boundary of Sec. thirty (30) Twp six (6) N, R thirteen (13) W with the boundary between Holmes and Jackson Counties.

Course No. 2 - Thence northward along the boundary between Holmes and Jackson Counties to the boundary between Florida and Alabama.

Course No. 3 - Thence west along the boundary between Florida and Alabama to its intersection with the west boundary of the east quarter of Sec. twenty (20) Twp seven (7) N, R fourteen (14) W.

Course No. 4 - Thence south along the west boundary of said east quarter of Sec. twenty (20) and other quarter quarter lines to the northwest corner of the southeast quarter of the southeast quarter of Sec. twenty-nine (29) Twp seven (7) N, R fourteen (14) W.

Course No. 5 - Thence east along the north boundary of southeast quarter of the southeast quarter of said Sec. twenty-nine (29) to the northeast corner of the southeast quarter of the southeast quarter of said Sec. twenty-nine (29).

Course No. 6 - Thence south along the east boundary of said Sec. twenty-nine (29) and other sections to the point of beginning.

PART XIX - INDIAN RIVER COUNTY

All of Indian River County

PART XX - JACKSON COUNTY

All of Jackson County lying west of the following described line:

Course No. 1 - Beginning at the southwest corner of Sec. thirty-two (32) Twp five (5) N, R twelve (12) W, thence northeast in a straight line to the northwest corner of Sec. eleven (11) Twp five (5) N, R twelve (12) W.

Course No. 2 - Thence east along the north boundary of said Sec. eleven (11) to the southeast corner of Sec. two (2) Twp five (5) N, R twelve (12) W.

Course No. 3 - Thence north along the east boundary of said Sec. two (2) and other sections to the northwest corner of Sec. twenty-five (25) Twp six (6) N, R twelve (12) W.

Course No. 4 - Thence east along the north boundary of said Sec. twenty-five (25) and another section to the southeast corner of Sec. nineteen (19) Twp six (6) N, R eleven (11) W.

Course No. 5 - Thence north along the east boundary of said Sec. nineteen (19) to the northeast corner of said Sec. nineteen (19).

Course No. 6 - Thence east along the north boundary of Sec. twenty (20) Twp six (6) N, R eleven (11) W and other sections to the northeast corner of the northwest quarter of Sec. twenty-three (23) Twp six (6) N, R eleven (11) W.

Course No. 7 - Thence north along the east boundary of the west half of Sec. fourteen (14) Twp six (6) N, R eleven (11) W and other half sections to the intersection of the east boundary of the west half of Sec. twenty-three (23) Twp seven (7) N, R eleven (11) W with the Florida Alabama boundary.

PART XXI - LEVY COUNTY

All of Levy County except that lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. thirty-one (31) Twp fourteen (14) S, R eighteen (18) E thence east along the south boundary of said Sec. thirty-one (31) and other sections to the southeast corner of Sec. thirty-three (33) Twp fourteen (14) S, R nineteen (19) E.

Course No. 2 - Thence north along the boundary between Levy and Marion Counties to the intersection of the boundaries of Levy, Marion and Alachua Counties.

Course No. 3 - Thence west along the boundary between Levy and Alachua Counties to the northeast corner of Sec. one (1) Twp twelve (12) S, R seventeen (17) E.

Course No. 4 - Thence south along the east boundary of said Sec. one (1) and other sections to the point of beginning.

PART XXII - MARION COUNTY

All of the two parts of Marion County lying within the following boundaries:

Course No. 1-A - Beginning at the intersection of the boundaries of Marion, Citrus and Levy Counties thence southeast along the boundary between Marion and Citrus Counties to the intersection of the boundaries of Marion, Citrus and Sumter Counties.

Course No. 2-A - Thence east on the south boundary of Sec. thirty-three (33) Twp seventeen (17) S, R twenty (20) E to the southeast corner of said Sec. thirty-three (33).

Course No. 3-A - Thence north on the east boundary of said Sec. thirty-three (33) and other sections to the northeast corner of Sec. four (4) Twp sixteen (16) S, R twenty (20) E.

PART XXII - MARION COUNTY (CONT'D)

Course No. 4-A - Thence west along the north boundary of said Sec. four (4) and other sections to the southwest corner of Sec. thirty-one (31) Twp fifteen (15) S, R twenty (20) E.

Course No. 5-A - Thence north along the west boundary of said Sec. thirty-one (31) and other sections to the northeast corner of Sec. one (1) Twp fifteen (15) S, R nineteen (19) E.

Course No. 6-A - Thence west along the township line between townships fourteen (14) and fifteen (15) south to its intersection with the range line between ranges seventeen (17) and eighteen (18) east.

Course No. 7-A - Thence south along said range line to the point of beginning.

Course No. 1-B - Beginning at the southwest corner of Sec. fifteen (15) Twp twelve (12) S, R nineteen (19) E thence east along the south boundary of said Sec. fifteen (15) and other sections to the southeast corner of Sec. sixteen (16) Twp twelve (12) S, R twenty (20) E.

Course No. 2-B - Thence north along the east boundary of said Sec. sixteen (16) to its northeast corner.

Course No. 3-B - Thence east along the north boundary of Sec. fifteen (15) Twp twelve (12) S, R twenty (20) E and other sections to the southeast corner of Sec. twelve (12) Twp twelve (12) S, R twenty (20) E.

Course No. 4-B - Thence north along the east boundary of said Sec. twelve (12) and another section to the northwest corner of Sec. six (6) Twp twelve (12) S, R twenty-one (21) E.

Course No. 5-B - Thence west along the boundary between Marion and Alachua Counties to the intersection of the boundaries of Marion, Alachua and Levy Counties.

Course No. 6-B - Thence south along the boundary between Marion and Levy Counties to the point of beginning.

PART XXIII - MARTIN COUNTY

All of the two parts of Martin County lying within the following boundaries:

Course No. 1-A - Beginning at the intersection of the boundary between Martin and Palm Beach Counties with the shore of Lake Okeechobee, thence east along the south boundary of Martin County to the southeast corner of Sec. thirty (30) Twp forty (40) S, R thirty-eight (38) E.

Course No. 2-A - Thence north along the east boundary of said Sec. thirty (30) and other sections to the intersection of the east boundary of Sec. seven (7) Twp forty (40) S, R thirty-eight (38) E with the Saint Lucie Canal.

Course No. 3-A - Thence southwest along the thread of the Saint Lucie Canal to its outlet into Lake Okeechobee.

Course No. 4-A - Thence south along the shore of Lake Okeechobee to the point of beginning.

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PART XXIII - MARTIN COUNTY (CONT'D)

Course No. 1-B - Beginning at the southeast corner of Sec. twenty-eight (28) Twp forty (40) S, R forty (40) E thence east along the boundary between Martin and Palm Beach Counties to the shore of the Atlantic Ocean.

Course No. 2-B - Thence north along the shore of the Atlantic Ocean to the boundary between Martin and St. Lucie Counties.

Course No. 3-B - Thence west along the boundary between Martin and St. Lucie Counties to the northwest corner of Sec. six (6) Twp thirty-eight (38) S, R forty (40) E.

Course No. 4-B - Thence south along the range line between ranges thirty-nine (39) and forty (40) east to the intersection of said range line with the township line between townships thrity-eight (38) and thirty-nine (39) south.

Course No. 5-B - Thence east along said township line to the northeast corner of Sec. five (5), Twp thirty-nine (39) S, R forty (40) E.

Course No. 6-B - Thence south along the east boundary of said Sec. five (5) and other sections to the northeast corner of Sec. five (5) Twp forty (40) S, R forty (40) E.

Course No. 7-B - Thence east along the north boundary of Sec. four (4) Twp forty (40) S, R forty (40) E to the northeast corner of said Sec. four (4).

Course No. 8-B - Thence south along the east boundary of said Sec. four (4) and other sections to the point of beginning.

PART XXIV - MONROE COUNTY

All of Monroe County east of the western shore of Key West that is part of the Florida Keys and those islands in Florida Bay which lie south of Dade County.

PART XXV - NASSAU COUNTY

All of Nassau County except the area lying within the following boundary:

Course No. 1 - Beginning at the intersection of the boundary between Florida & Georgia with the south boundary of Sec. six (6) Twp one (1) S, R twenty-three (23) E, thence east along the south boundary of said Sec. 6 and other sections to the intersection of the south boundary of Sec. two (2), Twp one (1) S, R twenty-four (24) E with the boundary between Nassau and Duval County.

Course No. 2 - Thence northeastward along the boundary between Nassau and Duval Counties to this boundary's intersection with the range line between range twenty-five (25) E and range twenty-six (26) E.

Course No. 3 - Thence north along the range line between ranges twenty-five (25) E and twenty-six (26) E to its intersection with the boundary between Florida and Georgia.

Course No. 4 - Thence west and south along the boundary between Florida and Georgia to the point of beginning.

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All of Orange County lying within the following boundaries:

Course No. 1 - Beginning at the N. E. cor. of Sec. 25, Twp 21 S, R 28 E, thence East along the boundary between Orange and Seminole Counties 3 miles plus/minus to the N. E. cor. of Sec. 28, Twp 21 S, R 29 E.

Course No. 2 - Thence South 2 miles plus/minus to the S. E. cor. of Sec. 34, Twp 21 S, R 29 E.

Course No. 3 - Thence East 3960' plus/minus to the S. W. cor. of the S. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of said Sec. 34.

Course No. 4 - Thence South 5280' to the S. E. cor. of the S. W. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Sec. 3, Twp. 22 S R 29 E which is the center line of Fairbanks Avenue.

Course No. 5 - Thence East 630 feet along the South line of Sec. 3 of the center line of Fairbanks Avenue to the intersection of the center line of Shorecrest Drive of the Biltmore Shore subdivision as such subdivision was recorded at the Orange County Circuit Court on March 13, 1952 in Plat Book S, Page 30.

Course No. 6 - Thence South eastwardly following the center line of Shorecrest Drive to the intersection of that center line with a northerly extension of the West boundary line of Lot 1 Block E, Biltmore Shores.

Course No. 7 - Thence South along the extended west lot line of Lot 1, Block E, Biltmore Shores Plat to the south edge of Lot 1, Block E, Biltmore Shores Plat to the S. W. cor. of said lot.

Course No. 8 - Thence East along the South lot line of Lots 1, 2 and 3 of Block E, Biltmore Shores Plat to the S. E. cor. of Lot 3, Block E of said subdivision.

Course No. 9 - Thence South along an extension of the east line of Lot 3, Block E, Biltmore Shores Plat 455' plus/minus into Little Lake Fairview.

Course No. 10- Thence Northeasterly 1678' plus/minus to a point in Little Lake Fairview said point being 685' West of the East line of the N. W. $\frac{1}{4}$ of Sec. 11.

Course No. 11- Thence South and parallel to the East line of the N. W. $\frac{1}{4}$ of said Sec. 11 1020' plus/minus to the South line of said N. W. $\frac{1}{4}$ of Sec. 11, thence East 685' to the intersection of Minnesota & Greens Aves. as shown on a plat of Dubsdread Heights, recorded in the Public Records of Orange County, Florida.

Course No. 12- Thence East along the South boundary of the N. E. $\frac{1}{4}$ of said Sec. 11, 2640' plus/minus to the S. E. cor. of the N. E. $\frac{1}{4}$ of said Sec. 11, which is also the intersection of Minnesota & Formosa Aves. as shown on a map of Golfview, filed in the Public Records of Orange County, Florida.

Course No. 13- Thence South along the West line of the S. W. $\frac{1}{4}$ of Sec. 12 to the S. W. cor. of said Sec. 12, it also being the center line of Formosa Ave. and intersecting Par Ave.

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PART XXVI - ORANGE COUNTY (CONT'D)

Course No. 14- Thence East 1320' plus/minus along the South line of Sec. 12 to the S. W. corner of the S. E. $\frac{1}{4}$ of the S. W. $\frac{1}{4}$ of Sec. 12, it also being the intersection of the center lines of Par Ave. and Clay Street.

Course No. 15- Thence North 1320' plus/minus along the center line of Clay Street to the N. W. cor. of the S. E. $\frac{1}{4}$ of the S. W. $\frac{1}{4}$ of Sec. 12, it also being the intersection of the center lines of Clay & Harmon Streets.

Course No. 16- Thence East 1320' plus/minus along the center line of Harmon Street to the N. E. corner of the S. E. $\frac{1}{4}$ of the S. W. $\frac{1}{4}$ of Sec. 12, it also being the intersection of the center lines of Harmon St. & Buckingham Rd.

Course No. 17- Thence South 1320' plus/minus along the center line of Buckingham Rd. to the S. E. cor. of the S. E. $\frac{1}{4}$ of the S. W. $\frac{1}{4}$ of Sec. 12.

Course No. 18- Thence East 2640' plus/minus along the South line of Sec. 12 to the S. E. cor. of said Sec. 12.

Course No. 19- Thence still East 1320' plus/minus along the North line of Sec. 18 to the N. E. cor. of the N. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of said Sec. 18, which is also a canal connecting Lake Sue and Lake Virginia.

Course No. 20- Thence South 2640' plus/minus along the East line of the N. W. $\frac{1}{4}$ and the S. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of said Sec. 18.

Course No. 21- Thence Southeasterly 2100' plus/minus to the N. W. cor. of Beeman Park as shown on a plat therof filed in the Public Records of Orange Cty., Fla.

Course No. 22- Thence still Southeasterly along the North boundary of said Beeman Park 677' to the N. E. cor. of said Beeman Park.

Course No. 23- Thence North 90' along the West line of the N. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Sec. 18 to the N. W. cor. of Parklando, as shown on a map therof filed in the Public Records of Orange County, Florida.

Course No. 24- Thence East 393.48' along the North boundary of said Parklando to the N. E. cor. of Lot No. 7 Block "G" of said Parklando.

Course No. 25- Thence South 768.35' along the East boundary of said Lot No. 7 Block "G" and the East boundary of Lots 15 & 8, Block "H" and Lot No. 6, Block "J" to the South boundary of said Parklando.

Course No. 26- Thence still South 500' plus/minus to the N. E. cor. of Lot No. 5, Block "A" of Ohio Terrace as shown on a plat thereof filed in the Public Records of Orange County, Florida.

Course No. 27- Thence still South 500' along the East Line of said Lot No. 5, Block "A", Lots 6 & 13 Block "B" of said Ohio Terrace to the center line of Corrine Dr., which is also the South line of Sec. 18, Twp. 22 S, Rge. 30 E

Course No. 28- Thence East 341.8' along the South boundary of Sec. 18 to the S. E. cor. of said Sec. 18.

Course No. 29- Thence East along the South line of Secs. 17, 16 and 15 to the center line of Lake Barton Road, Twp 22 S. R. 30 E as shown on a plat of Leawood as recorded in the Public Records of Orange County S 122.

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Course No. 30 - Thence North approximately 295 feet along the center line of Lake Barton Road to the center line of Cornelia Avenue of Leawood.

Course No. 31- Thence East and Southeast approximately 1,290 feet along the center line of Cornelia Avenue to the point of intersection of the projected south line of Lot 108 of Leawood.

Course No. 32 - Thence Northeast approximately 610 feet along the South line of Lot 108 of Leawood to the intersection of the south line of Sec. 15, Twp. 22 S. R. 30 E.

Course No. 33 - Thence East to the S. E. cor. of Sec. 15, Twp. 22 S. R. 30 E.

Course No. 34 - Thence North 2640' along the East boundary of said Sec. 15 to the N. E. cor. of the S. E. $\frac{1}{4}$ of said Sec. 15.

Course No. 35 - Thence East 2 miles plus/minus along the $\frac{1}{4}$ Sec. Lines of Sec. 14 & 13, Twp. 22 S. R. 30 E. to the S. E. cor. of the N. E. $\frac{1}{4}$ of said Sec. 13.

Course No. 36 - Thence still East 5280' plus/minus along the $\frac{1}{4}$ Sec. Line of Sec. 18, Twp 22 S. R. 31 E. to the S. E. cor. of the N. E. $\frac{1}{4}$ of said Sec. 18, it also being the center line of County Road No. 411.

Course No. 37 - Thence North along the center line of County Road No. 411, a distance of 5280' plus/minus to the S. E. cor. of the N. E. $\frac{1}{4}$ of said Sec. 7.

Course No. 38 - Thence East 5280' plus/minus along the $\frac{1}{4}$ Sec. Line of Sec. 8 to the S. E. cor. of the N. E. $\frac{1}{4}$ of said Sec. 8.

Course No. 39 - Thence still East 1320' plus/minus along the $\frac{1}{4}$ Sec. Line of Sec. 9 to the intersection of County Road No. 412.

Course No. 40 - Thence North 7920' plus/minus through Sec. 9 & 4 and along the center line of County Road No. 412 to the South Line of Sec. 33, Twp. 21 S. R. 31 E., which is the north boundary of Orange County.

Course No. 41 - Thence East 15$\frac{1}{4}$ miles plus/minus along the North boundary of Orange County to its intersection with Brevard County.

Course No. 42 - Thence southward along the boundary between Orange and Brevard Counties to the intersection of the boundaries of Orange, Brevard and Osceola Counties.

Course No. 43 - Thence West 35 miles plus/minus along the South boundary of Orange County to the Southwest corner of Sec. 32, Township 24 South, Range 29 East.

Course No. 44 - Thence North 4 miles plus/minus along successive section lines to the Southwest cor. of Sec. 8, Township 24 South, Range 29 East.

Course No. 45 - Thence West 3 3/4 miles plus/minus along successive section lines to the Southwest cor. of the Southeast $\frac{1}{4}$ of the S. W. $\frac{1}{4}$ of Sec. 10, Township 24 South, Range 28 East.

Course No. 46 - Thence North 7 miles plus/minus along the East boundaries of the West quarters of successive Sections, to the S. W. cor. of the S. E. $\frac{1}{4}$ of the S. W. $\frac{1}{4}$ of Sec. 3, Township 23 South, Range 28 East.

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Course No. 47 - Thence West 1¼ miles plus/minus along the south boundaries of the West quarter of Sec. 3 and Sec. 4, Township 23 South, Range 28 East, to the Southeast corner of Sec. 5 in Lake Down.

Course No. 48 - Thence continue West 1/3 mile plus/minus along the South boundary of Sec. 5 to the Southwest corner of the East 1/3 of Sec. 5 in Lake Down.

Course No. 49 - Thence North 5 miles plus/minus along the West boundaries of the East 1/3 of Sec. 5, Township 23 South, Range 28 East and Sections 32, 29, 20 and 17, Township 22 South, Range 28 East, to the Northwest corner of the East 1/3 of Section 17.

Course No. 50 - Thence East 1/3 miles plus/minus along the North boundary of Sec. 17 to the Northeast corner of Section 17.

Course No. 51 - Thence North Easterly to the N. E. cor. of Sec. 9.

Course No. 52 - Thence North 1 mile plus/minus along the West boundary of Section 3 to the North West cor. of said section.

Course No. 53 - Thence northeasterly to the North West cor. of Sec. 35, Township 21 South, Range 28 East.

Course No. 54 - Thence East 1 mile plus/minus along the North boundary of Sec. 35, to the N. E. cor. of said Section.

Course No. 55 - Thence North 1 mile plus/minus along the West boundary of Sec. 25 to the N. W. cor. of said Sec.

Course No. 56 - Thence East 1 mile plus/minus along the north boundary of Sec. 25 to the N. E. cor. of said Sec. to the point of beginning.

PART XXVII - PALM BEACH COUNTY

All of Palm Beach County except the part lying within the following boundaries.

Course No. 1 - Beginning at the southwest corner of Sec. six (6) Twp forty-four (44) S, R thirty-five (35) E., thence east along the south boundary of said Sec. six (6) and other sections to the southeast corner of the west half of Sec. two (2), Twp. forty-four (44) S, R thirty-five (35) E.

Course No. 2 - Thence north along the east boundary of the west half of said Sec. two (2) and another section to the south shore of Lake Okeechobee.

Course No. 3 - Thence northeast to the south shore of Ritta Island in Section thirty-five (35), Twp forty-three (43) S, R thirty-five (35) E.

Course No. 4 - Thence follow the shore of Ritta Island, completely encircling the Island, and return to the shore of the mainland at the point of departure.

Course No. 5 - Thence west along the shore of Lake Okeechobee to its intersection with the boundary between Palm Beach and Hendry Counties.

Course No. 6 - Thence south along the boundary between Palm Beach and Hendry Counties to the point of beginning..

RT XXVIII - PASCO COUNTY

All of Pasco County lying within the following boundaries:

ie No. 1 - Beginning at the southwest corner of Sec. twenty-eight (28) Twp twenty-four (24) S, R eighteen (18) E, thence east along the south boundary of said Sec. twenty-eight (28) and other sections to the southeast corner of Sec. thirty (30) Twp. twenty-four (24) S, R nineteen (19) E.

.e No. 2 - Thence north along the east boundary of said Sec. thirty (30) and other sections to the northeast corner of Sec. six (6) Twp. twenty-four (24) S, R nineteen (19) E.

urse No. 3 - Thence west along the boundary between Pasco and Hernando Counties to the northwest corner of Sec. four (4), Twp twenty-four (24) S, R eighteen (18) E.

irse No. 4 - Thence south along the west boundary of said Sec. four (4) to the point of beginning.

T XXIX - PUTNAM COUNTY

All of Putnam County except the parts lying within the following boundaries:

rse No. 1-A - Beginning at the intersection of the west boundary of Sec. twenty-seven (27), Twp. eleven (11) S, R twenty-three (23) E with the boundary between Putnam and Marion Counties, thence east along said boundary between Putnam and Marion Counties to its intersection with the east boundary of Sec. thirty-one (31), Twp eleven (11) S, R twenty-five (25) E.

Course No. 2-A - Thence north along the east boundary of said Sec. thirty-one (31) to the southeast corner of Sec. eighteen (18) Twp ten (10) S, R twenty-five (25) E.

Course No. 3-A - Thence northwest through said Sec. eighteen (18) and other sections to the southeast corner of Sec. thirty-six (36) Twp. nine (9) S, R twenty-four (24) E.

Course No. 4-A - Thence north along the east boundary of said Sec. thirty-six (36) and other sections to the intersection with the boundary between Putnam and Clay Counties.

Course No. 5-A - Thence southwesterly along the boundary between Putnam and Clay Counties to the intersection with the east boundary of Sec. twenty (20), Twp eight (8) S, R twenty-four (24) E.

Course No. 6-A- Thence south along the east boundary of said Sec. twenty (20) to its southeast corner.

Course No. 7-A - Thence west along the south boundary of said Sec. twenty (20) to the intersection with the boundary between Putnam and Clay Counties.

Course No. 8-A - Thence southwest along the boundary between Putnam and Clay Counties to the intersection with the east boundary of Sec. one (1) Twp nine (9) S, R twenty-three (23) E.

Course No. 9-A - Thence south along the east boundary of said Sec. one (1) and part of Sec. twelve (12) Twp nine (9) S, R twenty-three (23) E to the southeast corner of the northeast quarter of said Sec. twelve (12).

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Course No. 10-A -Thence west along the south boundary of the northeast quarter of said Sec. twelve (12) and other quarter section lines to the southwest corner of the northeast quarter of Sec. eleven (11) Twp nine (9) S, R twenty-three (23) E, in Wall Lake.

Course No. 11-A -Thence north along the west boundary of the northeast quarter of said Sec. eleven (11) to the northwest corner of the northeast quarter of said Sec. eleven (11).

Course No. 12-A -Thence west along part of the north boundary of said Sec. eleven (11) and another section to the southwest corner of Sec. three (3), Twp nine (9) S, R twenty-three (23) E.

Course No. 13-A -Thence north along the west boundary of said Sec. three (3) to its intersection with the boundary between Putnam and Clay Counties.

Course No. 14-A -Thence southwest along the boundary between Putnam and Clay Counties to the intersection of the boundaries of Putnam, Clay and Alachua Counties.

Course No. 15-A -Thence south along the boundary between Putnam and Alachua Counties to the southwest corner of Sec. six (6) Twp ten (10) S, R twenty-three (23) E.

Course No. 16-A -Thence east along the south boundary of said Sec. six (6) and other sections to the northeast corner of the northwest quarter of the northwest quarter of Sec. eleven (11) Twp ten (10) S, R twenty-three (23) E.

Course No. 17-A -Thence south along the east boundary of northwest quarter of the northwest quarter of said Sec. eleven (11) and other quarter quarter lines to the southeast corner of the southwest quarter of the southwest quarter of Sec. fourteen (14) Twp ten (10) S, R twenty-three (23) E.

Course No. 18-A -Thence east along part of the south boundary of said Sec. fourteen (14) to the northeast corner of Sec. twenty-four (24) Twp ten (10) S, R twenty-three (23) E.

Course No. 19-A -Thence south along the east boundary of said Sec. twenty-four (24) and other sections to the southeast corner of Sec. thirty-six (36) Twp ten (10) S, R twenty-three (23) E.

Course No. 20-A -Thence west along the south boundary of said Sec. thirty-six (36) to the northwest corner of Sec. three (3) Twp eleven (11) S, R twenty-three (23) E.

Course No. 21-A -Thence south along the west boundary of said Sec. three and other sections to the point of beginning.

Course No. 1-B - Beginning at a point on the meander line of the St. Johns River due west of the intersection in Sec. thirty-seven (37) Twp nine (9) S, R twenty-seven (27) E., of a paved road running northeasterly with a paved road running approximately east and west three-eights (3/8) mile, more or less, north of the north boundary line of Sec. twenty-four (24), Twp nine (9) S, R twenty-seven (27) E extended.

Course No. 2-B - Thence southeasterly to a point where the west boundary of Sec. twenty-four (24) Twp nine (9) S, R twenty-seven (27) E intersects the right-of-way of State Road Number 207.

PART XXIX -PUTNAM COUNTY (CONT'D)

Course No. 3-B -Thence south along the west boundary of said Sec. twenty-four (24) to the southwest corner of said Sec. twenty-four (24).

Course No. 4-B - Thence east along the south boundary of said Sec. twenty-four (24) east to the range line dividing ranges twenty-seven (27) and twenty-eight (28) E.

Course No. 5-B - Thence north along the range line dividing ranges twenty-seven (27) and twenty-eight (28) E to its intersection with the shore of the St. Johns River.

Course No. 6-B - Thence west and south west along and with the meander line of the St. Johns River to the point of beginning.

Course No. 1-C - Beginning at the intersection of the east boundary line of section thirty-four (34) township eleven (11) south, range twenty-seven (27) east with the meander line of Crescent Lake, thence south along the east boundary of section thirty-four (34), township eleven (11) south, range twenty-seven (27) east and other sections to the northeast corner of section fifteen (15), township twelve (12) south, range twenty-seven (27) east.

Course No. 2-C - Thence west along the north boundary of sections fifteen (15) and sixteen (16) of township twelve (12) south, range twenty-seven (27) east to the northwest corner of section sixteen (16), township twelve (12) south, range twenty-seven (27) east.

Course No. 3-C - Thence south along the west boundary of section sixteen (16) and twenty-one (21) of township twelve (12) south, range twenty-seven (27) east to the southwest corner of section twenty-one (21), township twelve (12) south, range twenty-seven (27) east.

Course No. 4-C - Thence in a southwesterly direction to an intersection with the meander line of Lake George one-quarter ($\frac{1}{4}$) mile east of the range line dividing ranges twenty-six (26) and twenty-seven (27) east.

Course No. 5-C - Thence easterly and southerly along the meander line of Lake George to an intersection with the boundary line dividing Volusia and Putnam Counties.

Course No. 6-C - Thence northeasterly along the boundary line dividing Putnam and Volusia Counties to an intersection with the meander line of Crescent Lake.

Course No. 7-C - Thence northwesterly along the meander line of Crescent Lake to the point of beginning, lying and being in Putnam County, Florida.

All of St. Johns County except the part lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. six (6) Twp ten (10) S, R twenty-eight (28) E, thence east along the south boundary of said Sec. six (6) and other sections to the southeast corner of Sec. five (5) Twp ten (10) S, R twenty-nine (29) E.

Course No. 2 - Thence north along the east boundary of said Sec. five (5) and other sections to the southeast corner of Sec. twenty (20) Twp eight (8) S, R twenty-nine (29) E.

Course No. 3 - Thence northwest through said Sec. twenty (20) and other sections to the northeast corner of Sec. eleven (11) Twp eight (8) S, R twenty-eight (28) E.

Course No. 4 - Thence west along the north boundary of said Sec. eleven (11) and other sections to the northwest corner of Sec. eight (8) Twp eight (8) S, R twenty-eight (28) E.

Course No. 5 - Thence south seventy-two (72°) degrees west to an intersection with the line in the St. Johns River dividing St. Johns County and Putnam County.

Course No. 6 - Thence southeasterly and south along the boundary between Putnam and St. Johns Counties to the point of beginning.

PART XXXI - ST. LUCIE COUNTY

All of St. Lucie County

PART XXXII - SANTA ROSA COUNTY

All of Santa Rosa County

PART XXXIII - SEMINOLE COUNTY

All of Seminole County except the part lying within the following boundaries:

Course No. 1 - Beginning at the northwest corner of the southwest quarter of the southwest quarter of Sec. eighteen (18) Twp. twenty-one (21) S, R twenty-nine (29) E thence east along the north boundary of the southwest quarter of the southwest quarter of said Sec. eighteen (18) and other quarter quarter lines to the northeast corner of the southeast quarter of the southwest quarter of Sec. seventeen (17) Twp twenty-one (21) S, R twenty-nine (29) E.

Course No. 2 - Thence south along part of the east boundary of the southwest quarter of said Sec. seventeen (17) to the southwest corner of the southeast quarter of said Sec. seventeen (17).

Course No. 3 - Thence east along part of the south boundary of said Sec. seventeen (17) and other sections to the northeast corner of Sec. twenty-one (21) Twp. twenty-one (21) S, R twenty-nine (29) E.

Course No. 4 - Thence south along the east boundary of said Sec. twenty-one (21) to its southeast corner.

BST1630

Course No. 5 - Thence east along the boundary between Seminole and Orange Counties to the southeast corner of Sec. thirty-one (31) Twp twenty-one (21) S, R thirty-one (31) E.

Course No. 6 - Thence north along the east boundary of said Sec. thirty-one (31) to its northeast corner.

Course No. 7 - Thence west along the north boundary of said Sec. thirty-one (31) to its northwest corner.

Course No. 8 - Thence north along the range line between ranges thirty (30) and thirty-one (31) east to a point on that line lying twenty-six hundred and forty (2640) feet south of the intersection of said range line with the township line between townships twenty (20) and twenty-one (21) south.

Course No. 9 - Thence west three (3) miles through the Moses E. Levy grant, on a line parallel to, and twenty-six hundred and forty (2640) feet south of the township line between townships twenty (20) and twenty-one (21) south to the intersection of said line with the southward extension of the west boundary of Sec. thirty-four (34) Twp twenty (20) S, R thirty (30) E.

Course No. 10- Thence north along said extension and the west boundary of said Sec. thirty-four (34) and part of Sec. twenty-seven (27), Twp twenty (20) S, R thirty (30) E to a point on the west boundary of said Sec. twenty-seven (27) located one thousand and fifty-six (1056) feet south of the northwest corner of said Sec. twenty-seven (27).

Course No. 11- Thence west along a line one thousand and fifty-six feet south of, and parallel to, the north boundary of Sec. twenty-eight (28) Twp. twenty (20) S, R thirty (30) E to the intersection with the west boundary of said Sec. twenty-eight (28).

Course No. 12- Thence north along part of the west boundary of said Sec. twenty-eight (28) to the north west corner of said Sec. twenty-eight (28).

Course No. 13- Thence west along the north boundary of Sec. twenty-nine (29) Twp. twenty (20) S, R thirty (30) E and other sections to the intersection of the south boundary of Sec. twenty (20) Twp twenty (20) S, R twenty-nine (29) E with the Wekiva River.

Course No. 14- Thence southward along the boundary between Seminole and Orange County to the point of beginning.

BST1631

PSC 6308

All of Taylor County lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the west boundary of Sec. twenty-six (26) Twp nine (9) S, R nine (9) E with the boundary between Taylor and Dixie Counties, thence northeasterly along said boundary between Taylor and Dixie Counties to the northeast corner of Sec. sixteen (16) Twp eight (8) S, R ten (10) E.

Course No. 2 - Thence west along the north boundary of said Sec. sixteen (16) and Sec. seventeen (17) Twp eight (8) R ten (10) E to the northwest corner of said Sec. seventeen (17).

Course No. 3 - Thence south along the west boundary of said Sec. seventeen (17) and other sections to the northeast corner of Sec. thirty-one (31) Twp eight (8) R ten (10) E.

Course No. 4 - Thence west along the north boundary of said Sec. thirty-one (31) to its northwest corner.

Course No. 5 - Thence south along the west boundary of said Sec. thirty-one (31) and other sections to the northeast corner of Sec. twenty-four (24) Twp nine (9) S, R nine (9) E.

Course No. 6 - Thence west along the north boundary of said Sec. twenty-four (24) and Sec. twenty-three (23) Twp nine (9) S, R nine (9) E. to the northwest corner of said Sec. twenty-three (23).

Course No. 7 - Thence south along the west boundary of said Sec. twenty-three (23) and part of Sec. twenty-six (26) Twp nine (9) S, R nine (9) E to the point of beginning.

PART XXXV - UNION COUNTY

All of Union County lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the west boundary of Sec. seventeen (17) Twp six (6) S, R eighteen (18) E with the boundary between Union and Columbia Counties, thence north along the west boundary of said Sec. seventeen (17) to its northwest corner.

Course No. 2 - Thence east along the north boundary of said Sec. seventeen (17) and the south boundary of Sec. nine (9) Twp six (6) S, R eighteen (18) E to the southeast corner of said Sec. nine (9).

Course No. 3 - Thence north along the east boundary of said Sec. nine (9) and other sections to the intersection of the east boundary of Sec. four (4) Twp five (5) S, R eighteen (18) E with the boundary between Union and Columbia Counties.

Course No. 4 - Thence southwesterly along the boundary between Union and Columbia Counties to the point of beginning.

PART XXXVI - VOLUSIA COUNTY

All of Volusia County except the part lying within the following boundaries:

Course No. 1 - Beginning at the N. E. corner of Sec. 20, Twp 17 S., Range 32 E., thence West a distance of nine miles to a point; said point being the N. W. corner of Sec. 24 Twp 17 S., R 32 E.

BST1632

Course No. 2 - Thence South a distance of two & one-half miles to a point, said point being the middle of the East Line of Sec. 35 Twp 17 S, R. 30 E., or the S. E. corner of the NE¼ of Sec. 35 T. 17 S, R. 30 E.

Course No. 3 - Thence West approximately five & one-half miles to the junction of the St. John's River with Hontoon Dead River.

Course No. 4 - Thence Southerly along the meander line of center of the St. John's River to the South line of Sec. 19 Twp. 18 S, R 30 E.

Course No. 5 - Thence East a distance of thirteen & one-half miles to the S. E. corner of Sec. 20 T. 18 S, R 32 E.

Course No. 6 - Thence North a distance of four miles and 2,442 feet to the N. E. corner of Sec. 5 T. 18 S, R. 32 E.

Course No. 7 - Thence East a distance of 9,207 feet to the S. E. corner of Sec. 32 Twp. 17 S, R. 32 E.

Course No. 8 - Thence North to point of beginning.

PART XXXVII - WASHINGTON COUNTY

All of Washington County except the part lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the boundaries of Washington, Holmes and Walton Counties, thence east along the township line between townships three (3) and four (4) north to the southeast corner of Sec. thirty-one (31) Twp four (4) N, R. fourteen (14) W.

Course No. 2 - Thence north along the east boundary of said Sec. thirty-one (31) and the west boundary of Sec. twenty-nine (29) Twp four (4) N, R. fourteen (14) W. to the northwest corner of said Sec. twenty-nine (29).

Course No. 3 - Thence east along the north boundary of said Sec. twenty-nine (29) and the south boundary of Sec. twenty-one (21) Twp four (4) N, R fourteen (14) W, to the southeast corner of said Sec. twenty-one (21).

Course No. 4 - Thence north along the east boundary of said Sec. twenty-one (21) to the northeast corner of said Sec. twenty-one (21).

Course No. 5 - Thence west north and south along the boundary between Washington and Holmes Counties to the point of beginning.

BST1633

BEFORE THE FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION

In re: Joint petition of Florida Telephone Corporation and Southern Bell Telephone and Telegraph Company for the transfer of certain certificated territory in Marion County, Florida to Florida Telephone Corporation.	DOCKET NO. 5262-TP DOCKET NO. 4732-TP DOCKET NO. 4733-TP ORDER NO. 2597

Chairman Alan S. Boyd, Commissioner Jerry W. Carter and Commissioner Wilbur C. King each participated in the disposition of this cause.

ORDER GRANTING PETITION AND AMENDING CERTIFICATES

BY THE COMMISSION:

On April 25, 1956, the Florida Railroad and Public Utilities Commission, by its Order No. BT-458 in Docket No. 4733-TP, issued Telephone Certificate of Public Convenience and Necessity No. 8 to Southern Bell Telephone and Telegraph Company and on April 26, 1956, this Commission, by its Order No. 2345 in Docket No. 4732-TP, issued Telephone Certificate of Public Convenience and Necessity No. 22 to Florida Telephone Corporation. Said companies have now applied to this Commission to amend their aforesaid certificates by deleting from Southern Bell Telephone and Telegraph Company's certificate and adding to Florida Telephone Corporation's certificate the following territory:

> Those parts of Section Nineteen (19) and Thirty (30), Township Seventeen (17) South, Range Twenty (20) East, and that part of Section Twenty-Four (24), Township Seventeen (17) South, Range Nineteen (19) East, that are located north of the Withlacoochee River in Marion County, Florida.

Said petition states that service is immediately available to the area by the transferee but can only be provided at great expense and with possible delay by the transferor; that the community of interest of the territory is with that territory presently served by the transferee. After considering said petition and investigating this matter the Commission finds that the transfer should be approved. It is, therefore,

ORDERED by the Florida Railroad and Public Utilities Commission that Telephone Certificate of Public Convenience and Necessity No. 8 of Southern Bell Telephone and Telegraph Company be and it is hereby amended to delete therefrom the above described territory. It is further

ORDERED that Telephone Certificate of Public Convenience and Necessity No. 22 of Florida Telephone Corporation be and it is hereby amended to incorporate therein the said above described territory.

By Order of the Commission at Tallahassee, Florida, this 2nd day of April, 1958.

(S E A L)
GPM

EXECUTIVE SECRETARY

BST1634

PSC 6311

PART VIII - CLAY COUNTY

All of Clay County except the areas lying within the following boundaries:

Course No. 1-A - Beginning at the southwest corner of Sec. six (6) Twp five (5) S, R twenty-three (23) E, thence east along the south boundary of said Sec. six (6) and other sections to the northeast corner of Sec. eleven (11), Twp five (5) S, R twenty-three (23) E.

Course No. 2-A - Thence south along the east boundary of said Sec. eleven (11) and other sections to the southeast corner of Sec. twenty-six (26) Twp seven (7) S, R twenty-three (23) E.

Course No. 3-A - Thence west along the south boundary of said Sec. twenty-six (26) and other sections to the southwest corner of Sec. thirty (30) Twp seven (7) S, R twenty-three (23) E.

Course No. 4-A - Thence north along the west boundary of said Sec. thirty (30) and other sections to the point of beginning.

Course No. 1-B - Beginning at the southwest corner of Sec. thirty-one (31) Twp eight (8) S, R twenty-four (24) E, thence northeast along the boundary between Clay and Putnam Counties to its intersection with the north boundary of Sec. twenty-nine (29), Twp eight (8) S, R twenty-four (24) E.

Course No. 2-B - Thence west along the north boundary of said Sec. twenty-nine (29) and Sec. thirty (30), Twp eight (8) S, R twenty-four (24) E to the northwest corner of said Sec. thirty (30).

Course No. 3-B - Thence south along the west boundary of said Sec. thirty (30) and Sec. thirty-one (31) Twp eight (8) S, R twenty-four (24) E to the point of beginning.

BST1635

PART VIII - CLAY COUNTY (CONT'D)

Course No. 1-C - Beginning at the intersection of the boundaries of Clay, Putnam and Bradford Counties, thence northeast along the boundary between Clay and Putnam Counties to the intersection of that line with the east boundary of Sec. four (4) Twp nine (9) S, R twenty-three (23) E.

Course No. 2-C - Thence north along the east boundary of said Sec. four (4) to the northeast corner of said Sec. four (4).

Course No. 3-C - Thence west along the north boundary of said Sec. four (4) to the southwest corner of Sec. thirty-three (33), Twp eight (8) S, R twenty-three (23) E.

Course No. 4-C - Thence north along the west boundary of said Sec. thirty-three (33) to its intersection with the south shore of Lake Geneva.

Course No. 5-C - Thence northwestward through Lake Geneva to the boundary between Clay and Bradford Counties.

Course No. 6-C - Thence south along the boundary between Clay and Bradford Counties to the point of beginning.

BST1636

PSC 6313

PART VIII - CLAY COUNTY (CONT'D)

Course No. 1-D - Beginning at the intersection of the west boundary of Sec. sixteen (16) Twp eight (8) S, R twenty-four (24) E with the boundary between Clay and Putnam Counties, thence northeast along the county boundary to its intersection with the north boundary of Sec. thirteen (13) Twp eight (8) S, R twenty-four (24) E.

Course No. 2-D - Thence west along the north boundary of said Sec. thirteen (13) and other sections to the northwest corner of Sec. sixteen (16) Twp eight (8) S, R twenty-four (24) E.

Course No. 3-D - Thence south along the west boundary of said Sec. sixteen (16) to the point of beginning.

PART IX - COLUMBIA COUNTY

All of Columbia County lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. thirty-five (35) Twp five (5) S, R fifteen (15) E, thence east along the south boundary of said Sec. thirty-five (35) and other sections to the northeast corner of Sec. one (1) Twp six (6) S, R sixteen (16) E.

Course No. 2 - Thence south along the east boundary of said Sec. one (1) and other sections to the southwest corner of Sec. nineteen (19) Twp six (6) S, R seventeen (17) E.

Course No. 3 - Thence east along the south boundary of said Sec. nineteen (19) and other sections to the northeast corner of Sec. twenty-nine (29) Twp six (6) S, R seventeen (17) E.

Course No. 4 - Thence south along the east boundary of said Sec. twenty-nine (29) to the southwest corner of Sec. twenty-eight (28) Twp six (6) S, R seventeen (17) E.

Course No. 5 - Thence east along the south boundary of said Sec. twenty-eight (28) and other sections to the shore of the Santa Fe River.

Course No. 6 - Thence along the thread of the Santa Fe River, which is the boundary between Columbia and Alachua Counties, to the mouth of the Olustee Creek at the intersection of the boundaries of Columbia, Alachua and Union Counties.

Course No. 7 - Thence northward along the thread of the Olustee Creek to its intersection with the east boundary of Sec. thirteen (13) Twp four (4) S, R eighteen (18) E, which is on the boundary between Columbia and Baker Counties.

Course No. 8 - Thence north along the boundary between Columbia and Baker Counties to the boundary between Florida and Georgia.

Course No. 9 - Thence west along the boundary between Florida and Georgia to its intersection with the Suwannee River which is also the boundary between Columbia and Hamilton Counties.

Course No. 10- Thence southward along the thread of the Suwannee River to its intersection with the west boundary of Sec. eleven (11) Twp two (2)

Course No. 11 - Thence south along the west boundary of said Sec. eleven (11) and other sections to the southeast corner of Sec. twenty-two (22) Twp two (2) S, R sixteen (16) E.

Course No. 12 - Thence west along the south boundary of said Sec. twenty-two (22) and another section to the northwest corner of Sec. twenty-six (26) Twp two (2) S, R fifteen (15) E.

Course No. 13 - Thence south along the boundary between Columbia and Suwanee County to the point of beginning.

PART X - DADE COUNTY

All of Dade County

PART XI - DIXIE COUNTY

All of Dixie County

PART XII - DUVAL COUNTY

All of Duval County

PART XIII - ESCAMBIA COUNTY

All of Escambia County except that lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the boundary between Florida and Alabama and the south boundary of Sec. twenty-five (25) Twp two (2) N, R thirty-two (32) W, thence east along the south boundary of said Sec. twenty-five (25) and other sections to the intersection of the south boundary of Sec. twenty-nine (29) Twp two (2) N, R thirty (30) W, with the Escambia River, which is the boundary between Escambia and Santa Rosa Counties.

Course No. 2 - Thence north along the boundary between Escambia and Santa Rosa Counties to its intersection with the township line between townships three (3) and four (4) north.

Course No. 3 - Thence west along said township line to its intersection with the range line between ranges thirty-one (31) and thirty-two (32) west.

Course No. 4A- Thence north along said range line to the SW corner of Section 6, T-4-N, R-31-W. (C)

Course No. 4B- Thence east one mile to the SE corner of said Section 6.

Course No. 4C- Thence north along section lines four miles to SE corner of Section 18, T-5-N, R-31-W.

Course No. 4D- Thence west one mile to the SW corner of said Section 18.

Course No. 4E- Thence north one-half mile to the SW corner of the SW 1/4 of the NW 1/4 of said Section 18. (C)

Course No. 4F- Thence east along quarter section lines 1 1/4 miles to the SE corner of the SW 1/4 of the NW 1/4 of Section 17, T-5-N, R-31-W. (C)

Course No. 4G- Thence north approximately one mile to Canoe Creek and the point of intersection with Florida Highway 4.

Course No. 4H- Thence generally NW approximately 1/3 mile along the meander line of Canoe Creek to point of intersection with the east section line of Section 7, T-5-N, R-31-W.

Course No. 4I- Thence north approximately two miles along section lines to the Alabama-Florida state line at the NE corner of Section 31, T-6-N, R-31-W. (C)

Course No. 5 - Thence west and south along the boundary between Florida and Alabama to the point of beginning.

XIV - FLAGLER COUNTY

All of Flagler County

PART XV - GADSDEN COUNTY

All of Gadsden County lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the westward extension of the south boundary of Sec. one (1) Twp 1 N, R 3 W and the shore of Little River in Twp 1 N, R 3 W thence east five miles plus/minus to the S. E. corner of the S. W. quarter of Sec. 4 Twp 1 N, R 2W, in Gadsden County.

Course No. 2 - Thence north to the N. E. corner of the S. W. quarter of said Sec. 4. (C)

Course No. 3 - Thence east to the S.E. corner of the N. E. quarter of Sec. 4.

Course No. 4 - Thence north one quarter mile plus/minus to the N. E. corner of said Sec. 4.

Course No. 5 - Thence east .9 mile plus/minus to the S. E. corner of Sec. 34, Twp 2 N, R 2 W. (C)

Course No. 6 - Thence north four (4) miles plus/minus to the N. W. corner of Sec. 14, Twp 2 N, R 2 W.

Course No. 7 - Thence east along the north boundary of section 14 to a point which is 300 feet west of the west right-of-way line of State Road No. 63 (U.S. Highway 27) (C)

Course No. 8 - Thence in a southeasterly direction approximately ½ mile parallel to said right-of-way line of State Road No. 63 to the half-section line of section 14 T 2 N, R 2 W.

Course No. 9 - Thence east along the half section line of sections 14, 13 and 18 to its intersection with the Leon-Gadsden County Line (Ochlockonee River). (C)

Course No. 10 - Thence north along the Ochlockonee River towards the boundary between the state of Florida and the state of Georgia to the point which is the boundary between Gadsden and Leon Counties and the Florida-Georgia border.

Course No. 11 - Thence west nine and seven-tenths (9.7) miles plus/minus along the boundary between the state of Florida and state of Georgia to that boundary's intersection with Swamp Creek in Sec. 83, Twp 3 N, R 2 W.

Course No. 12 - Thence south westerly along the course of the Swamp Creek, the Attapulous Creek and the Little River to the point of beginning.

BST1641

PT XVI - GILCHRIST COUNTY

All of Gilchrist County lying south of the following described line:

Course No. 1 - Beginning at the intersection of the north boundary of Sec. twenty (20) Twp eight (8) S, R fourteen (14) E with the boundary between Gilchrist and Dixie Counties thence east to the northeast corner of Sec. nineteen (19) Twp eight (8) S, R fifteen (15) E.

Course No. 2 - Thence south along the east boundary of said Sec. nineteen (19) to the southeast corner of said Sec. nineteen (19).

Course No. 3 - Thence east along the south boundary of Sec. twenty (20) Twp eight (8) S, R fifteen (15) E and other sections to the northeast corner of Sec. twenty-six (26) Twp eight (8) S, R sixteen (16) E.

Course No. 4 - Thence south along the east boundary of said Sec. twenty-six (26) and other sections to the southwest corner of Sec. one (1) Twp nine (9) S, R sixteen (16) E.

BST1642

PART XVI - GILCHRIST COUNTY (CONT'D)

Course No. 5 - Thence east along the south boundary of said Sec. one (1) to the southeast corner thereof, which is on the boundary between Gilchrist and Alachua Counties.

PART XVII - HERNANDO COUNTY

All of Hernando County except: Section twenty-four (24) and twenty-five (25) and the east half of Sec. thirty-six (36) Twp twenty-three (23) N, R twenty (20) E. The part lying east of a line beginning at the junction of the center line of the Seaboard Coastline Railroad right-of-way and the Hernando-Pasco County line which is the south section line of Sec. sixteen (16) Twp twenty-three (23) S, R twenty-one (21) E; thence northwestward along the center of the Seaboard Coastline Railroad right-of-way through Sections sixteen (16) and nine (9) to a point in Sec. four (4) Twp twenty-three (23) S, R twenty-one (21) E where said right-of-way crosses a line running along the quarter quarter line at the southeast corner of the southwest quarter of the northwest quarter of said section; thence north along said quarter quarter line through Section 4 and other sections to the intersection of the east boundary of the southwest quarter of the northwest quarter of Section 16, with the boundary between Hernando and Sumpter Counties. (C)

(1) The south half of the southeast quarter of Section 36, Range 16 East, Township 23 South, Hernando County, Florida; and (2) all the other land areas in Section 35 and 36, Range 16 East, Township 23 South, situated south of the south shoreline of Smith Hammock Creek, consisting of a portion of one peninsula in Section 35 and two in Section 36, Hernando County, Florida. (C)

PART XVIII - HOLMES COUNTY

All of Homes County lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of the northwest quarter of Sec. twenty-two (22) Twp six (6) N, R fourteen (14) W, thence southeast to the intersection of the south boundary of Sec. thirty (3) Twp six (6) N, R thirteen (13) W with the boundary between Holmes and Jackson Counties.

Course No. 2 - Thence northward along the boundary between Holmes and Jackson Counties to the boundary between Florida and Alabama.

Course No. 3 - Thence west along the boundary between Florida and Alabama to its intersection with the west boundary of the east quarter of Sec. twenty (20) Twp seven (7) N R fourteen (14) W.

Course No. 4 - Thence south along the west boundary of said east quarter of Sec. twenty (20) and other quarter quarter lines to the northwest corner of the northeast quarter of the northeast quarter of Sec. eight (8) Twp six (6) N, R fourteen (14) W.

Course No. 5 - Thence east along the north boundary of said Sec. eight (8) and the north boundary of Sec. nine (9), Twp six (6) N, R fourteen (14) W to the northeast corner of said Sec. nine (9).

Course No. 6 - Thence south along the east boundary of said Sec. nine (9) and other sections to the point of beginning.

ART XIX - INDIAN RIVER COUNTY

All of Indian River County

PART XX - JACKSON COUNTY

All of Jackson County lying west of the following described lines. (C)

Course No.1A - Beginning at the southwest corner of Sec. thirty-three (33) Twp five (5) N, R twelve (12) W thence north along west boundary of said Sec. thirty-three (33) and other sections to the northwest corner of Sec. twenty-one (21) Twp five (5) N, R twelve (12) W.

Course No.1B - Thence east along the north boundary of said Sec. twenty-one (21) to the southwest corner of Sec. fifteen (15) Twp five (5) N, R twelve (12) W.

Course No.1C - Thence north along the west boundary of said Sec. fifteen (15) to the southwest corner of the northwest quarter of the northwest quarter of Sec. ten (10) Twp five (5) N, R twelve (12) W.

Course No.1D - Thence east along the south boundary of said northwest quarter of Sec. ten (10) to the southwest corner of the northwest quarter of the northwest quarter of Sec. eleven (11) Twp five (5) N, R twelve (12) W.

Course No.1E - Thence north along the west boundary of said northwest quarter of Sec. eleven (11) to the northwest corner of Sec. eleven (11). (C)

Course No. 2 - Thence east along the north boundary of said Sec. eleven (11) to the southeast corner of Sec. two (2) Twp five (5) N, R twelve (12) W.

Course No. 3 - Thence north along the east boundary of said Sec. two (2) and other sections to the northwest corner of Sec. twenty-five (25) Twp six (6) N, R twelve (12) W.

Course No. 4 - Thence east along the north boundary of said Sec. twenty-five (25) and another section to the southeast corner of Sec. nineteen (19) Twp six (6) N, R eleven (11) W.

Course No. 5 - Thence north along the east boundary of said Sec. nineteen (19) to the northeast corner of said Sec. nineteen (19).

Course No. 6 - Thence east along the north boundary of Sec. twenty (20) Twp six (6) N, R eleven (11) W and other sections to the southwest corner of Sec. thirteen (13) Twp six (6) and R eleven (11) W.

Course No. 7 - Thence north along the west boundary of said Sec. thirteen (13) to the northwest corner of said Sec. thirteen (13).

Course No. 8 - Thence east along the north boundary of said Sec. thirteen (13) and the south boundary of Sec. seven (7) Twp six (6) N, R ten (10) W to the southeast corner of the southwest quarter of said Sec. seven (7).

Course No. 9 - Thence north along the half section line of said Sec. seven (7) and Sec. six (6) Twp six (6) N, R ten (10) W to the northwest corner of the northeast quarter of said Sec. six (6).

Course No.10 - Thence east along the north boundary of Sec. six (6) and the south boundary of Sec. thirty-two (32) Twp seven (7) N, R ten (10) W to the southeast corner of the southwest quarter of said Sec. thirty-two(32).

Course No.11 - Thence north along the half section line of section thirty-two (32) and the other sections to the northeast corner of the northwest quarter of Sec. twenty (20) Twp seven (7) N, R ten (10) W which is also the intersection of this course with the Florida - Alabama boundary.

PART XXI - LEVY COUNTY

All of Levy County except that lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. thirty-one (31), Twp fourteen (14) S, R eighteen (18) E thence east along the south boundary of said Sec. thirty-one (31) and other sections to the southwest corner of Sec. thirty-five (35) Twp fourteen (14) S, R eighteen (18) E. (C)

Course No.1A - Thence north along the west boundary of said Sec. thirty-five (35) to the northwest corner of said Sec. thirty-five (35).

Course No.1B - Thence east along the north boundary of said Sec. thirty-five (35) and other sections to the northeast corner of the west 1/2 of Section thirty-one (31), Twp fourteen(14) S, R Nineteen(19) E.

Course No.1C - Thence south along the east boundary of the west 1/2 of said Sec. thirty-one (31) to the southeast corner of the west 1/2 of said Sec. thirty-one (31).

Course No.1D - Thence east along the south boundary of said Sec. thirty-one (31) and other sections to the southeast corner of Sec. thirty-three (33), Twp fourteen (14) S, R nineteen E. (C)

PART XXI - LEVY COUNTY

Course No. 2 - Thence north along the boundary between Levy and Marion Counties to the Southeast corner of section 4 T12S,R19E. (C)

Course No. 2-A - Thence westerly along the south boundary of said section 4 to its S.W. corner.

Course No. 2-B - Thence northerly along the western boundary of said section 4 to its N.W. corner.

Course No. 3 - Thence west along the boundary between Levy and Alachua Counties to the northeast corner of Sec. one (1) Twp twelve (12) S, R seventeen (17) E. (C)

Course No. 4 - Thence south along the east boundary of said Sec. one (1) and other sections to the point of beginning.

PART XXIII - MARTIN COUNTY (CONT'D)

Course No. 1-B - Beginning at the southeast corner of Sec. twenty-eight (28) Twp forty (40) S, R forty (40) E thence east along the boundary between Martin and Palm Beach Counties to the shore of the Atlantic Ocean.

No. 2-B - Thence north along the shore of the Atlantic Ocean to the boundary between Martin and St. Lucie Counties.

No. 3-B - Thence west along the boundary between Martin and St. Lucie Counties to the northwest corner of Sec. six (6) Twp thirty-eight (38) S, R forty (40) E.

No. 4-B - Thence south along the range line between ranges thirty-nine (39) and forty (40) east to the intersection of said range line with the township line between townships thrity-eight (38) and thirty-nine (39) south.

No. 5-B - Thence east along said township line to the northeast corner of Sec. five (5), Twp thirty-nine (39) S, R forty (40) E.

No. 6-B - Thence south along the east boundary of said Sec. five (5) and other sections to the northeast corner of Sec. five (5) Twp forty (40) S, R forty (40) E.

No. 7-B - Thence east along the north boundary of Sec. four (4) Twp forty (40) S, R forty (40) E to the northeast corner of said Sec. four (4).

Course No. 8-B - Thence south along the east boundary of said Sec. four (4) and other sections to the point of beginning.

PART XXIV - MONROE COUNTY

All of Monroe County east of the western shore of Key West that is part of the Florida Keys and those islands in Florida Bay which lie south of Dade County.

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PART XXII - MARION COUNTY

All of the two parts of Marion County lying within the following boundaries:

Course No. 1A- Beginning at the intersection of the boundaries of Marion, Citrus and Levy Counties thence southeast along the boundary between Marion and Citrus Counties to its intersection with the west boundary of Sec. twenty-four (24) Twp seventeen (17) S, R nineteen (19) E.

Course No. 2A- Thence north along the west boundary of said Sec. twenty-four (24) to the northwest corner of said Sec. twenty-four (24).

Course No. 3A- Thence east along the north boundary of said Sec. twenty-four (24) to the southwest corner of Sec. eighteen (18), Twp seventeen (17) S, R twenty (20) E. (C)

urse No. 4A- Thence north along the west boundary of said Sec. eighteen (18) to the northwest corner of said Sec. eighteen (18).

Course No. 5A- Thence east along the north boundary of said Sec. eighteen (18) to the southwest corner of Section eight (8), Twp seventeen (17) S, R twenty (20) E.

Course No. 6A- Thence north along the west boundary of said Sec. eight (8) to the southwest corner of the northwest 1/4 of Sec. five (5), Twp sixteen (16) S, R twenty (20) E.

Course No. 7A- Thence east along the south boundary of the north 1/4 of said Sec. five (5) and Sec. four (4), Twp sixteen S, R twenty (20) E to the southeast corner of the northeast 1/4 of said Sec. four (4).

Course No. 8 - Thence north on the east boundary of said Sec. four (4) and other sections to the northeast corner of Sec. four (4) Twp sixteen (16) S, R twenty (20) E.

Course No. 9 - Thence west along the north boundary of said Sec. four (4) and other sections to the southwest corner of Sec. thirty-one (31) Twp fifteen (15) S, R twenty (20) E.

Course No.10 - Thence north along the west boundary of said Sec. thirty-one (31) and other sections to the northeast corner of Sec. one (1) Twp fifteen (15) S, R nineteen (19) E.

Course No. 11- Thence west along the township line between townships fourteen (14) and fifteen (15) south to its intersection with the range line between ranges seventeen (17) and eighteen (18) east.

Course No. 12- Thence south along said range line to the point of beginning. (C)

Course No. 1B- Beginning at the southwest corner of Sec. fifteen (15) Twp twelve (12) S, R nineteen (19) E thence east along the south boundary of said Sec. fifteen (15) and other sections to the southeast corner of

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Course No. 2B- Thence north along the east boundary of said Sec. sixteen (16) to its northeast corner.

Course No. 3B- Thence east along the north boundary of Sec. fifteen (15) Twp twelve (12) S, R twenty (20) E and other sections to the southeast corner of Sec. twelve (12) Twp twelve (12) S, R twenty (20) E.

Course No. 4B- Thence north along the east boundary of said Sec. twelve (12) and another section to the northwest corner of Sec. six (6) Twp twelve (12) S, R twenty-one (21) E.

Course No. 5B- Thence west along the boundary between Marion and Alachua Counties to the intersection of the boundaries of Marion, Alachua and Levy Counties.

Course No. 6B- Thence south along the boundary between Marion and Levy Counties to the point of beginning.

PART XXIII - MARTIN COUNTY

All of the two parts of Martin County lying within the following boundaries:

Course No. 1A- Beginning at the intersection of the boundary between Martin and Palm Beach Counties with the shore of Lake Okeechobee, thence east along the south boundary of Martin County to the southeast corner of Sec. thirty (30) Twp forty (40) S, R thirty-eight (38) E.

Course No. 2A- Thence north along the east boundary of said Sec. thirty (30) and other sections to the intersection of the east boundary of Sec. seven (7) Twp forty (40) S, R thirty-eight (38) E with the Saint Lucie Canal.

Course No. 3A- Thence southwest along the thread of the Saint Lucie Canal to its outlet into Lake Okeechobee.

Course No. 4A- Thence south along the shore of Lake Okeechobee to the point of beginning.

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ART XXV - NASSAU COUNTY

A. Nassau County except the area lying within the following boundary:

Course No. 1 - Beginning at the intersection of the boundary between Florida and Georgia with the east boundary of Sec. six (6) Twp one (1) S, R twenty-three (23) E, thence south along the east boundary of said Sec. 6 to the intersection of the east boundary of said Sec. 6 with the north boundary of the southwest quarter of the southwest quarter of Sec. five (5) Twp one (1) S, R twenty-three (23) E. (C)

Course No. 2 - Thence east along the north boundary of the southwest quarter of the southwest quarter of said Sec. 5 to the intersection of the north boundary of the southwest quarter of the southwest quarter of Sec. 5 with the east boundary of the southwest quarter of the southwest quarter of Sec. 5.

Course No. 3 - Thence south along the east boundary of the southwest quarter of the southwest quarter of said Sec. 5 to the intersection of the east boundary of the southwest quarter of the southwest quarter of Sec. 5 with the south boundary of said Sec. 5.

Course No. 4 - Thence east along the south boundary of said Sec. 5 and other sections to the intersection of the south boundary of Sec. two (2), Twp one (1) S, R twenty-four (24) E with the boundary between Nassau and Duval County. (C)

Course No. 5 - Thence northeastward along the boundary between Nassau and Duval Counties to this boundary's intersection with the range line between range twenty-five (25) E and range twenty-six (26) E.

Course No. 6 - Thence north along the range line between ranges twenty-five (25) E and twenty-six (26) E to its intersection with the boundary between Florida and Georgia.

Course No. 7 - Thence west and south along the boundary between Florida and Georgia to the point of beginning.

PART XXVI - ORANGE COUNTY

All of Orange County lying within the following boundaries:

Course No. 1 - Beginning at the N.E. cor. of Sec. 25, Twp 21 S, R 28 E, thence East along the boundary between Orange and Seminole Counties 3 miles plus/minus to the N.E. cor. of Sec. 28, Twp 21 S, R 29 E.

Course No. 2 - Thence South 2 miles plus/minus to the S.W. cor. of Sec. 34, Twp 21 S, R 29 E.

Course No. 3 - Thence easterly along the northern boundary of Asbury Park Subdivision recorded in Plat Book W. Page 6, Orange County Circuit Court, on December 24, 1957, to the northeast corner of Lot 1, Block C same subdivision. Thence south 120' along the extended east boundary of said Lot 1 to the center line of Mosher Drive, this being a street shown on the adjoining Kingswood Manor First Addition Subdivision, recorded at the Orange County Circuit Court on July 24, 1959 in Plat Book X, Pages 92 and 93, Section 3, Township 22 S, Range 29 E. Thence in an easterly direction along the center line of said Mosher Drive through Kingswood Manor First Addition to the point where Mosher Drive deadends on Block I of said subdivision. Thence in a northeasterly direction along the common boundary between Lots 13 and 14, and Lots 22 and 23, Block I, to Baltimore Drive, thence in a northeasterly direction along Alfred Drive to the North one quarter section post of Section 3, Township 22 S, Range 29 E, which is the northwest corner of Kingswood Manor Subdivision, such subdivision being recorded in Orange County Circuit Court on February 20, 1959 in Plat Book X, Page 16. Thence east along the centerline of Alfred Drive to a point 30' north of northeast corner of Lot 20 of said Kingswood Manor Subdivision. (C)

Course No. 4 - Thence southward 2030' plus/minus along the eastern boundary of Lots 20 through 1 of the Kingswood Manor Subdivision to the center line of State Road 438, also known as Lee Road. (C)

Course No. 4-A-Thence east 310' plus/minus along the center line of State Road 438 to the east side of the southwest quarter of the north east quarter of Section 3, Township 22 S, Range 29 E. (C)

Course No. 4-B-Thence south 3250' plus/minus to the southeast corner of the southwest quarter of the southeast quarter of Section 3, Township 22 S, Range 29 E, which is the center line of Fairbanks Avenue. (C)

Course No. 5 - Thence East 630 feet along the South line of Sec. 3 of the center line of Fairbanks Avenue to the intersection of the center line of Shorecrest Drive of the Biltmore Shore subdivision as such subdivision was recorded at the Orange County Circuit Court on March 13, 1952 in Plat Book S, Page 30.

Course No. 6 - Thence South eastwardly following the center line of Shorecrest Drive to the intersection of that center line with a northerly extension of the West boundary line of Lot 1 Block E, Biltmore Shores.

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PART XXVI- ORANGE COUNTY (Cont'd.)

Course No 7 - Thence South along the extended west lot line of Lot 1, Block E, Biltmore Shores Plat to the south edge of Lot 1, Block E, Biltmore Shores Plat to the S.W. cor. of said lot.1

Course No. 8 - Thence East along the South lot line of Lots 1, 2 and 3 of Block E, Biltmore Shores Plat to the S.E. cor.of Lot 3, Block E of said subdivision.

Course No. 9 - Thence South along an extension of the east line of Lot 3, Block E, Biltmore Shores Plat 455' plus/minus into Little Lake Fairview.

Course No. 10- Thence Northeasterly 1678' plus/minus to a point in Little Lake Fairview said point being 685' West of the East line of the N.W. ¼ of Sec. 11.

Course No. 11- Thence South and parallel to the East line of the N.W.¼ of said Sec. 11 1020' plus/minus to the South line of said N.W. ¼ of Sec. 11, thence East 685' to the intersection of Minnesota & Greens Aves. as shown on a plat of Dubsdread Heights, recorded in the Public Records of Orange County, Florida.

urse No. 12- Thence East along the South boundary of the N.E. ¼ of said Sec. 11, 2640' plus/minus to the S.E. cor. of the N.E. ¼ of said Sec. 11, which is also the intersection of Minnesota & Formosa Aves. as shown on a map of Golfview, filed in the Public Records of Orange County, Florida.

Course No. 13- Thence South along the West line of the S.W. ¼ of Sec.12 to the S.W. cor. of said Sec. 12, it also being the center line of Formosa Ave. and intersecting Par ~~Ave.~~ STREET 1

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VI - ORANGE COUNTY (CONT'D)

. 14 - Thence East 1320' plus/minus along the South line of Sec. 12 to the S.W. corner of the S.E. ¼ of Sec. 12, it also being the intersection of the center lines of Par~~Ave.~~ St. and Clay Street.

. 15 - Thence North 1320' plus/minus along the center line of Clay Street to the N. W. cor. of the S. E. ¼ of the S.W. ½ of Sec. 12, it also being the intersection of the center lines of Clay & Harmon Streets.

No. 16 - Thence East 1320' plus/minus along the center line of Harmon Street to the N. E. corner of the S. E. ¼ of the S. W. ¼ of Sec. 12, it also being the intersection of the center lines of Harmon St. & Buckingham Rd.

No. 17 - Thence South 1320' plus/minus along the center line of Buckingham Rd. to the S. E. cor. of the S. E. ¼ of the S. W. ¼ of Sec. 12.

No. 18 - Thence East 2640' plus/minus along the South line of Sec. 12 to the S. E. cor. of said Sec. 12.

. 19 - Thence still East 1320' plus/minus along the North line of Sec. 18 to the N. E. cor. of the N. W. ¼ of the N. W. ¼ of said Sec. 18, which is also a canal connecting Lake Sue and Lake Virginia.

. No. 20 - Thence South 2640' plus/minus along the East line of the N. W. ¼ and the S. W. ¼ of said Sec. 18.

Course No. 21 - Thence Southeasterly 2100' plus/minus to the N. W. cor. of Beeman Park as shown on a plat thereof filed in the Public Records of Orange Cty., Fla.

Course No. 22 - Thence still Southeasterly along the North boundary of said Beeman Park 677' to the N. E. cor. of said Beeman Park.

Course No. 23 - Thence North 90' along the West line of the N. E. ¼ of the S. E. ¼ of Sec. 18 to the N. W. cor. of Parklando, as shown on a map thereof filed in the Public Records of Orange County, Florida.

Course No. 24 - Thence East 393.48' along the North boundary of said Parklando to the N. E. cor. of Lot No. 7 Block "G" of said Parklando.

Course No. 25 - Thence South 768.35' along the East boundary of said Lot No. 7 Block "G" and the East boundary of Lots 15 & 8, Block "H" and Lot No. 6, Block "J" to the South boundary of said Parklando.

Course No. 26 - Thence still South 500' plus/minus to the N. E. cor. of Lot No. 5, Block "A" of Ghio Terrace as shown on a plat thereof filed in the Public Records of Orange County, Florida. (C)

Course No. 27 - Thence still South 500' along the East Line of said Lot No. 5, Block "A", Lots 6 & 13 Block "B" of said Ghio Terrace to the center line of Corrine Dr., which is also the South line of Sec. 18, Twp. 11 S, Rge. 30 E. (C)

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Course No. 28 - Thence East 341.8' along the South boundary of Sec. 18 to the S. E. cor. of said Sec. 18.

Course No. 28-A - Thence East along the South line of Sections 17, 16, 15 to the point where Truman Road and Tartan Drive intersect said south section line.

Course No. 28-B - Thence along the center line of Tartan Drive to its intersection with Moselle Avenue.

Course No. 28-C - Thence North along Moselle Avenue to its intersection with the continuation of the South section line of Sections 17, 16, 15.

Course No. 29- Thence East along the South line of Secs. 17, 16 and 15 to the center line of Lake Barton Road, Twp 22 S. R. 30 E as shown on a plat of Leawood as recorded in the Public Records of Orange County S 122.

XXVI - ORANGE COUNTY (CONT'D) Page 15

Course No. 30 - Thence North approximately 295 feet along the center line of Lake Barton Road to the center line of Cornelia Avenue of Leawood.

Course No. 31- Thence East and Southeast approximately 1,290 feet along the center line of Cornelia Avenue to the point of intersection of the projected south line of Lot 108 of Leawood.

Course No. 32 - Thence Northeast approximately 610 feet along the South line of Lot 108 of Leawood to the intersection of the south line of Sec. 15, Twp. 22 S. R. 30 E.

Course No. 33 - Thence East to the S. E. cor. of Sec. 15, Twp. 22 S. R. 30 E.

Course No. 34 - Thence North 2640' along the East boundary of said Sec. 15 to the N. E. cor. of the S. E. ¼ of said Sec. 15.

Course No. 35 - Thence East 2 miles plus/minus along the ¼ Sec. Lines of Sec. 14 & 13, Twp. 22 S. R. 30 E. to the S. E. cor. of the N. E. ¼ of said Sec. 13.

Course No. 36 - Thence still East 5280' plus/minus along the ¼ Sec. Line of Sec. 18, Twp 22 S. R. 31 E. to the S. E. cor. of the N. E. ¼ of said Sec. 18, it also being the center line of County Road No. 441.

Course No. 37 - Thence North along the center line of County Road No. 441, a distance of 5280' plus/minus to the S. E. cor. of the N. E. ¼ of said Sec. 7.

Course No. 38 - Thence East 5280' plus/minus along the ¼ Sec. Line of Sec. 8 to the S. E. cor. of the N. E. ¼ of said Sec. 8.

Course No. 39 - Thence still East 1320' plus/minus along the ¼ Sec. Line of Sec. 9 to the intersection of County Road No. 442.

Course No. 40 - Thence North 7920' plus/minus through Sec. 9 & 4 and along the center line of County Road No. 442 to the South Line of Sec. 33, Twp. 21 S. R. 31 E., which is the north boundary of Orange County.

Course No. 41 - Thence East 15½ miles plus/minus along the North boundary of Orange County to its intersection with Brevard County.

Course No. 42 - Thence southward along the boundary between Orange and Brevard Counties to the intersection of the boundaries of Orange, Brevard and Osceola Counties.

Course No. 43 - Thence West 35 miles plus/minus along the South boundary of Orange County to the Southwest corner of Sec. 32, Township 24 South, Range 29 East.

Course No. 44 - Thence North 2 3/5 miles plus/minus along successive section lines to a point 2000 feet South of the Southwest corner of Section 17, Township 24 South, Range 29 East. Commencing from said point proceed East 2600 feet plus/minus, thence North for 1400 feet plus/minus to point of intersection with Shingle Creek. Thence Northwesterly along center of Shingle Creek to a point on the Southerly right of way line of Valencia Drainage District Canal C-1.

Course No. 45 - Thence along the Southerly right of way line of Canal C-1 to middle of Orangewood Boulevard. Run Northerly along the middle of Orangewood Boulevard to point of intersection with Central Florida Parkway; thence Westerly along center line of Central Florida Parkway to point of intersection with International Drive. Follow middle of International Drive Southerly to a point of intersection on the Northerly right of way line of Valencia Drainage District Canal C-1; thence along the Northerly right of way line of Canal C-1 until intersection with Sea World Drive. Follow middle of Sea World Drive Westerly to a point of intersection with Westwood Boulevard. Thence Southwesterly along middle of Westwood Boulevard to point of intersection with the South line of Section 12, Township 24 South, Range 28 East. Thence West 1 3/4 miles plus/minus along successive section lines to the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of Section 10, Township 24 South, Range 28 East.

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PART XXVI - ORANGE COUNTY (CONT'D)

Course No. 46 - Thence north 2¼ miles plus/minus to the point of intersection of the Apopka-Vineland Road with the east side of the NW ¼ of the SW ¼ of Section 34 T 23 S R 28 E. (C)

Course No. 46A - Thence northeasterly, northerly, and northwesterly along the center line of the Orlando-Vineland Road to a point 45 feet east of the SW corner of the NW ¼ of the NW ¼ of Section 22 T 23 S R 28 E.

Course No. 46B - Thence easterly 1,328.7 feet plus/minus to the SE corner of the NW ¼ of the NW ¼ of Section 22 T 23 S R 28 E.

Course No. 46C - Thence north 2¼ miles plus/minus along the east boundaries of successive sections to the SW corner of the SE ¼ of the SW ¼ of Section 3 T 23 S R 28 E.

Course No. 47 - Thence West 1¼ miles plus/minus along the south boundaries of the West quarter of Sec. 3 and Sec. 4, Township 23 South, Range 28 East, to the Southeast corner of Sec. 5 in Lake Down.

Course No. 48 - Thence continue West 1/3 mile plus/minus along the South boundary of Sec. 5 to the Southwest corner of the East 1/3 of Sec. 5 in Lake Down.

Course No. 49 - Thence North 4 miles plus/minus along the West boundaries of the East 1/3 of Sec. 5, Twp. 23 S, Rge. 28E. and Sec. 32, 29 and 20, Twp. 22 S, Rge. 28 E. to the Northwest corner of the East 1/3 of said Sec. 20.

Course No.49-A Thence continue North 1/4 mile plus/minus along the West boundary of the East 1/3 of Sec. 17, Twp. 22 S, Rge. 28 E to the point of intersection with the North boundary of the S.W.1/4 of the S.E. 1/4 of said Sec. 17.

Course No. 50 - Thence East 1/3 mile plus/minus to the Northeast corner of the S.E. 1/4 of the S.E. 1/4 of Sec. 17, Twp. 22 S, Rge. 28E.

Course No.50-A - Thence North 1/4 plus/minus along the east boundary of said Section seventeen (17) to the N.E. corner of the S.E. 1/4 of said Section seventeen (17) it also being the S.W. corner of the N.W. 1/4 of Section sixteen (16) Twp. 22 S, Rge. 28 E.

Course No.50-B - Thence East 1,030' along the South boundary of the N.W. 1/4 of said Section sixteen (16).

Course No.50-C - Thence North 2,640' plus/minus along the eastern side of the West 1,030' of the N.W. 1/4 of said Section sixteen (16).

Course No.50-D Thence West 1,030' plus/minus along the north boundary of Section sixteen (16) to the Northwest corner of said Section sixteen (16). (C)

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Course No. 51 - Thence North Easterly to the N.E. cor. of Sec. 9.

Course No. 52 - Thence North 1 mile plus/minus along the West boundary of Section 3 to the North West cor. of said section.

Course No. 53 - Thence northeasterly to the North West cor. of Sec. 35, Township 21 South, Range 28 East.

Course No. 54 - Thence East 1 mile plus/minus along the North boundary of Sec. 35, to the N.E. cor. of said Section.

Course No. 55 - Thence North 1 mile plus/minus along the West boundary of Sec. 25 to the N.W. cor. of said Sec.

Course No. 56 - Thence East 1 mile plus/minus along the north boundary of Sec. 25 to the N.E. cor. of said Sec. to the point of beginning.

PART XXVII - PALM BEACH COUNTY

All of Palm Beach Beach County except the part lying within the following boundaries.

Course No. 1 - Beginning at the southwest corner of Sec. six (6) Twp forty-four (44) S, R thirty-five (35) E., thence east along the south boundary of said Sec. six (6) and other sections to the southeast corner of the west half of Sec. two (2), Twp. forty-four (44) S, R thirty-five (35) E.

Course No. 2 - Thence north along the east boundary of the west half of said Sec. two (2) and another section to the south shore of Lake Okeechobee.

Course No. 3 - Thence northeast to the south shore of Ritta Island in Section thirty-five (35), Twp forty-three (43) S, R thirty-five (35) E.

Course No. 4 - Thence follow the shore of Ritta Island, completely encircling the Island, and return to the shore of the mainland at the point of departure.

Course No. 5 - Thence west along the shore of Lake Okeechobee to its intersection with the boundary between Palm Beach and Hendry Counties.

Course No. 6 - Thence south along the boundary between Palm Beach and Hendry Counties to the point of beginning.

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ASCO COUNTY

o County lying within the following boundaries:

o. 1 - Beginning at the northwest corner of Sec. twenty-eight (28) Twp twenty-four (24) S, R eighteen (18) E., thence east along the north boundary of said Sec. twenty-eight (28) and other sections to the southeast corner of Sec. nineteen (19) Twp. twenty-four (24) S, R nineteen (19) E. (C)

o. 2 - Thence north along the east boundary of said Sec. nineteen (19) and other sections to the northeast corner of Sec. six (6) Twp. twenty-four (24) S, R nineteen (19) E.

No. 3 - Thence west along the boundary between Pasco and Hernando Counties to the NW ¼ of the NE ¼ of Section 5, T24S, R18E. (C)

No. 4 - Thence south to the SW¼ of the NE¼ of said Sec. 5.

lo. 5 - Thence east to the east boundary of said Section 5.

. 6 - Thence south along the east boundary of said Sec. five (5) and other sections to the point of beginning.

lo. 7 - A portion of land lying north of the north shoreline of Smith Hammock Creek immediately to the east and west of State Road No. 595 located at the northwest corner of Section 1 and at the northeast corner of Section 2 both in Township 24 South, Range 16 East, Pasco County, Florida. (C)

BST1659

PART XXIX - PUTNAM COUNTY

All of Putnam County except the parts lying within the following boundaries:

Course No. 1-A - Beginning at the intersection of the west boundary of Sec. twenty-eight (28), twp. eleven (11) S, R twenty-three (23) E with the boundary between Putnam and Marion Counties, thence east along said boundary between Putnam and Marion Counties to its intersection with the East bank of the East prong of the Oklawaha River. (C)

Course No. 1-A-1- Thence in a Northwesterly direction along the North and East bank to its point of confluence with a spillway known as Rodman Spillway, thence in a Westerly direction along the South shore line of the Rodman Reservoir to a point of intersection with the East boundary of Section 30, Township 11 South, Range 25 East.

Course No. 2-A - Thence north along the east boundary of said Sec. thirty (30) to the southeast corner of Sec. eighteen (18) twp ten (10) S, R twenty-five (25) E.

Course No. 3-A - Thence north and northwest along the path of Sweetwater Creek to its intersection with the south boundary of section 31 Twp nine (9) S, R twenty-five (25) E.

Course No. 3-A-1- Thence wester ly along the south boundary of said section 31 to the southeast corner of section 36 Twp nine (9) S, R24E.

Course No. 4-A - Thence north along the east boundary of said Sec. thirty-six (36) and other sections to the southwest corner of section 30 Twp eight (8) S, R twenty-five (25) E.

Course No. 4-A-1- Thence east along the south boundary of section 30 to the southeast corner of said section.

Course No. 4-A-2- Thence north along the east boundary of section 30 and other sections to its intersection with the boundary between Putnam and Clay counties.

Course No. 5-A - Thence southwesterly along the boundary between Putnam and Clay Counties to the intersection with the east boundary of Sec. twenty (20), Twp eight (8) S, R twenty-four (24) E. (C)

Course No. 6-A - Thence south along the east boundary of said Sec. twenty (20) to its southeast corner.

Course No. 7-A - Thence west along the south boundary of said Sec. twenty (20) to the intersection with the boundary between Putnam and Clay Counties.

BST1660

PART XXIX - PUTNAM COUNTY (CONT'D)

Course No. 8-A - Thence southwest along the boundary between Putnam and Clay Counties to the intersection with the east boundary of Sec. one (1) Twp nine (9) S, R twenty-three (23) E.

Course No 9-A - Thence south along the east boundary of said Sec. one (1) and part of Sec. twelve (12) Twp nine (9) S, R twenty-three (23) E to the southeast corner of the northeast quarter of said Sec. twelve (12).

Course No. 10-A- Thence west along the south boundary of the northeast quarter of said Sec. twelve (12) and other quarter section lines to the southwest corner of the northeast quarter of Sec. eleven (11) Twp nine (9) S, R twenty -three (23) E, in Wall Lake.

Course No. 11-A- Thence north along the west boundary of the northeast quarter of said Sec. eleven (11) to the northwest corner of the northeast quarter of said Sec. eleven (11).

Course No. 12-A- Thence west along part of the north boundary of said Sec. eleven (11) and another section to the southwest corner of Sec. three (3), Twp nine (9) S, R twenty-three (23) E.

Course No. 13-A- Thence north along the west boundary of said Sec. three (3) to its intersection with the boundary between Putnam and Clay Counties.

Course No. 14-A- Thence southwest along the boundary between Putnam and Clay Counties to the intersection of the boundaries of Putnam, Clay and Alachua Counties.

Course No. 15-A- Thence south along the boundary between Putnam and Alachua Counties to the southwest corner of Sec. six (6) Twp ten (10) S, R twenty-three (23) E.

Course No. 16-A- Thence east along the south boundary of said Sec. six (6) and other sections to the northeast corner of the northwest quarter of the northwest quarter of Sec. eleven (11) Twp ten (10) S, R twenty-three (23) E.

Course No. 17-A- Thence south along the east boundary of northwest quarter of the northwest quarter of said Sec. eleven (11) and other quarter quarter lines to the southeast corner of the southwest quarter of the southwest quarter of Sec. fourteen (14) Twp ten (10) S, R twenty-three (23) E.

Course No. 18-A- Thence east along part of the south boundary of said Sec. fourteen (14) to the northeast corner of Sec. twenty-four (24) Twp ten (10) S, R twenty-three (23) E.

Course No. 19-A- Thence south along the east boundary of said Sec. twenty-four (24) and other sections to the southeast corner of Sec. thirty-six (36) Twp ten (10) S, R twenty-three (23) E.

Course No. 20-A- Thence west along the south boundary of said Sec. thirty-six (36) to the northwest corner of Sec. three (3) Twp eleven (11) S, R twenty-three (23) E.

BST1661

PART XXIX - PUTNAM COUNTY (CONT'D)

Course No. 21-A- Thence south along the west boundary of said Sec. three to the southwest corner of section (10) Twp (11) S, R twenty-three (23) E. (C)

Course No. 21-A-1- Thence west along the north boundary of Sec. sixteen (16) Twp eleven (11) S, R twenty-three (23) E., to the northwest corner of said section (16).

Course No. 21-A-2- Thence south along the west boundary of Sec. sixteen and other sections to the point of beginning. (C)

Course No. 1-B - Beginning at a point on the meander line of the St. Johns River due west of the intersection in Sec. thirty-seven (37) Twp nine (9) S, R twenty-seven (27) E., of a paved road running northeasterly with a paved road running approximately east and west three-eights (3/8) mile, more or less, north of the north boundary line of Sec. twenty-four (24), Twp nine (9) S, R twenty-seven (27) E extended.

Course No. 2-B - Thence southeasterly to a point where the west boundary of Sec. twenty-four (24) Twp nine (9) S, R twenty-seven (27) E intersects the right-of-way of State Road Number 207.

Course No. 3-B - Thence south along the west boundary of said Sec. twenty-four (24) to the southwest corner of said Sec. twenty-four (24).

Course No. 4-B - Thence east along the south boundary of said Sec. twenty-four (24) east to the range line dividing ranges twenty-seven (27) and twenty-eight (28) E.

Course No. 5-B - Thence north along the range line dividing ranges twenty-seven (27) and twenty-eight (28) E to its intersection with the shore of the ST. Johns River.

Course No. 6-B - Thence west and south west along and with the meander line of the St. Johns River to the point of beginning.

Course No. 1-C - Beginning at the intersection of the east boundary line of section thirty-four (34) township eleven (11) south, range twenty-seven (27) east with the meander line of Crescent Lake, thence south along the east boundary of section thirty-four (34), township eleven (11) south, range twenty-seven (27) east and other sections to the northeast corner of section fifteen (15), township twelve (12) south, range twenty-seven (27) east.

Course No. 2-C - Thence west along the north boundary of sections fifteen (15) and sixteen (16) of township twelve (12) south, range twenty-seven (27) east to the northwest corner of section sixteen (16), township twelve (12) south, range twenty-seven (27) east.

Course No. 3-C - Thence south along the west boundary of section sixteen (16) and twenty-one (21) of township twelve (12) south, range twenty-seven (27) east to the southwest corner of section twenty-one (21), township twelve (12) south, range twenty-seven (27) east.

BST1662

PART XXIX - PUTNAM COUNTY (CONT'D)

Course No. 4-C - "Reference line A" as used in some of the following descriptions is defined as a straight line progressing in a southwesterly direction from Course 3-C to an intersection with the meander line of Lake George one quarter mile east of the range line dividing ranges 26 and 27 east. (C)

Course No. 4-C-1- Thence in a southwesterly direction from Course 3-C along "Reference line A" to its intersection with the north property line of Plantation Pines II, Second addition to Whispering Pines Section, Sheet 6 of 8, as recorded in Plat Book 5, Page 91, Putnam County, Florida. Thence west along this north property line to its intersection with an extension of the rear property line of Lot 19, Section "Z".

Course No. 4-C-2- Thence southwesterly along the rear property line of Lot 19 through 22, Section "Z", and the rear property line of Lots 1, 14, 15, 17 and 18, Section "Y", as shown on Plat of Plantation Pines II, Second addition to Whispering Pines Section, Sheet 6 of 8, Book 5, Page 91, recorded in Putnam County Courthouse.

Course No. 4-C-3- Thence south along an extension of the rear property line of Lot 18 previously mentioned to its intersection with the rear property line Lot 17, Section "W", as shown on Plantation Pines II, Second addition to Whispering Pines Section, Sheet 5 of 8, Map Book 5, Page 91, recorded in Putnam County Courthouse, Thence south and east along the rear property line of Lot 17 through Lot 5, Section "W".

Course No. 4-C-4- Thence south along the rear property line of Lot 4 and 3, Section "W", and westerly along the rear property line of Lots 18, 17, 16, 15, 14, 13, and 12, Section "U" as shown on Whispering Pines Section, Sheet 2 of 8, Map Book 5, page 91. Thence along a line connecting the southwest corner of Lot 12, Section "U" with the rear property line dividing Lots 11 and 17 of Section "P". Thence southwesterly along the rear property line of Lots 11, 12, 13, of Section "P" extended to the center line of a street known as Spanish Trial. Thence northwesterly along the center line of Spanish Trail to its intersection with center line of street known as Ocala Drive as described on plat of Plantation Pines II, Section addition to Whispering Pines Section, Sheet 2 of 8, Book 5, Page 91, recorded in Putnam County Courthouse.

Course No. 4-C-5- Thence southwesterly down the center line of Ocala Drive, as shown on plat of Plantation Pines II, First addition to Whispering Pines Section, Sheet 4 of 6 and Sheet 3 of 6. Book 5, Page 88, recorded in Putnam County Courthouse, to its intersection with the property line separating Lots 24 and 23, Section "G". Thence southwesterly along said property line to its intersection with the rear property line of Lot 24. Thence westerly along the rear property line of Lots 24 through 32, Section "G". (C)

BST1663

PART XXIX - PUTNAM COUNTY (CONT'D)

Course No. 4-C-6- Thence easterly along rear property line of Lot 2 shown on plat of Whispering Pines, First Addition, Sheet 2 of 6, Map Book 5, Page 88, to its intersection with the property line separating Lots 2 and 3. Thence south along the property line separating Lots 2 and 3 to its intersection with the center line of a street known as Pine Cone Drive. Thence easterly along Pine Cone Drive to its intersection of the center line of Fir Needles Lane. Thence south along center line of Fir Needles Lane to the south limit of the plat of Plantation Pines II, First addition to Whispering Pines Section, Sheet 2 of 6, Book 5, Page 88, recorded in Putnam County Courthouse. (C)

Course No. 4-C-7- Continuing down the center line of Fir Needles Lane in a south and westerly direction to its junction with a street known as Whispering Pines Road. Thence south down Whispering Pines Road to its intersection with south line of Section 6, Township 13 South, Range 27 East, as shown on plat of Plantation Pines II, Whispering Pines Section, Sheet 2 of 2, Book 5, Page 80, recorded in Putnam County Courthouse. This point also being the center line of Georgetown Point Road as shown on the Plat of Unit 1 of Paradise Lakes map book 5, page 29, sheet 4 of 5.

Course No. 4-C-8- Continuing west along the center line of Georgetown Point Road to its intersection with Paradise Lake Drive as shown on the Plat of Unit 1 of Paradise Lakes, map book 5, page 29, sheet 2 of 5.

Course No. 4-C-9- Thence south along the center line of Paradise Lakes Drive as shown on the Plat of Unit 1 of Paradise Lakes, map 5, page 29, sheets 2 and 5 of 5, to the intersection of the center line of Paradise Boulevard as shown on the Plat of Unit 3, of Paradise Lakes map book 5, page 47, sheet 2 of 5. Thence west along the center line of Paradise Boulevard to its intersection with the center line of Joy Court as shown on the Plat of Unit 3 of Paradise Lakes, map book 5, page 47, sheet 2 of 5.

Course No. 4-C-10-Thence south along the center line of Joy Court as shown on the Plat of Unit 3 of Paradise Lakes, map book 5, page 47, sheets 2 and 4 of 5 to its intersection with a common property line between lots 1 and 32 at the south end of Joy Court, continuing south on this common property line to the intersection with the meander line of Lake George as shown on the Plat of Unit 3 of Paradise Lakes, map book 5, page 47, sheet 4 of 5. (C)

Course No. 5-C - Thence easterly and southerly along the meander line of Lake George to an intersection with the boundary line dividing Volusia and Putnam Counties.

Course No. 6-C - Thence northeasterly along the boundary line dividing Putnam and Volusia Counties to an intersection with the meander line of Crescent Lake.

Course No. 7-C - Thence northwesterly along the meander line of Crescent Lake to the point of beginning, lying and being in Putnam County, Florida.

620

BST1664

of St. Johns County except the part lying within the following boundaries:

No. 1 - Beginning at the southwest corner of Sec. six (6) Twp ten (10) S, R twenty-eight (28) E, thence east along the south boundary of said Sec. six (6) and other sections to the southeast corner of Sec. five (5) Twp ten (10) S, R twenty-nine (29) E.

No. 2 - Thence north along the east boundary of said Sec. five (5) and other sections to the southeast corner of Sec. twenty (20) Twp eight (8) S, R twenty-nine (29) E.

se No. 3 - Thence northwest through said Sec. twenty (20) and other sections to the northeast corner of Sec. eleven (11) Twp eight (8) S, R twenty-eight (28) E.

rse No. 4 - Thence west along the north boundary of said Sec. eleven (11) and other sections to the northwest corner of Sec. eight (8) Twp eight (8) S, R twenty-eight (28) E.

se No. 5 - Thence south seventy-two (72^{o}) degrees west to an intersection with the line in the St. Johns River dividing St. Johns County and Putnam County.

No. 6 - Thence southeasterly and south along the boundary between Putnam and St. Johns Counties to the point of beginning.

XXXI - ST. LUCIE COUNTY

ll of St. Lucie County except the parts lying within the following boundaries: (C)

Course No. 1 - Beginning at the northwest corner of Section thirty (30) Twp. thirty-six (36) S, R thirty-seven (37) E, thence east along the north boundary of said Section thirty (30) and other sections to the northeast corner of Section twenty-eight (28), Twp. thirty-six (36) S, R thirty-seven (37) E.

Course No. 2 - Thence south along east boundary of said Section twenty-eight (28), and another section to northeast corner of Section three (3), Twp. thirty-seven (37) S, R thirty-seven (37) E.

Course No. 3 - Thence east along north boundary of said Section three (3) to northeast corner of said Section three (3).

Course No. 4 - Thence south along east boundary of said Section three (3) and another section to northwest corner of Section fourteen (14), Twp. thirty-seven (37) S, R thirty-seven (37) E.

Course No. 5 - Thence east along north boundary of said Section fourteen (14) to northeast corner of said Section fourteen (14).

Course No. 6 - Thence south along east boundary of said Section fourteen (14) and other sections to southeast corner of Section thirty-five (35), Twp. thirty-seven (37) S, R thirty-seven (37) E.

Course No. 7 - Thence west along boundary between St. Lucie and Martin Counties to the intersection of the boundaries of Martin, St. Lucie and Okeechobee Counties.

Course No. 8 - Thence north along boundary between Okeechobee and St. Lucie Counties to the point of beginning. (C)

PART XXXII - SANTA ROSA COUNTY

All of Santa Rosa County

BST1665

All of Seminole County except the part lying within the following boundaries:

Course No. 1 - Beginning at the northwest corner of the southwest quarter of the southwest quarter of Sec. eighteen (18) Twp. twenty-one (21) S, R twenty-nine (29) E thence east along the north boundary of the southwest quarter of the southwest quarter of said Sec. eighteen (18) and other quarter quarter lines to the northeast corner of the southeast quarter of the southwest quarter of Sec. seventeen (17) Twp twenty-one (21) S, R twenty-nine (29) E.

Course No. 2 - Thence south along part of the east boundary of the southwest quarter of said Sec. seventeen (17) to the southwest corner of the southeast quarter of said Sec. seventeen (17).

Course No. 3 - Thence east along part of the south boundary of said Sec. seventeen (17) and other sections to the northeast corner of Sec. twenty-one (21) Twp. twenty-one (21) S, R twenty-nine (29) E.

Course No. 4 - Thence south along the east boundary of said Sec. twenty-one (21) to its southeast corner.

Course No. 5 - Thence east along the boundary between Seminole and Orange Counties to the southeast corner of Sec. thirty-one (31) Twp twenty-one (21) S, R thirty-one (31) E.

Course No. 6 - Thence north along the east boundary of said Sec. thirty-one (31) to its northeast corner.

Course No. 7 - Thence west along the north boundary of said Sec. thirty-one (31) to its northwest corner.

Course No. 8 - Thence north along the range line between ranges thirty (30) and thirty-one (31) east to a point on that line lying twenty-six hundred and forty (2640) feet south of the intersection of said range line with the township line between townships twenty (20) and twenty-one (21) south.

Course No. 9 - Thence west three (3) miles through the Moses E. Levy grant, on a line parallel to, and twenty-six hundred and forty (2640) feet south of the township line between townships twenty (20) and twenty-one (21) south to the intersection of said line with the southward extension of the west boundary of Sec. thirty-four (34) Twp twenty (20) S, R thirty (30) E.

Course No. 10 - Thence north along said extension and the west boundary of said Sec. thirty-four (34) and part of Sec. twenty-seven (27), Twp twenty (20) S, R thirty (30) E to a point on the west boundary of said Sec. twenty-seven (27) located one thousand and fifty-six (1056) feet south of the northwest corner of said Sec. twenty-seven (27).

Course No. 11 - Thence west along a line one thousand and fifty-six feet south of, and parallel to, the north boundary of Sec. twenty-eight (28) Twp. twenty (20) S, R thirty (30) E to the intersection with the west boundary of said Sec. twenty-eight (28).

Course No. 12 - Thence north along part of the west boundary of said Sec. twenty-eight (28) to the north west corner of said Sec. twenty-eight (28).

Course No. 13 - Thence west along the north boundary of Sec. twenty-nine (29) Twp. twenty (20) S, R thirty (30) E and other sections to the intersection of the south boundary of Sec. twenty (20) Twp twenty (20) S, R twenty-nine (29) E with the Wekiva River.

Course No. 14 - Thence southward along the boundary between Seminole and Orange County to the point of beginning.

BST1666

All of Taylor County lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the west boundary of Sec. twenty-six (26) Twp nine (9) S, R nine (9) E with the boundary between Taylor and Dixie Counties, thence northeasterly along said boundary between Taylor and Dixie Counties to the northeast corner of Sec. sixteen (16) Twp eight (8) S, R ten (10) E.

Course No. 2 - Thence west along the north boundary of said Sec. sixteen (16) and Sec. seventeen (17) Twp eight (8) R ten (10) E to the northwest corner of said Sec. seventeen (17).

Course No. 3 - Thence south along the west boundary of said Sec. seventeen (17) and other sections to the northeast corner of Sec. thirty-one (31) Twp eight (8) R ten (10) E.

Course No. 4 - Thence west along the north boundary of said Sec. thirty-one (31) to its northwest corner.

Course No. 5 - Thence south along the west boundary of said Sec. thirty-one (31) and other sections to the northeast corner of Sec. twenty-four (24) Twp nine (9) S, R nine (9) E.

Course No. 6 - Thence west along the north boundary of said Sec. twenty-four (24) and Sec. twenty-three (23) Twp nine (9) S, R nine (9) E. to the northwest corner of said Sec. twenty-three (23).

Course No. 7 - Thence south along the west boundary of said Sec. twenty-three (23) and part of Sec. twenty-six (26) Twp nine (9) S, R nine (9) E to the point of beginning.

PART XXXV - UNION COUNTY

All of Union County lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the west boundary of Sec. seventeen (17) Two six (6) S, R eighteen (18) E with the boundary between Union and Columbia Counties, thence north along the west boundary of said Sec. seventeen (17) to its northwest corner.

Course No. 2 - Thence east along the north boundary of said Sec. seventeen (17) and the south boundary of Sec. nine (9) Twp six (6) S, R eighteen (18) E to the southeast corner of said Sec. nine (9).

Course No. 3 - Thence north along the east boundary of said Sec. nine (9) and other sections to the intersection of the east boundary of Sec. four (4) Twp five (5) S, R eighteen (18) E with the boundary between Union and Columbia Counties.

Course No. 4 - Thence southwesterly along the boundary between Union and Columbia Counties to the point of beginning.

PART XXXVI - VOLUSIA COUNTY

BST1667

All of Volusia County except the part lying within the follow... boundaries:

Course No. 1 - Beginning at the N. E. corner of Sec. 20, Twp 17 S., Range 32 E., thence West a distance of nine miles to a point; said point being the N. W. corner of Sec. 24 Twp 17 S. R 30 E.

PART XXXVI - VOLUSIA COUNTY (CONT'D)

ourse No. 2 - Thence South a distance of two & one-half miles to a point, said point being the middle of the East Line of Sec. 35 Twp 17 S, R. 30 E., or the S. E. corner of the NE¼ of Sec. 35 T. 17 S, R. 30 E.

Course No. 3 - Thence West approximately five & one-half miles to the junction of the St. John's River with Hontoon Dead River.

Course No. 4 - Thence Southerly along the meander line of center of the St. John's River to the South line of Sec. 19 Twp. 18 S, R 30 E.

Course No. 5 - Thence East a distance of thirteen & one-half miles to the S. E. corner of Sec. 20 T. 18 S, R 32 E.

Course No. 6 - Thence North a distance of four miles and 2,442 feet to the N. E. corner of Sec. 5 T. 18 S, R. 32 E.

Course No. 7 - Thence East a distance of 9,207 feet to the S. E. corner of Sec. 32 Twp. 17 S, R. 32 E.

Course No. 8 - Thence North to point of beginning.

PART XXXVII - WASHINGTON COUNTY

All of Washington County except the part lying within the following boundaries:

Course No. 1 - Beginning at the intersection of the boundaries of Washington, Holmes and Walton Counties, thence east along the township line between townships three (3) and four (4) north to the southeast corner of Sec. thirty-one (31) Twp four (4) N, R. fourteen (14) W.

Course No. 2 - Thence north along the east boundary of said Sec. thirty-one (31) and the west boundary of Sec. twenty-nine (29) Twp four (4) N, R. fourteen (14) W. to the northwest corner of said Sec. twenty-nine (29).

Course No. 3 - Thence east along the north boundary of said Sec. twenty-nine (29) and the south boundary of Sec. twenty-one (21) Twp four (4) N, R fourteen (14) E, to the southeast corner of said Sec. twenty-one (21).

Course No. 4 - Thence north along the east boundary of said Sec. twenty-one (21) to the northeast corner of said Sec. twenty-one (21).

Course No. 5 - Thence west north and south along the boundary between Washington and Holmes Counties to the point of beginning.

Course No. 1A- Beginning at the southeast corner of Section 28 T13NR12W on the boundary between Washington and Jackson counties, proceed one mile more or less, northerly, westerly, southerly and easterly on the boundaries of said Sec. 28, to the point of beginning.

BEFORE THE FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION

In re: Joint application of Southern Bell Telephone and Telegraph Company and Florida Telephone Corporation relative to change in boundaries of service area concerning Ocala and Dunnellon Exchanges.	DOCKET NO. 6309-TP DOCKET NO. 4732-TP DOCKET NO. 4733-TP ORDER NO. 3131

Chairman Wilbur C. King, Commissioner Jerry W. Carter and Commissioner Edwin L. Mason each participated in the disposition of this matter.

ORDER GRANTING APPLICATION AND AMENDING CERTIFICATES

BY THE COMMISSION:

On April 25, 1956, the Florida Railroad and Public Utilities Commission, by its Order No. BT-458 in Docket No. 4733-TP, issued Telephone Certificate of Public Convenience and Necessity No. 8 to Southern Bell Telephone and Telegraph Company; and on April 26, 1956, this Commission, by its Order No. 2345 in Docket No. 4732-TP, issued Telephone Certificate of Public Convenience and Necessity No. 22 to Florida Telephone Corporation. Said utilities have now applied to this Commission to amend their aforesaid certificates by deleting from the certificate of Southern Bell Telephone and Telegraph Company and adding to the certificate of Florida Telephone Corporation the following territory:

Partial Sections 1 and 2, Sections 11 and 12, Sections 13 and 14, Township 15 South, Range 19 East, Marion County, Florida.

Said application states that service is immediately available to the area by the transferee, but can only be provided at great expense and with possible delay by the transferor; that the community of interest of the territory is with that territory presently served by the transferee. After considering said application and investigating this matter, the Commission finds that the transfer should be approved. It is, therefore,

ORDERED by the Florida Railroad and Public Utilities Commission that Telephone Certificate of Public Convenience and Necessity No. 8 of Southern Bell Telephone and Telegraph Company be, and it is, hereby amended to delete therefrom the above described territory. It is further

ORDERED that Telephone Certificate of Public Convenience and Necessity No. 22 of Florida Telephone Corporation be, and it is, hereby amended to incorporate therein the said above described territory.

By order of Chairman Wilbur C. King, Commissioner Jerry W. Carter, and Commissioner Edwin L. Mason, as and constituting the Florida Railroad and Public Utilities Commission, this 9th day of March, 1961.

M L Fawbush
ACTG. EXECUTIVE SECRETARY

(S E A L)
LWP

BST1669

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Southern Bell Telephone and Telegraph Company and United Telephone Company of Florida for transfer of certain certificated areas in Seminole, Orange and Volusia Counties.	)	DOCKET NO. 850294-TL
	)	ORDER NO. 14976
	)	ISSUED: 9-20-85

The following Commissioners participated in the disposition of this matter:

JOHN R. MARKS, III, Chairman
JOSEPH P. CRESSE
GERALD L. GUNTER
KATIE NICHOLS
MICHAEL MCK. WILSON

RECEIVED
SEP 25 1985
Florida Public Service Commission
Communication Department

ORDER APPROVING TRANSFER OF TERRITORY

BY THE COMMISSION:

On July 2, 1985, Southern Bell Telephone and Telegraph Company (Southern Bell) and United Telephone Company of Florida (United) filed a Joint Petition and Application to modify portions of the boundary lines separating their respective certificated territories in Seminole, Orange and Volusia Counties. Southern Bell holds Certificate No. 8; United holds Certificate No. 22.

Customers in the areas to be transferred will not be affected in any way since they are currently being served under agreements by the company to which the territory will be transferred. These agreements were reached so that the affected areas could be served in an economically efficient manner.

The transfer of the affected areas will modify portions of the boundary lines separating the respective companies' certificated territories in Seminole, Orange and Volusia Counties.

Upon consideration, we find that Southern Bell and United have complied with the requirements of Florida Administrative Code Rule 25-4.05, including notification of the customers in the areas being transferred. We further find that no change in services will be experienced by any of the customers in the affected areas, nor will existing customer rates be changed as a result of the transfer.

Accordingly, we find the transfers are in the public interest and should be approved. The legal description of the certificated territories to be transferred are set forth in Appendix A to the Order and Southern Bell's Certificate No. 8 and United's Certificate No. 22 are amended accordingly. Southern Bell and United shall revise their respective local exchange area maps in the form of tariff filing to reflect these changes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Petition and Application filed by Southern Bell Telephone and Telegraph Company and United Telephone Company of Florida for transfer of certain territories as set forth in Appendix A to this Order is hereby approved. It is further

ORDERED that Certificate No. 8 of Southern Bell Telephone and Telegraph Company and Certificate No. 22 of United Telephone Company of Florida are hereby amended to reflect the transfer of territories. It is further

BST1670

PSC 6347

APPENDIX A

SEMINOLE COUNTY
(COURSE NO.8)

From United to Southern Bell

Begin at the intersection of the range line between Ranges 30 and 31 East, which is the existing boundary, and the southern boundary of Winter Springs, Unit 3, as recorded in Plat Book 17, Pages 89 and 90 of the Official Records of Seminole County; proceed west along the southern boundary of Winter Springs, Unit 3 to the southwest corner of said Winter Springs, Unit 3; thence in a northeasterly direction along the northwest boundary of Winter Springs, Unit 3 to its intersection with the said existing boundary; thence south to the point of beginning.

From Southern Bell to United

Begin at the intersection of the southern boundary of Winter Springs, Unit 4, as recorded in Plat Book 18, Pages 6 through 8 of the Public Records of Seminole County, and the existing boundary, which is the range line between Ranges 30 and 31 East; proceed in a northeasterly direction along the southern boundary of said Winter Springs, Unit 4 to the centerline of Northern Way of said Winter Springs, Unit 4; thence northwesterly along the centerline of said Northern Way; to the southern intersection of the centerlines of Partridge Circle of said Winter Springs, Unit 4 and Northern Way; thence westerly along the centerline of said Partridge Circle to its southern intersection with said existing boundary; thence south to the point of beginning.

BST1671

From Southern Bell to United

Begin at the intersection of the centerline of Swan Street, Winter Springs, Unit 4, as recorded in Plat Book 18, Pages 6 through 8 of the Public Records of Seminole County, and the existing boundary, which is the range line between Ranges 30 and 31 East; proceed easterly along the centerline of Swan Street to its intersection with the centerline of Northern Way, Winter Springs, Unit 4; thence northerly along the centerline of Northern Way to its intersection with the centerline of Winter Springs Boulevard, Winter Springs, Unit 4; thence in a northerly direction along the centerline of Northern Way, Winter Springs, Unit 6, as recorded in Plat Book 21, Page 33 of the Public Records of Seminole County, to its point of intersection with the centerline of the Florida Power and Light Company easement, recorded in O.R. Book 183, Page 110 of the Public Records of Seminole County, thence northwesterly along the centerline of said easement to its point of intersection with said existing boundary; thence south to the point of beginning.

From United to Southern Bell

Begin at the intersection of the centerline of the Florida Power and Light Company easement, recorded in O.R. Book 183, Page 110 of the Public Records of Seminole County, and the existing boundary, which is the range line between Ranges 30 and 31 East; thence northwesterly along the centerline of the Florida Power and Light easement to its point of intersection with the centerline of the Florida Power Corporation easement, recorded in O.R. Book 193, Page 376 of the Public Records of Seminole County; thence easterly along the centerline of said Florida Power and Light easement to the southerly prolongation of the east boundary of Lots 1-15 of Tuscawilla Unit 8, recorded in Plat Book 23, Pages 25-28 of the Public Records of Seminole County; thence northerly along the prolongation of the east boundary of said Lots to its intersection with said existing boundary; thence south to the point of beginning.

From Southern Bell to United

Begin at the intersection of the east boundary of Lots 1-15 of Tuscawilla Unit 8, recorded in Plat Book 23, Pages 25-28 of the Public Records of Seminole County, and the existing boundary, which is the range line between Ranges 30 and 31 East; thence northerly along the east boundary of said Lots 1-15 to the centerline of Tretwood Boulevard of said Tuscawilla Unit 8; thence easterly along the centerline of Tretwood Boulevard to its intersection with the prolongation of the east boundary of Lot 78 of said Tuscawilla Unit 8; thence northerly along the prolongation of the east boundary of Lot 78 to the northeast corner of Lot 78; thence westerly along the northern boundary of Tuscawilla Unit 8 to its intersection with said existing boundary; thence south to the point of beginning.

From United to Southern Bell

Begin at the intersection of the existing boundary, which is the range line between Ranges 30 and 31 East, and the northern boundary of Tuscawilla Unit 8, as recorded in Plat Book 23, Page 26 of the

BST1672

From United to Southern Bell

Begin at the intersection of the north boundary of North Orlando Ranches, Section 4, as recorded in Plat Book 22, Page 35 of the Public Records of Seminole County, and the existing boundary, which is a line parallel to and 2640 feet south of the township line between Townships 20 and 21 South; thence southwesterly along the north boundary of said North Orlando Ranches, Section 4 to the northwest corner of said North Orlando Ranches, Section 4; thence northwesterly along the northerly extension of the west line of said North Orlando Ranches, Section 4 to its intersection with said existing boundary; thence east to the point of beginning.

From United to Southern Bell

Begin at the intersection of the existing boundary, which is a line 2640 feet south of and parallel to the township line between Townships 20 and 21 South, and Murphy Road, North Orlando Terrace, Section 1 of Unit 1, as recorded in Plat Book 16, Page 63 of the Public Records of Seminole County, thence southeasterly along the centerline of Murphy Road to the west boundary of North Orlando Terrace, Section 1 of Unit 1, which is also the east boundary of North Orlando Terrace, Section 4 of Unit 1 as recorded in Plat Book 17, Page 30 of the Public Records of Seminole County; thence southwesterly along the centerline of Murphy Road to its intersection with the centerline of South Edgemon Drive, North Orlando Terrace, Section 4 of Unit 1; thence northwesterly along the centerline of South Edgemon Drive to its intersection with said existing boundary; thence east to the point of beginning.

From Southern Bell to United

Begin at the intersection of the centerline of South Edgemon Drive, North Orlando Terrace, Section 4 of Unit 1, recorded in Plat Book 17, Page 30 of the Public Records of Seminole County, and the existing boundary, which is a line 2640 feet south of and parallel to the township line between Townships 20 and 21 South, thence northwesterly along the centerline of South Edgemon Drive to its intersection with the centerline of Bitterwood Street, North Orlando Terrace, Section 4 of Unit 1; thence southwesterly along the centerline of Bitterwood Street to its intersection with the centerline of Buttonwood Avenue, North Orlando Terrace, Section 4 of Unit 1; thence southeasterly along the centerline of Buttonwood Avenue to its intersection with said existing boundary; thence east to the point of beginning.

From United to Southern Bell

Begin at the intersection of the present boundary, which is a line parallel to and 2640 feet south of the township line between Townships 20 and 21 South, and the centerline of Buttonwood Avenue of North Orlando Terrace, Section 4 of Unit 1, recorded in Plat Book 17, Page 30 of the Public Records of Seminole County; thence southerly along the centerline of Buttonwood Avenue to its intersection with the centerline of Alderwood Street South, North Orlando Terrace, Section 4 of Unit 1; thence northwesterly along the centerline

BST1673

From United to Southern Bell

Begin at the intersection of the centerline of West State Road 434, also called Longwood-Wagner-Oviedo Road, and the existing boundary, which is the West boundary of Section 34, Township 20 South, Range 30 East; thence east along the centerline of said west State Road 434 to its intersection with the centerline of Rhoads Boulevard, The Highlands, Section 3, recorded in Plat Book 17, Pages 48-49 of the Public Records of Seminole County; thence northerly along the centerline of Rhoads Boulevard to its intersection with said existing boundary; thence south to the point of beginning.

From Southern Bell to United

Begin at the intersection of the centerline of Rhoads Boulevard, The Highlands, Section 3, recorded in Plat Book 17, Pages 48-49 of the Public Records of Seminole County, and the existing boundary, which is the west boundary of Section 34, Township 20 South, Range 30 East; thence northerly along the centerline of Rhoads Boulevard to its intersection with said existing boundary; thence south to the point of beginning.

From United to Southern Bell

Begin at the intersection of the centerline of Rhoads Boulevard, The Highlands, Section 3, recorded in Plat Book 17, Page 47 of the Public Records of Seminole County, and the existing boundary, which is the west boundary of Section 34, Township 20 South, Range 30 East; thence north along the centerline of Rhoads Boulevard to the intersection of Rhoads Boulevard with said existing boundary; thence south to the point of beginning.

From United to Southern Bell

Begin at the intersectin of Rhoads Boulevard, The Highlands, Section 3, recorded in Plat Book 17, Page 47 of the Public Records of Seminole County, and the existing boundary, which is the west line of Section 34, Township 20 South, Range 30 East; thence northwesterly along the centerline of Rhoads Boulevard to its intersection with the southwesterly extension of the northwest boundary of Cypress Village, 3rd Replat, Tract C - Phase 1, as recorded in Plat Book 26, Page 87 of the Public Records of Seminole County; thence northeasterly along said northwest boundary to its intersection with the west boundary of Tract C, The Highlands, Section 2; thence northeasterly along the west boundary of Tract C to its intersection with said existing boundary; thence south to the point of beginning.

From Southern Bell to United

Begin at the intersection of the west boundary of Tract C, The Highlands, Section 2, as recorded in Plat Book 17, Page 47 of the Public Records of Seminole County, and the present boundary which is the west boundary of Section 34 and a portion of the west boundary of Section 27, Township 20 South, Range 30 East; thence northeasterly along the west boundary of Tract C of The Highlands, Section 2, to

BST1674

PSC 6351

38 feet along the centerline of Goldenrod Road (State Road 15A) as shown on the plat of Ivanhoe Estates, Unit 3, recorded in Plat Book 3, Page 50 of the Public Records of Orange County to its intersection with centerline of Liverpool Boulevard, Ivanhoe Estates, Unit 3; thence easterly along the centerline of Liverpool Boulevard to the east boundary of Ivanhoe Estates, Unit 3; thence easterly along the continuation of Liverpool Boulevard, as shown on the plat of Ivanhoe Estates, Unit 3, recorded in Plat Book 3, Page 46 of the Public Records of Orange County, to its intersection with the centerline of Stratford Boulevard, Ivanhoe Estates, Unit 3; thence northerly along the centerline of Stratford Boulevard to its intersection with said existing boundary; thence west to the point of beginning.

From United to Southern Bell

Begin the point of the intersection of the centerline of Stratford Boulevard, as shown on the plat of Ivanhoe Estates, Unit 3, recorded in Plat Book 3, Page 46 of the Public Records of Orange County, and the existing boundary, which is the west-east 1/4 section line of Section 14, Township 22 South, Range 30 East; thence northerly along the centerline of Stratford Boulevard to its intersection with the centerline of Tompkins Square, Ivanhoe Estates, Unit 3; thence easterly along centerline of Tompkins Square to the westerly extension of the common lot line between Lots 43 and 44 of Ivanhoe Estates, Unit 3; thence easterly to the northeast corner of Lot 44; thence south along the east boundary of Lots 44, 45, 46 and 47 to its intersection with said existing boundary; thence west to the point of beginning.

ORANGE COUNTY
(COURSE NO. 44A)

From United to Southern Bell

Begin at the existing boundary, which is the centerline of Apopka-Vineland Road at a point 811.8 feet north and 196.0 feet west of the southeast corner of the northeast 1/4 of the northwest 1/4 of Section 27, Township 23 South, Range 28 East, which is the point of beginning; thence 837.1 feet south, 54 degrees west; thence 477.78 feet north, 86 degrees west; thence 588 feet north, 33 degrees east to the centerline of Apopka-Vineland Road; thence southeasterly along the centerline of Apopka-Vineland Road to the point of beginning.

ORANGE COUNTY
(COURSE NO. 84)

From Southern Bell to United

Begin at the northwest corner of the northeast 1/4 of Section 33, Township 21 South, Range 28 East, as shown on the plat of Westwind, Unit 2, recorded in Plat Book 8, Page 38 of the Public Records of Orange County, which corner is on the present boundary, which is the north boundary of Section 33; thence south along the west line of the northeast 1/4 of Section 33, Township 21 South, Range 28 East, as shown on said plat of Westwind, Unit 2, far 660 feet to the southwest corner of

BST1675

19, Township 18 South, Range 31 East; thence northeasterly along the centerline of Merrimac Street to its intersection with the centerline of Alahambra Street, as shown on the plat of Deltona Lakes, Unit 18, recorded in Plat Book 25, Page 246 of the Public Records of Volusia County; thence easterly along the centerline of Alahambra Street to its intersection with the centerline of St. John's Blvd. of Deltona Lakes, Unit 18; thence southerly along the centerline of St. John's Blvd. to its intersection with said existing boundary; thence west to the point of beginning.

From Southern Bell to United

Begin at the southeast corner of Section 20, Township 18 South, Range 31 East, which is on the existing boundary of the south boundary of said Section 20; thence southerly along the west boundary of Section 28, Township 18 South, Range 31 East to the centerline of Ferendina Drive, of Deltona Lakes, Unit 7 as recorded in Plat Book 25, Page 160 of the Public Records of Volusia County; thence easterly along the centerline of Ferendina Drive to its intersection with the centerline of April Avenue of Deltona Lakes, Unit 14; thence southerly along the centerline of April Avenue to its intersection with the centerline of Tivoli Drive, Deltona Lakes, Unit 14; thence southeasterly along the centerline of Tivoli Drive to its intersection with the centerline of Providence Boulevard of Deltona Lakes, Unit 14; thence northeasterly along the centerline of Providence Boulevard to its intersection with said existing boundary; thence west to the point of beginning.

From United to Southern Bell

Begin at the intersection of the centerline of Providence Boulevard, Deltona Lakes, Unit 14, recorded in Plat Book 25, Pages 224 and 225, of the Public Records of Volusia County, and the current boundary, which is the south boundary of Section 21, Township 18 South, Range 31 East; thence northeasterly along the centerline of Providence Boulevard to its intersection with the centerline of Fort Smith Blvd. according to the plat of Deltona Lakes, Unit 16, recorded in Plat Book 25, Page 234-240 of the Public Records of Volusia County; thence southeasterly along the centerline of Fort Smith Boulevard to said current boundary; thence west to the point of beginning.

From Southern Bell to United

Begin at the intersection of Ft. Smith Boulevard, of Deltona Lakes, Unit 16, recorded in Plat Book 25, Pages 234-240 of the Public Records of Volusia County, and the existing boundary, which is the south boundary of Section 21, Township 18 South, Range 31 East; thence southeasterly along the centerline of Ft. Smith Boulevard to its intersection with the centerline of Newmark Drive, Deltona Lakes, Unit 16; thence northeasterly along the centerline of Newmark Drive to said current boundary; thence west to the point of beginning.

From United to Southern Bell

Begin at the intersection of the centerline of Gregory Drive, Deltona Lakes, Unit 31, recorded in Plat Book 27, Page 268, of the Public Records of Volusia County, and the centerline of Newmark

BST1676

From Southern Bell to United

Begin at the intersection of the existing boundary, which is the south boundary of Section 23, Township 18 South, Range 31 East, and the prolongation of the lot line between Lots 24 and 23, Block 1045, Deltona Lakes, Unit 40, recorded in Plat Book 27, Page 237 of the Public Records of Volusia County, thence southeasterly to the point of the compound curve of the rear property line of Lot 6, Block 1045, Deltona Lakes, Unit 40; thence easterly along the rear lot lines of Lots 6, 5, 4, 3, 2 and 1, Block 1045, Deltona Lakes, Unit 40 to the intersection of the prolongation of the rear lot line of said Lot 1 and the centerline of Humphrey Blvd., Deltona Lakes, Unit 40; thence southeasterly along the centerline of Humphrey Blvd. to its intersection with the southwesterly extension of the rear lot lines of Lots 1, 2 and 3 of Block 1203, Deltona Lakes, Unit 43, recorded in Plat Book 27, Page 272 of the Public Records of Volusia County, thence north along the rear lot lines of said Lots 1, 2 and 3 to the current boundary; thence west to the point of beginning.

From United to Southern Bell

Begin at the intersection of the current boundary, which is the south boundary of Sections 23-24, Township 18 South, Range 31 East and the rear lot line of Lot 3, Block 1203, Deltona Lakes, Unit 43, recorded in Plat Book 27, Page 270-283 of the Public Records of Volusia County; thence northeasterly along the rear lot lines of Lots 3 and 4, Block 1203, Deltona Lakes, Unit 43 to the northeast corner of said Lot 4; thence northeasterly to the western-most point of Lot 11, Block 1204, Deltona Lakes, Unit 43; thence northeasterly to the northern-most point of said Lot 11; thence southeasterly along the rear property lines of Lots 11, 10, 9 and 8, Block 1204, Deltona Lakes, Unit 43; thence southeasterly along the extension of the rear lot line of said Lots 11-8 to its intersection with the rear lot line of Lot 17, Block 1205, Deltona Lakes, Unit 43; thence southeasterly along the rear lot line of said Lot 17 to the northeast corner of said Lot; thence easterly to the northwest corner of the 30 foot drainage right-of-way north of Lot 1, Block 1237, Deltona Lakes, Unit 43, thence south along the east boundary of Lots 1-6, Block 1237, Deltona Lakes, Unit 43 to said existing boundary; thence west to the point of beginning.

From Southern Bell to United

Begin at the point of intersection of the current boundary, which is the south boundary of Section 26, Township 18 South, Range 31 East, and the west boundary of Lot 6, Block 1237, Deltona Lakes, Unit 43, recorded in Plat Book 27, Page 283 of the Public Records of Volusia County; thence south along the west boundary of Block 1237 to its intersection with the north boundary of the 30 foot drainage right-of-way shown on said plat of Deltona Lakes, Unit 43; thence easterly along the rear lot lines of Lots 6 and 7, Block 1237 and Lots 1, 2, 3, 4, 5, 6, 7, 8 and 10, Block 1241, Deltona Lakes, Unit 43, to the intersection of the 30 foot

BST1677

intersection with the centerline of San Carlos Avenue, Deltona Lakes, Unit 38; thence northerly along the centerline of San Carlos Avenue to its intersection with said current boundary; thence west to the point of beginning.

From United to Southern Bell

Begin at the intersection of San Carlos Avenue, Deltona Lakes, Unit 38, recorded in Plat Book 27, Page 207 of the Public Records of Volusia County, and the current boundary, which is the south boundary of Section 24, Township 18 South, Range 31 East; thence northerly along the centerline of San Carlos Avenue to its intersection with the centerline of Florentine Street, Deltona Lakes, Unit 38; thence southeasterly along the centerline of Florentine Street to the east boundary of Deltona Lakes, Unit 38; thence south along the east boundary of Deltona Lakes, Unit 38 to the southeast corner of said Section 24; thence west to the point of beginning.

BST1678

GNS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition of Southern Bell Telephone and Telegraph Company and United Telephone Company of Florida for transfer of certain certificated areas in Orange County, Florida.	) DOCKET NO. 861117-TL) ORDER NO. 16679) ISSUED: 10-3-86

The following Commissioners participated in the disposition of this matter:

JOHN R. MARKS, III, Chairman
GERALD L. GUNTER
KATIE NICHOLS
MICHAEL McK. WILSON
JOHN T. BERNDON

ORDER APPROVING TRANSFER

BY THE COMMISSION:

On August 11, 1986, Southern Bell Telephone and Telegraph Company (Southern Bell) and United Telephone Company of Florida (United) jointly petitioned this Commission for approval of the transfer of certain areas in Orange County, Florida. The transfer of the subject areas will modify portions of the boundary lines separating the companies' certificated territories in the aforementioned County.

Prior to this agreement Southern Bell and United (the Companies) were already serving the territory each is receiving in the territory transfer. Consequently, the customers in the transferred territories will not be affected in any way by this transfer. All rates and extended area service will remain as before.

The companies submit, and we agree, that the proposed territory transfer will allow the territories to be served in a more economically efficient manner thereby providing a benefit to the subscribers of both companies.

Both companies have complied with the notice requirements of Rule 25-4.05, Florida Administrative Code.

The territory which Southern Bell will transfer to United is as follows:

Course No. 49

Beginning at the intersection of the eastern 1/3 section line of Section 5, Township 23S, Range 28E and the northern border of Lake Down, proceed easterly along the northern border of Lake Down to its intersection with eastern 1/4 section line of said Section 5; thence north along said 1/4 section line to the northeast corner SW 1/4 of NE 1/4 Section 5, Township 23S, Range 28E; then proceed westerly along the back lot lines of lots 26, 27 and 28 of The Lakes as recorded in Plat Book 11, Page 13, of the public records of Orange County, to the eastern 1/3 section line of said Section 5; thence south along 1/3 section line to point of beginning.

BST1679

RECEIVED
OCT 7 1986
Florida Public Service Commission
Communication Department

DOCUMENT NUMBER-DATE
10877 OCT-3 FPSC-RECORDS/REPORTING

Southern Bell

H. C. Henry, Jr.
Assistant Vice President - Florida Staff

666 N W 79th Avenue
Room 662
Miami, Florida 33126
Phone (305) 263-3744

April 30, 1984

RECEIVED
APR 30 1984
Florida Public Service Commission
Communication Department

Mr. Jose Martinez
Engineer
Communications Dept
Florida Public Service Commission
Tallahassee, Fla.

Dear Mr. Martinez:

Following is our response to items of information requested in your letter dated March 13, 1984 about Certificates of Convenience and Necessity issued to telephone companies in Florida:

1) Describe the services currently authorized for your company including any restrictions imposed by the Commission.

The services currently authorized in our Certificate to be provided in our certificated area are described in our General Subscribers Service Tariff, Private Line Service Tariff, and Access Service Tariff.

The Commission has not imposed any restrictions on provision of service in our certificated area.

2) Describe the territory authorized precisely, in terms of boundaries, and any agreements your company has with bordering telephone companies. Please provide maps to support descriptions.

Attachment 1 is a copy of that portion of our Certificate which describes the area certified to this company, insofar as possible in terms of metes and bounds. Also attached as attachment 2, are copies of tariff maps that include border areas that we share with Independent companies.

Each cross boundary service has been identified by location and compared by this Company and each respective Independent Company.

3) Cite the Commission authority for the services and territory, e.g., order numbers, tariff numbers or other.

BST1680

Following are listed by county, Commission Docket number, Order number, and date, of each transfer of territory between this company and an Independent company since the issuance of our Certificate of Convenience and Necessity No. 8 in Order No. B.T. 458 in Docket No. 4733-TP dated April 25, 1956.

County	Docket	Order No.	Date
Alachua	6898-TP	3567	4-30-63
Calhoun	6895-TP	3550	3-20-63
Citrus	5518-TP		
	4732-TP		
	4393-TP		
	4733-TP		
Citrus	7800-TP	3784	4-7-65
Citrus	74010-TP	6072	3-13-74
Columbia	4913-TP	2460	3-22-57
Escambia	5909-TP		
	4185-TP		
	4733-TP	2867	2-4-60
Gadsden	69214-TP	4681	5-26-69
Gadsden	9523-TP	4432	10-4-68
Hernando	6435-TP		
	4732-TP		
	4733-TP	3229	9-19-61
Hernando	760887-TP	7670	3-8-77
Holmes	5081-TP		
	4733-TP		
	4601-TP	2496	7-2-57
Jackson	5610-TP		
	4733-TP		
	4237-TP	2715	1-5-59
	800615-TP	9767	1-26-81
Jackson	6899-TP	3566	4-30-63
Levy	7459-TP	3664	6-9-64
Levy	7785-TP	3767	2-22-65
Marion	5262-TP		
	4732-TP		
	4733-TP	2597	4-2-58
Marion	6309-TP		
	4732-TP		
	4733-TP	3131	3-9-61
Marion	7006-TP	3586	6-21-63
Nassau	770358-TP	7925	8-9-77
Orange	5887-TP		
	4733-TP		
	4131-TP	2860	2-3-60
Orange	4131-TP	2860-A	2-8-60
Orange	6793-TP	3518	2-28-63
Orange	5899-TP		
	4732-TP		
	4733-TP	2868	2-4-60

BST1681

Orange	800556-TP	9597	10-15-80
Orange	830186-TP	12399	8-22-83
Pasco	4985-TP	2452	2-27-57
Pasco-Hernando	8651-TP	4080	10-18-66
Putnam	750018-TP	6609	4-10-75
Putnam	780498-TP	8410	7-31-78
Putnam	72433-TP	5503	8-7-72
	790223	8780	3-21-79
Putnam	9803-TP	4431	10-4-68
Putnam	7743-TP	3768	2-23-65
St. Lucie	6813-TP	3530	2-13-63
Volusia	69383-TP	4769	10-8-69
Washington	8761-TP	4141	2-20-67

The description of boundaries in (2) reflects the above boundary changes. At Agenda April 17, 1984 the Commission approved some transfers of territory between Orlando and Winter Garden exchanges in Docket No. 840057-TL. The Order has not been received. This transfer will correct some across boundary services.

4) Provide your responses to the first three items to each bordering telephone company by April 9, 1984. Request they review the responses and indicate any disagreement they have with your responses.

We have provided a copy of the description of the portion of our boundary that is shared to each Independent Company respectively. Each has provided to us a copy of their certificate that describes these boundaries except for Central Telephone Co. and All Tel Company. They have agreed to advise us and the Commission when the comparison has been completed.

The respective descriptions of boundaries with the other companies conform with each other.

5) Report to the Commission staff by April 30, 1984 the results of these steps, providing complete answers to all items. Specifically identify any unresolved disputes with bordering companies.

There are no unresolved disputes of the type described.

6) Additionally, please answer the following question: If not already so defined, could your company redefine its present territory on the basis of townships and ranges?

BST1682

The description of territory certificated to this company is expressed in metes and bounds wherever possible. Boundaries that are other than section lines, range or township lines cannot be so expressed.

If additional information is needed please let us know.

Yours very truly,

H.C. Hogg Jr. GT

cc: Guy Alley
Cecil Rodgers

BST1683

Attachment 1

COPY OF DESCRIPTION OF AREA
CERTIFIED TO SOUTHERN BELL

BST1684

DESCRIPTION OF EXCHANGE SERVICE AND TOLL SERVICE AREAS

OF

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY IN FLORIDA

PART I - ALACHUA COUNTY

All of Alachua County located south of the following irregular line except Sections thirty-two(32) and thirty-three(33), Twp eleven (11) S, R twenty-one (21) east. (C) | (C)

Course No. 1 - Beginning at the southwest corner of Sec. seven (7), Twp nine (9) S, R seventeen (17) E, thence east along the south boundary of said Sec. seven (7) and other sections and their eastward extension to the intersection of the south boundary of Sec. nine (9), Twp nine (9) S, R seventeen (17) E, with the Atlantic Coast Line Railroad.

Course No. 2 - Thence northward along the Atlantic Coast Line Railroad to its intersection with the north boundary of said Sec. nine (9).

Course No. 3 - Thence east along the north boundary of said Sec. nine (9) and part of the north boundary of Sec. ten (10), Twp nine (9), R seventeen (17) E to the northeast corner of the northwest quarter of said Sec. ten (10).

Course No. 4 - Thence south along the half section line of said Sec. ten (10) to the southeast corner of the southwest quarter of said Sec. ten (10).

Course No. 5 - Thence east along the south boundary of said Sec. ten (10) and other sections and their eastward extension to the west boundary of Sec. fourteen (14), Twp nine (9) S, R eighteen (18) E.

Course No. 6 - Thence north along the west boundary of said Sec. fourteen (14), Sec. eleven (11) and Sec. two (2), Twp nine (9) S, R eighteen (18) E to the northwest corner of said Sec. two (2).

Course No. 7 - Thence east along the township line dividing townships eight (8) and nine (9) south to the southeast corner of Sec. thirty-five (35), Twp eight (8) S, R nineteen (19)E.

Course No. 8 - Thence north along the east boundary of said Sec. thirty-five (35) and other sections to the northwest corner of Sec. twenty-four (24), Twp eight (8) S, R nineteen (19) E.

Course No. 9 - Thence southeast through said Sec. twenty-four (24) to its southeast corner.

Course No. 10- Thence southeasterly through Sec. thirty (30) Twp eight (8) S, R nineteen (19) E to the center of the south boundary of said Sec. thirty(30).

Course No. 11- Thence east along the south boundary of said Sec. thirty (30) and other sections to the northeast corner of the northwest quarter of Sec. thirty-three (33) Twp eight (8) S, R twenty-one (21) E.

Course No. 12- Thence southward through said Sec. thirty-three (33) to the southwest corner of the southeast quarter of said Sec. thirty-three (33).

BST1685

PART I - ALACHUA COUNTY (CONT'D)

Course No. 13 - Thence west along the south boundary of said Sec. thirty-three (33) and Sec. thirty-two (32), Twp eight (8) S, R twenty-one (21) E to the southwest corner of the southeast quarter of said Sec. thirty-two (32).

Course No. 14 - Thence southward through the northern portion of Sec. five (5), Twp nine (9) S, R twenty-one (21) E and along the west boundary of the southern portion of Sec. four (4), Twp nine (9) S, R twenty-one (21) E and the west boundary of Sec. nine (9), Twp nine (9) S, R twenty-one (21) E to the southwest corner of said Sec. nine (9).

Course No. 15 - Thence east along the south boundary of said Sec. nine (9) and other sections to the northeast corner of Sec. fourteen (14) Twp nine (9) S, R twenty-one (21) E.

Course No. 16 - Thence south along the east boundary of said Sec. fourteen (14) and other sections to the southwest corner of Sec. twenty-five (25), Twp nine (9) S, R twenty-one (21) E.

Course No. 17 - Thence east along the south boundary of said Sec. twenty-five (25) and other sections to the northeast corner of Sec. thirty-three (33), Twp nine (9) S, R twenty-two (22) E.

Course No. 18 - Thence south along the east boundary of said Sec. thirty-three (33) to the southwest corner of Sec. thirty-four (34), Twp nine (9) S, R twenty-two (22) E.

Course No. 19 - Thence east along the south boundary of said Sec. thirty-four (34) to the northeast corner of Sec. three (3), Twp ten (10) S, R twenty-two (22) E.

Course No. 20 - Thence south along the east boundary of said Sec. three (3) to the south west corner of Sec. two (2), Twp ten (10) S, R twenty-two (22) E.

Course No. 21 - Thence east along the south boundary of said Sec. two (2) and Sec. one (1), Twp ten (10) S, R twenty-two (22) E to the southeast corner of said Sec. one (1).

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PART II - BAKER COUNTY

All of Baker County located south and west of the following line.

Course No. 1 - Beginning at the southwest corner of Sec. eighteen (18), Twp one (1) S, R nineteen (19) E thence east along the south boundary of said Sec. eighteen (18) and other sections to the northwest corner of Sec. nineteen (19), Twp one (1) S, R twenty (20) E.

Course No. 2 - Thence south along the west boundary of said Sec. nineteen (19) and other sections to the southeast corner of Sec. thirteen (13), Twp four (4) S, R nineteen (19) E.

PART III - BAY COUNTY

All of Bay County except the Peninsula part connected to Gulf County and located south of the bodies of water known as East Bay and Horseshoe Bayou.

PART IV - BRADFORD COUNTY

That part of Bradford County lying within the following boundaries:

Course No. 1 - Beginning at the southwest corner of Sec. twenty-three (23), Twp eight (8) S, R twenty-two (22) E thence east along part of the south boundary of said Sec. twenty-three (23) to the northeast corner of the northwest quarter of Sec. twenty-six (26) Twp eight (8) S, R twenty-two (22) E.

Course No. 2 - Thence south along part of the half section line of said Sec. twenty-six (26) to the southeast corner of the northwest quarter of said Sec. twenty-six (26).

Course No. 3 - Thence east along part of the half section line of said Sec. twenty-six (26) to the southeast corner of the northeast quarter of said Sec. twenty-six (26).

Course No. 4 - Thence south along part of the east boundary of said Sec. twenty-six (26) to the northeast corner of the southeast quarter of the southeast quarter of said Sec. twenty-six (26).

Course No. 5 - Thence east along the north boundary of the south quarter of Sec. twenty-five (25) Twp eight (8) S, R twenty-two (22) E to the northeast corner of the southeast quarter of the southeast quarter of said Sec. twenty-five (25).

Course No. 6 - Thence north along the county boundary between Bradford and Clay Counties to the northeast corner of Sec. twenty-four (24), Twp seven (7) S, R twenty-two (22) E.

Course No. 7 - Thence west along the north boundaries of Sec. twenty-four (24) and twenty-three (23), Twp seven (7) S, R twenty-two (22) E to the northwest corner of said Sec. twenty-three (23).

Course No. 8 - Thence south along the west boundary of said Sec. twenty-three (23) and other sections to the point of beginning.

PART V - BREVARD COUNTY

All of Brevard County

PART VI - BROWARD COUNTY

All of Broward County

PART VI-A - CALHOUN COUNTY

Those parts of Calhoun County lying within the following boundaries: (C)

Course No. 1 - Beginning at the southwest corner of Sec. thirty-one (31), Twp two (2) N, R eleven (11) W, thence east to the southeast corner of said Sec. thirty-one (31).

Course No. 2 - Thence north along the east boundary of said Sec. thirty-one (31), and other sections to the northeast corner of Sec. nineteen (19), Twp 2, N, R eleven (11) W.

Course No. 3 - Thence west along the north boundary of said Sec. nineteen (19) to the northwest corner of said Sec. nineteen (19).

Course No. 4 - Thence south along the west boundary of said Sec. nineteen (19) and other sections to the point of beginning. (C)

PART VII - CITRUS COUNTY

Those parts of Citrus County lying within the following boundaries:

Course No. 1-A - Beginning at the mouth of the Withlacoochee River at the intersection of the boundary between Citrus and Levy Counties with the Gulf of Mexico, thence southeastward along the shore of the Gulf of Mexico to the intersection of the shore with the north boundary of Sec. nineteen (19) Twp seventeen (17) S, R sixteen (16) E.

Course No. 2-A - Thence east along the north boundary of said Sec. nineteen (19) and other sections to the northeast corner of Sec. twenty-three (23) Twp seventeen (17) S, R sixteen (16) E.

Course No. 3-A - Thence north along the west boundary of Sec. thirteen (13) Twp seventeen (17) S, R sixteen (16) E to the northwest corner of said Sec. thirteen (13).

Course No. 4-A - Thence east along the north boundary of said Sec. thirteen (13) to the northeast corner of said Sec. thirteen (13).

Course No. 5-A - Thence north along the east boundary of Sec. twelve (12) Twp seventeen (17) S, R sixteen (16) E to its intersection with the Withlacoochee River.

Course No. 6-A - Thence westward along the thread of the Withlacoochee River to the point of beginning.

Course No. 1-B - Beginning at the intersection of the Withlacoochee River and the west boundary of Sec. thirty-one (31) Twp sixteen (16) S, R eighteen (18) E thence south along the said west boundary of Sec. thirty-one (31) and other sections to the southwest corner of Sec. thirty (30) Twp seventeen (17) S, R eighteen (18) E.

P T VII - CITRUS COUNTY (CONT'D)

Course No. 2-B - Thence east along the south boundary of said Sec. thirty (30) and other sections to the northeast corner of Sec. thirty-five (35) Twp seventeen (17) S, R eighteen (18) E.

Course No. 3-B - Thence south along the east boundary of said Sec. thirty-five (35) to the southeast corner of said Sec. thirty-five (35).

Course No. 4-B - Thence east along the south boundary of Sec. thirty-six (36) Twp seventeen S, R eighteen E to the northeast corner of Sec. one (1) Twp eighteen S, R eighteen E.

Course No. 5-B - Thence south along the east boundary of said Sec. one (1) and another section to the southwest corner of the northwest quarter of the southwest quarter of Sec. seven (7) Twp eighteen S, R nineteen E.

Course No. 6-B - Thence east along the quarter quarter section line of said Sec. (7) and other sections to the center line of State Road 45 in Sec. (15) Twp eighteen S, R nineteen E.

Course No. 7-B - Thence northwesterly along the center line of State Road 45 to its intersection with the west boundary of the east half of Sec. 10, Twp (18) S, R nineteen (19) E.

Course No. 8-B - Thence north along the said boundary of the east half of Sec. 10 to the northwest corner of the northeast quarter of said Section 10.

Course No. 9-B - Thence east along the north boundary of said Sec. 10 to the southeast corner of Sec. 3, Twp seventeen (17) S R nineteen E.

Course No.10-B - Thence north along the east boundary of said Sec. 3 and other sections to their intersection with the Withlacoochee River.

Course No.11-B - Thence northwestward along the thread of the Withlacoochee River to the point of beginning.

Course No. 1-C - Beginning at the northwest corner of Sec. eleven (11), Twp twenty-one (21) S, R twenty (20) E thence south along the west boundary of said Sec. eleven (11) to the southwest corner of said Sec. eleven (11).

Course No. 2-C - Thence east along the south boundary of said Sec. eleven (11) and the south boundary of Sec. twelve (12), Twp twenty-one (21) S, R twenty (20) E to its intersection with the Withlacoochee River.

Course No. 3-C - Thence northward along the thread of the Withlacoochee River to its intersection with the north boundary of said Sec. twelve (12).

Course No. 4-C - Thence west along the north boundary of Sec. twelve (12), Twp twenty-one (21) S, R twenty (20) E and the north boundary of Sec. eleven (11), Twp twenty-one (21) S, R twenty (20) E to the point of beginning.

Westlaw.

West's F.S.A. § 364.02

C
West's Florida Statutes Annotated Currentness
Title XXVII. Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I. General Provisions

→364.02. Definitions

As used in this chapter

(1) "Basic local telecommunications service" means voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, such term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995

(2) "Commercial mobile radio service provider" means a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(n) and 332(d)

(3) "Commission" means the Florida Public Service Commission.

(4) "Competitive local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications services in this state on or after July 1, 1995.

(5) "Corporation" includes a corporation, company, association, or joint stock association.

(6) "Intrastate interexchange telecommunications company" means any entity that provides intrastate interexchange telecommunications services

(7) "Local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

(8) "Monopoly service" means a telecommunications service for which there is no effective competition, either in fact or by operation of law.

(9) "Nonbasic service" means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement described in s. 364.16, or a network access service described in s. 364.163.

(10) "Operator service" includes, but is not limited to, billing or completion of third-party, person-to-person, collect, or calling card or credit card calls through the use of a live operator or automated equipment.

(11) "Operator service provider" means a person who furnishes operator service through a call aggregator.

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West's F.S.A. § 364.02

(12) "Service" is to be construed in its broadest and most inclusive sense. The term "service" does not include voice-over-Internet protocol service for purposes of regulation by the commission. Nothing herein shall affect the rights and obligations of any entity related to the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service.

(13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include:

(a) An entity which provides a telecommunications facility exclusively to a certificated telecommunications company;

(b) An entity which provides a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;

(c) A commercial mobile radio service provider;

(d) A facsimile transmission service;

(e) A private computer data network company not offering service to the public for hire;

(f) A cable television company providing cable service as defined in 47 U.S.C. s. 522; or

(g) An intrastate interexchange telecommunications company.

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for any taxes imposed pursuant to chapters 202, 203 and 212 and any fees assessed pursuant to ss. 364.025 and 364.336. Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company, shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service, and shall reduce its intrastate long distance toll rates in accordance with s. 364.163(2).

(14) "Telecommunications facility" includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

CREDIT(S)

Amended by Laws 1980, c. 80-36, § 2, eff. July 1, 1980; Laws 1984, c. 84-215, § 1, eff. Oct. 1, 1984; Laws 1990, c. 90-244, § 2, eff. Oct. 1, 1990; Laws 1995, c. 95-403, § 6, eff. July 1, 1995; Laws 1998, c. 98-277, § 12, eff. May 28, 1998; Laws 2003, c. 2003-32, § 3, eff. May 23, 2003.

HISTORICAL AND STATUTORY NOTES

Derivation:

Laws 1965, c. 65-451, § 1.
Laws 1965, c. 65-52, § 1.
Laws 1963, c. 63-279, § 1.

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2. BellSouth further brings this action for issuance of a Writ of Mandamus to compel the County to perform its ministerial obligation pursuant to Chapter 364 of the Florida Statutes, and its accompanying regulations as set forth in the Florida Administrative Code governing the regulation of telecommunications companies

3. BellSouth is a Georgia corporation doing business in Miami-Dade County

4. BellSouth is a local exchange telecommunications company, as defined in Chapter 364, Florida Statutes.

5. Pursuant to its Certificate of Public Convenience and Necessity issued by the Florida Public Service Commission ("FPSC"), BellSouth "offer[s] two-way telecommunications service to the public for hire . . by use of a telecommunications facility" within its service area in Florida, including Miami-Dade County.

6. The County is a political subdivision of the State of Florida and is located in Miami-Dade County.

7. The County "offer[s] two-way telecommunications service to the public for hire . by use of a telecommunications facility," at Miami International Airport ("MIA") and other general aviation airports within Miami-Dade County, including Kendall, Tamiami, Homestead and Opa-Locka (the "Other Airports) (collectively MIA and the Other Airports may be referenced as, "airports")

BANK OF AMERICA TOWER
SUITE 1200
SOUTHEAST 1ST STREET
MIAMI, FLORIDA

LASH&GOLDBERG

WESTON CORPORATE CENTRE
SUITE 400
WESTON ROAD
FT. LAUDERDALE, FLORIDA

5. Regarding Paragraph 9, the definition of "telephone utility" as used in the Charter speaks for itself

6. Regarding Paragraph 10, § 364.02(13), Florida Statutes speaks for itself.

7. Regarding Paragraph 11, the County denies operating a telecommunications company offering two-way telecommunications services to the public for hire.

8. Regarding Paragraph 12, Florida Administrative Code Rule 25-9 002 speaks for itself.

9. Regarding Paragraph 13, Florida Administrative Code Rule 25-4.003(10) speaks for itself.

10. Regarding Paragraph 16, the County admits that the authority of the Miami-Dade County Board of County Commissioners (the "Board") shall not conflict with applicable general laws related or applying to Miami-Dade County.

11. Regarding Paragraph 17, § 364.01(2), Florida Statutes speaks for itself.

12. Regarding Paragraph 18, the County admits providing shared airport tenant services to airport tenants at Miami International Airport ("MIA").

13. Regarding Paragraphs 19 and 20, § 364.339, Florida Statutes speaks for itself.

14. Regarding Paragraphs 23, Article VIII, Florida Constitution of 1985 speaks for itself.

15. Regarding Paragraph 25, on January 29, 2002, the Board passed and adopted Resolution No. R-31-02 related to telecommunications, data network, and shared network services at County airport system facilities. The resolution authorized the: (i) purchase of leased telecommunications, data network, and common use terminal equipment infrastructure, software, licenses, permits, and other assets; and (ii) approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with NextiraOne, LLC for an interim two (2) year period.

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ., of the firm of ADORNO & YOSS, P.A. on behalf of the Plaintiff

DAVID STEPHEN HOPE, and CYNJI A. LEE, Assistant Miami-Dade County Attorneys on behalf of the Defendant

Also present:
Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS	EXAMINATION	PAGE
PEDRO J. GARCIA		
	BY MR. BLOOMBERG	4

EXHIBITS

EXHIBITS	FOR IDENT
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(All exhibits are attached hereto.)

(Ms. Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q. Would you tell me your name, please, sir.

A. Pedro J. Garcia.

Q. What is your occupation?

A. Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years.

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

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the airports are exempt from any explicit authorization to perform STS services.
Q What does STS mean?
A It means Shared Tenant Services.
Q What does that mean?
A Which means that provisioning of services – of telecommunications services to tenants of the airport.
Q So STS is Shared Tenant Services?
A Shared Tenant Services
Q All right. So back to my question.
Has the County interpreted the Florida law to mean that it does not need explicit authorization from P.S.C.?
A Yes, sir.
Q Who, to your knowledge, has made that determination?
A It was made by the gentleman sitting on my left.
Q The counsel?
A The counsel and basically all the management, Maunce Jenkins and the management of the airport and myself
Q By the way, does Miami-Dade Aviation Department provide similar services at other

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airports within Dade County?
A The airports that Miami-Dade owns?
Q Right.
A Specifically Opa-Locka and Tamiami we provide the same services, and those airports are owned by Miami-Dade County
Q Are there any airports within Miami-Dade County within the geographical boundaries of the County that the County does not own?
A As far as I know, the airports are owned by Miami-Dade County, unless there's an obscure landing strip which I'm not aware of.
Q And we won't discuss those.
In other words, the County provides these services at every airport it owns --
A At two of the airports.
Q At two of the airports.
A The other two just have independent telephone systems and they're connected to BellSouth for telecommunications. We have a direct correction via T1 to two of those airports in which we provide voice services and network services from MIA connected to the satellite system that they have at those airports.
Q At Opa-Locka and Tamiami?

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A At Tamiami, right.
Q By the way, we've discussed already and we've used the phrase telecommunications services, telephone services. What are telephone communications, so we have an understanding? Tell me -- wait. Let me finish.
Tell me how you define the term telecommunications services.
A The industry itself -- sometimes it's a gray area of what is telecommunications and what is telephone services. To me, as far as this conversation goes, I take telecommunications to mean voice and network transmission. If we're just talking about the voice side, it would be called voice services, telecommunication, both the voice services or the telephone and the network transmission, which is the network that goes where you plug in your PCs
Q My e-mails and so forth?
A That's right.
Q So you would agree with me, wouldn't you, that the County provides telephone services at these airports?
MR. HOPE: Objection. Form.
A Yes.

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Q All right Let me make a point.
There may be two kinds of objections here today.
A I can -- I didn't hear what you said.
MR. HOPE: I just said objection to form.
Q Right.
A That means what?
Q There are two kinds of objections here at a deposition. One is an objection to the form of the question or other objections where you can go ahead and answer the question. The only time you shouldn't answer the question is if your lawyer says I object for whatever reason, don't answer the question
A Okay.
Q If he just objects, he's objecting to preserve the record.
A Okay. So can you repeat the question?
Q I'll repeat the question.
Does the County provide telephone services to customers at airports in Dade County?
A Yes, sir
Q Does the County provide telecommunications services, using your definition,

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of Florida or at least within this region because it is --
A. There's 29, I believe.
Q. 29 what?
A. Utilities in the state of Florida as far as BellSouth
Q. Because of the scope of regulation?
A. Because they're the carrier of last resort in the area in which they serve
Q. Do you have any idea why the charter uses the phrase the County shall not operate a telephone utility? I realize you didn't draft the charter provision, but have you ever had a discussion with anybody as to why that phrase is there?
MR. HOPE: Objection to form.
A. I have no idea why that's there.
Q. Correct me if I'm wrong, we've already gone through the fact that apparently it may not be the exact same service, but BellSouth, for example, offers similar services to tenants at the airport?
MR. HOPE: Objection to form.
A. We provide services to the tenants of the airport which is a County-owned facility.
Q. I'm just asking if BellSouth offers

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similar service to those tenants.
A. Yes, they do.
Q. And is the airport a territory in the County?
A. The airport is a County-owned facility. That's a legal interpretation. I don't believe we consider the airport to be a territory. It's a County-owned building or facility. I'm not an attorney. Again, my opinion. But if you ask my opinion, I would consider territory a neighborhood, West Miami, Coral Gables; those are territories.
A County-owned facility, I don't consider that to be a territory, but that's my interpretation.
Q. Why not?
A. Why not? It's just the definition that -- the meaning that I attach to the word.
Q. What meaning do you attach to the word territory?
A. A territory is a more -- it's not something that you own. It's something that is owned collectively by other folks, collectively or independently, and there are certain amounts of legal control over that territory but that's -- the Miami International Airport is an owned facility by

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the County. We don't own Coral Gables, the County doesn't own West Miami, but they own the Miami International Airport.
And if I could go further, I would probably say the intent of this was basically to reassure the utilities that we would not complete, we meaning by Miami-Dade County will not compete with them to provide services to neighborhoods and other neighborhoods that would be competing with them.
Q. Miami International Airport is within the physical geographic boundaries of Miami-Dade County; is that a fair statement?
A. Yes, sir.
Q. As are the two other airports, Tamiami and Opa-Locka, to which the County provides similar services?
A. Yes
Q. Does the County provide telephone services at other locations, to your knowledge, within the geographical boundaries of Miami-Dade County?
A. Miami-Dade County has telephone equipment and network equipment similar to what's in at the Miami International Airport only in

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County-owned facilities.
The County does not provide services to buildings and -- or -- that have nothing to do -- or tenants that have nothing to do with the government operation.
Q. Correct me if I'm wrong, are those facilities serving the County itself?
A. It's serving the County employees.
Q. The County employees?
A. And by the way -- and then we'll connect to BellSouth for the outside --
Q. I understand that. But what I'm asking you is other than at the airports, does the County provide telephone service, for example, to people or entities other than County employees anyplace else within the County?
A. Not to my knowledge. It's no different than the owner of this building having their own telephone switch and providing dial tone to people that live in the building.
Q. I'm just saying --
A. That's the extent, as far as I know.
Q. I'm just trying to understand.
Let's do it this way. We've agreed earlier in the deposition that MDAD is engaged in

what it hopes to be a profit-making enterprise by providing telecommunication services to tenants of the airport?
A. Yes
MR HOPE: Objection to form.
Q. Are the airports, to your knowledge, that we talked about the only places within the geographical boundaries of Dade County where a county agency is attempting to make money by providing telecommunications services?
MR HOPE: Objection to form.
A. To the best of my knowledge, yes.
Q. Right.
All other facilities where the County has telecommunications services, it is being provided to County employees in a nonprofit-making enterprise?
MR HOPE: Objection to form.
A. To the best of my knowledge, yes.
Q. Were you ever involved in a discussion at any time as to whether or not the County needed to obtain a majority vote of electors before it could engage in this kind of business?
A. Was I involved?
Q. In any discussions concerning that

subject.
A. No, sir.
MR. HOPE: Objection to form.
Q. To your knowledge, has the County ever in the past sought voter approval to engage in some sort of power or telephone business?
MR. HOPE Objection to form.
A. I can't -- I can't recall. I don't remember.
(Plaintiff's Exhibit 10 was marked for identification.)
BY MR. BLOOMBERG:
Q. Show you what's been marked as Exhibit 10 for the purposes of deposition. I'll ask you to take a look at it. Let me know after you've had a chance to read it. By the way, for the record -- and I don't mind that Mr. Garcia is writing on it, but the little yellow scribble is Mr. Garcia's. He just wrote on the top of the exhibit. I don't mind at all --
A. Is that a problem?
MR HOPE: No, he's just noting because this is the original.
Q. Well, it's not the original.
A. I'm sorry.

Q. I don't mind. No problem. I just want to make sure so that at some point when we go back we know where it came from.
A. Yes.
Q. Before I go to the document, was there a vote of the electors of Dade County taken to approve or to allow MDAD to engage in this telecommunications business at the airport?
A. Not to my knowledge.
Q. The memorandum which bears the No 000453, dated March 5th, 2002, it's to Maurice Jenkins from David Hope.
Have you seen that before?
A. Yes, I have.
Q. When did you see that?
A. I can't say exactly, sometime after it was written
Q. Do you know what precipitated that memo or why that memo was written?
A. To my recollection, was due to objections of BellSouth to MDAD providing telecommunications services at the airport
Q. Did you have any discussions with anybody concerning the memorandum, Exhibit 10?
A. This is my concern in this memorandum.

Q. For the subject matter of the memorandum?
A. I don't recall specifically having any meetings or any discussions on this matter, no
MR. BLOOMBERG: All right. Why don't we take a break for about ten minutes or so before we get into this stack of documents.
(A break was taken.)
BY MR BLOOMBERG
Q. Mr. Garcia, are you familiar with an agreement between Miami-Dade County, Florida and Nextira that was entered into early February of 2002?
A. Yes, sir.
Q. Were you involved in the preparation, if you will, of that agreement?
A. Yes, I was.
Q. What was the general purpose of the 2002 agreement?
A. The purpose was to acquire from NextiraOne the infrastructure that they had at the airport -- that they own at the airport to provide telecommunications services, including the telephone switches, network equipment and the wiring infrastructure existing at the airport.

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

VIDEOTAPED DEPOSITION

OF

PEDRO GARCIA

Suite 1200
100 Southeast 2nd Street
Miami, Florida

Thursday, October 28, 2004
11:15 a.m.

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Can you explain from a technical perspective how that occurs?
A. Yes. When the person first picks up the receiver, it receives an internal dial tone from the PBX. Then he will proceed to dial a 9, which would give him an external dial tone that is received from the BellSouth central office through the switch, and that would allow the call to be completed through the BellSouth local facilities, which will provide the connection to the public network.
And the Southern Bell central office or the BellSouth central office will complete the call to the -- through their interoffice facilities to the appropriate Kendall center office, which will go to the phone that is the subscriber of that central office.
Q. So again, we start off on the beginning part of the process, a person picks up the phone. They still hear that County-owned dial tone that is being provided, correct?
MR. HOPE: Objection. Leading.
THE WITNESS: Internal dial tone, yes.
Q. And they dial a 9. What is the purpose of dialing a 9?

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A. Dialing a 9 is basically conveying the information to the PBX that this call is going to be connected through the external facilities or to the BellSouth facilities to connect to the public network. It is not an internal call, but it is an external call.
Q. Of course the 9 that is punched uses the County-owned dial tone when that 9 is hit, correct?
MR. HOPE: Objection to form.
THE WITNESS: The second dial tone that is received is received because BellSouth provides it from the central office. It would not be there if it would not be a dial tone provided by the central office, through the PBX.
Q. No dispute, and we will talk about BellSouth provides a dial tone as well. But the County-owned dial tone that the person hears when they pick up is what allows them to transmit their instruction when they hit 9 that they want to place a local call. Is that correct?
MR. HOPE: Objection to form.
THE WITNESS: I lost you there somewhere.
MR. GOLDBERG: Could you repeat the question.
(Thereupon, the requested portion of the record was re-read by the Court Reporter.)

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THE WITNESS: I am not sure about the County owning the dial tone. It is provided by the phone that the -- by the telephone that the County owns, to the customer. The dial tone is provided by the equipment, and it is an indication that there is a connection ready to be established through the public network.
Q. Let's forget about the owned part, because that causes you trouble. Without the County-provided dial tone, an MDAD customer cannot hit 9 and have it be of any significance. Without the County-provided dial tone, nothing would happen, correct?
MR. HOPE: Objection to form.
THE WITNESS: We are talking about the first dial tone that allows you to dial 9?
Q. Yes.
A. Yes.
Q. Okay?
A. Yes.

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Q. So the County-provided dial tone for a person who wants to make a local call is significant, in fact absolutely needed, for the making of that local call because they need to hit 9, correct?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
Q. Once that customer hits 9, are you saying -- are the dial tones then -- is the County-provided dial tone replaced?
A. The second dial tone is an indication of the PBX has interpreted an answer back from the BellSouth central office that indeed they are ready to receive digits. So it sends an indication to the telephone that you can dial now; we are ready to establish the communication.
Q. So you would agree with me, without the County-provided -- you would agree with me that the County-provided dial tone is part and parcel of the service that is needed to make a local call from the airport.
MR. HOPE: Objection to form.
Q. Correct?
A. The dial tone that is provided to the customer is part of the connection process to make a

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call.
Q. A local call?
A. Yes, yes.
MR. GOLDBERG: And just to be clear for the record, could you read back my last question, and I want him to hear it one more time
Q. If you could answer yes or no, and then if you want to explain you can.
(Thereupon, the requested portion of the record was re-read by the Court Reporter.)
MR. HOPE: Still an objection to form.
THE WITNESS: The County-provided dial tone, are we still talking about the first dial tone?
Q. Yes
A. Yes. The answer is yes
Q. Now then, technically, the 9 -- does hitting the 9 transmit to the PBX, the County-owned PBX?
A. Yes.
Q. What technically happens when that instruction of 9 gets to the County-owned PBX?
A. It tells the PBX to get ready to establish

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a second path for that call When you pick up the receiver, the PBX knows that you are trying to make an internal call The 9 instructs the PBX to have a second function, which is an external call, ready to be established
Q. How does a PBX accomplish that?
A. Well, the PBX are designed to interpret digits that are dialed in a certain way. They are programmed that way. Actually, it could be a 9. It could be an 8 It could be a 7. You program in what number you want it to mean to the PBX that you want to make an external call. It reads that frequency, and then, you know, it is like a computer. I mean, it makes decisions inside how to basically control the switching mechanism.
Q. And all that is occurring on the County-owned PBX?
A. Yes.
Q. What happens next once it interprets that 9? Where does that call go? Over what equipment?
A. It makes contact with the -- at that point it makes contact with the BellSouth central office They signal each other to make sure that we have a connection, give me your dates.
Q. Fair enough Let me stop you there. What

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equipment -- how does that -- when you say they signal each other, what equipment is utilized to signal each other?
A. The PBX on our side, and the BellSouth central office on the other side
Q. Are they connected somehow?
A. They are connected through the BellSouth facilities.
Q. How are they connected? What type of equipment connects them?
A. We have I believe ten -- what we call T1's, which is a digital hierarchy designation for a communication linkage that it has the capability for 24 channels each So we basically have ten times 24, 250 connections or channels from the PBX's to the BellSouth central offices.
Q. Does the County own any T1's, of these T1's?
A. The T1's are owned by BellSouth.
Q. Does the County pay for the use of the T1's?
A. Yes We pay BellSouth for the use of the T1's.
Q. We will get to that later. But the call goes over the T1's to the BellSouth office?

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A. To the BellSouth office.
Q. And then that call gets interpreted based on the ten-digit number that the person dialed after they hit 9? Is that correct?
A. Right It is interpreted -- the ten digits is interpreted at the BellSouth central office switch, which is similar as a PBX, except bigger. It is routed through -- it knows how to get out of there, which other T1's to get out of there en route to the final destination, which is Kendall or whatever other central office it is.
It makes a decision internally to go in a certain path to that -- to the point-to-point, we call it. I used to work for BellSouth. A point-to-point location, from the airport central office to the Kendall central office. It knows to go out this way, out of the PBX to some T1 that connects it eventually to the central office.
Q. Now let me flip it around for you. Let's assume for purposes of my question that, you know, that the ice cream shop at the airport is an MDAD customer. There has been testimony about that I just want you to assume that for now.
Let's say that somebody in Hialeah, outside the airport, wants to call that ice cream

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shop at the airport, who is an MDAD customer. How does that call -- how is that call made from a technical perspective?
MR. HOPE: Objection to form.
THE WITNESS: The customer -- the person in Hialeah picks up their phone and dials ten digits. The ten digits go through the BellSouth central office, the Hialeah central office, and that central office, sends those digits -- knows that because of the digits that the call needs to go to the airport central office, and when it gets there the central office basically strips the first four digits, and then sends the four digits to the PBX, which is called a DID, direct inward dialing digits. Then the PBX routes that call to whoever is supposed to receive the call.
Q. And when you say the PBX, that call goes from Hialeah, through BellSouth's equipment, into the airport PBX? Is that what you are referring to?
A. It comes from -- it goes through the airport central office of BellSouth, through those T1's that serve the airport, into the PBX, and from

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the PBX to the terminating phone that the call is going to.
Q. When you refer to the PBX, are you referring to the County-owned PBX?
A. To the County-owned PBX.
Q. And then through the County-owned equipment to the County customer?
A. To the County-owned equipment and wires to the County -- to the receiving customer who has a phone there.
Q. That, it seems to me, to be a local phone call.
A. It is a local phone call.
MR. HOPE: Objection to form.
Q. You agree that is a local phone call?
MR. HOPE: Objection to form.
Q. You agree it is a local phone call?
A. It is defined as a local phone call. There is no toll associated with it.
Q. What would happen if -- what would happen to that local phone call if you took away the County's PBX and the County's equipment and the County's phone at the ice cream shop? Would that local phone call be able to be completed?
A. No.

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Q. So without the County-owned equipment, the PBX, its wires, its phones, that customer would not have or not be able to receive a local phone call. Is that correct?
MR. HOPE: Objection to form.
THE WITNESS: Again, we are assuming that the receiving customer or tenant is a customer of MDAD for the purpose of providing equipment, telephones, etcetera.
Q. Correct, correct.
A. So without the County-owned equipment, the call cannot be completed.
Q. Also, would you agree that without the service that the County currently provides to its customers at the airport, that ice cream shop, that customer would not be able to make a local phone call?
MR. HOPE: Objection to form.
THE WITNESS: How do you define service?
Q. How do you define service?
MR. HOPE: Objection to form.
THE WITNESS: The service basically is composed of the rental equipment, the

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maintenance that we provide them 24/7, and, basically, that is to maintain the equipment and make sure we are there if a failure occurs, etcetera. So if that is what you mean by service, yes.
Q. Well, let's use your definition and expand upon it. You say that your customers -- and we will get to this in a little bit. Your customers are paying for the use of the County-owned PBX, are they not?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
Q. Isn't the use of the County-owned PBX by the County customers a service that is provided by the County to its customers?
MR. HOPE: Objection to form.
THE WITNESS: It is a rental of equipment and the maintenance of that equipment.
Q. So without that -- well, isn't the rental of equipment and the maintenance of equipment and the use of equipment a service?
A. It could be considered a service, yes.
Q. And without that service, would the local -- would the ice cream shop be able to place a

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the County-owned PBX?
A. If the customer connects voice equipment, it would. We wouldn't even know that because we don't care where they connect with
Q. But it can, correct?
A. It could
Q. Are you aware of any circumstances out at the airport where customers have done that?
A. Not specifically, no
Q. But that wiring that you provide that would fall under number four, system - other, has the capability of carrying two-way communications, two-way voice communications, correct?
A. Yes. Inside the airport, yes
Q. And they are charging for that wiring.
A. They charge by the foot for, again, the leasing of the facilities and their maintenance.
Q. And you would charge any customer who asked for that type of service or that type of wiring, right?
A. Yes.
Q. Are there any other services that are provided to MDAD's customers by the County that are not encompassed within paragraph 10 of schedule one in the one through four items we have just

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discussed?
A. Well, we provide several other services that are basically what we call CUTE, common use terminal equipment, C-U-T-E. And this is a system that allows the airlines to sign on to their host computer for reservations and flight assignment purposes using terminals that are common to any airline, for example. Any airline can sign on and they can access their host computer with this County-owned equipment We provide that
We actually are starting now to provide cable television service to whoever wants it, the program. Basically, it is provided by CNN, but it is basically cable television and the CUTE, and the -- we provide network connectivity also.
We have a big network inside the airport that it's -- it has a multifunction of a security to provide the transmission of security cameras to recorders for the security of the airport. Also, it connects the PC's that the staff uses, the County staff, to do their business every day. And we also sell that service That network carries the CUTE system that we said.
All the -- eventually, we carry all the information for the flight display monitors that we

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have at the airport to show the flight information, the public address system, and so forth
And as far as the customers, we provide all the tenants and the USPS customers, we provide them connectivity using this network for the data for their computers or any other application they may have, network services that we provide to them.
Q. Is that included or not included in the airport rental agreement as we see it on MJ-8 --
A. Yes, it would be probably under other.
I don't get involved directly in this part of the deal with the billing. That is done by the NextiraOne folks. They handle our telecom business. Basically, we do provide that service and we do billing for it. We use the same contract.
Q What do you understand the word "trunk" to mean?
A Trunk?
Q Yes In your business, in your field
A Trunk is a connection between two switches. That is the pure definition.
Q Would it also be a connection between two PBX's?
A Yes Well, PBX is a switch. So between two PBX's is a trunk Between the central office

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and the PBX is a trunk. Because the CO is also a switch.
THE COURT REPORTER: Because what?
THE WITNESS: The central office is CO The central office is also a switch.
So any connection between the central office and -- well, between two PBX's is actually a tie line Let me rephrase that. Between the central office and a PBX is a trunk Trunk is access from the PBX to the switch network, the public switch network.
Q. Does the County own any trunks, using your definition?
A. No The trunks are owned by BellSouth, AT&T and MCI. Those are the three carriers that we use, and Sun Com, which are also BellSouth trunks And actually, MCI also is BellSouth trunks. MCI, etcetera They are basically owned by BellSouth We don't own trunks
Q How does -- strike that.
Are all the MDAD customers -- do all the MDAD customers from a two-way telecommunication framework wind up at the County-owned PBX switch at some point?

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MR. HOPE: Objection to form
Q. Do you understand my question?
A. We are talking about the voice customers?
Q. Yes.
A. Do they all end up at the PBX?
Q. Yes.
Let me help you. Setting aside your other scenario of one customer going from one customer location to a second location.
A. Not counting that?
Q. Not counting that.
A. Yes, they end up at the PBX.
Q. Does each MDAD customer have a separate entry point into the PBX switch?
A. Meaning a telephone?
Q. Meaning, I am sorry --
A. Do you mean by entry point a telephone or port?
Q. On the PBX side. A port.
A. Yes. Every phone is connected to a separate port.
Q. Are the ports grouped by customer in any way?
A. I don't believe so.
Q. Is there any grouping of either wires or

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ports or any other type of equipment by customer at the airport?
A. There is only one -- there is a hotel at the airport. And the trunks for that hotel, they are partitioned in the PBX to be separate. In other words, they have their own trunk groups. They actually get the service from AT&T instead of BellSouth, and they cannot call -- they cannot dial four digits and call anybody else at the airport.
Q. I have to ask you a number of questions about that to see if I understand it all. Okay? Let me just start from the beginning. What hotel are you referring to?
A. The Miami International Airport Hotel, which is located inside the airport.
Q. And the Miami International Airport Hotel is an MDAD customer?
A. The Miami International Hotel is owned by the County, and is operated by a management company.
Q. Is it serviced by MDAD?
A. We provide them the telephone service with partition trunks, and they own the instruments in the rooms.
Q. You say you provide the telephone service with partition trunks. First let me ask you, you

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mentioned that the County owns two PBX's.
A. Yes.
Q. Is there one PBX for the airport and another PBX for everybody else?
A. No. They are interlaced for disaster recovery purposes, so we don't lose one and everybody else is out of service.
Q. Does the County own two PBX's just because of size and volume?
A. Size and redundancy.
Q. What is redundancy?
A. You know, like if one fails, you have another.
Q. But if MDAD had a smaller operation, is it fair to say they could just use one?
MR. HOPE: Objection to form.
Q. One PBX?
A. Probably not. We would probably still remain like this because we like to have redundancy.
Q. Now, the Miami Hotel, how is that -- you say -- when you use the word partition trunks, what exactly do you mean from a technical perspective as it relates to that hotel?
A. It means two things. It means that everybody else that is getting telephone

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connectivity through our PBX, when they go out to the world, to a local call, to the rest -- to the public network, they go into these ten T1's that I explained before that Southern Bell provides, or BellSouth. I am showing my age here.
So the hotel is -- their calls go out through a separate trunk group that also terminates in the PBX, which was contracted by them separately and they are provided by AT&T. That is with their local calls, and their long-distance calls go out through those separate trunks.
Also, what it means, partition, is they cannot dial four digits and talk to any of the other customers connected to the MDAD-owned PBX, the County-owned PBX.
Q. In that type of situation where you say those trunks have been partitioned, it only relates to the Miami International Airport Hotel that you spoke about. Is that correct?
A. Yes, yes.
Q. For every other MDAD customer, is there any partitioning of the trunks in any manner, shape or form?
A. No.
Q. When were the trunks partitioned for the

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utilization of the existing infrastructure that we have. In other words, we have all the wires, all the common equipment, all the people that work there. Those costs are pretty much fixed to an extent. So the more -- if we can get some other tenants to utilize those services and pay us for it, obviously it would be better for the County.

Q. Would you agree that the use of the discount is done by the County to increase its customer base?

MR. HOPE: Object to the form.

THE WITNESS: Yes.

Q. And by increasing your customer base, aren't you, by definition, desiring or taking away customers from other providers at the airport?

MR. HOPE: Objection to form.

THE WITNESS: From anybody maybe that sells equipment, yes.

Q. Do you have any customers that you sell equipment to, but you don't provide telephone voice access for?

A. Yes.

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Q. Do you sell equipment to BellSouth's customers at the airport? Could you give me a specific customer or instance that the County has provided equipment to or sold equipment to or leased, as you call it, equipment to a BellSouth customer at the airport?

MR. HOPE: Objection to form.

THE WITNESS: I really don't know. I would assume that it is possible for a particular customer to have, let's say, the rent space at the airport and they want BellSouth to provide them access to the public network, but inside the -- no, that would not be the case because the equipment that we buy is proprietary and it comes from our PBX.

Unless they want analog lines and they just want to buy new phones and connect to the BellSouth line, that would be the only case where that would happen. Other than voice. We do sell equipment for other than voice.

Q. If it relates to voice, are you aware of any instance, factual instance, not possibility or what have you, where you have sold voice equipment

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to a BellSouth customer? Yes or no?

A. I am not aware of it. That doesn't mean there could not be some, but I am not aware of it.

Q. Is it your testimony that a discount is offered only to expand your customer base via the sale of equipment, but not the sale of access to the telecommunications network for voice?

MR. HOPE: Objection to form.

Q. Is that your testimony here today? Yes or no?

MR. HOPE: Objection to form.

THE WITNESS: The way the people access the public network is through our equipment. So if we have them purchase our equipment, we will increase the utilization of our equipment, and, at the same time, with that equipment they can access the public network.

Q. As you have testified before, you would agree that the purpose of this discount is to increase your customer base at the airport?

A. Yes.

Q. What is the charge for $18 here or $72 as shown for single line local network access?

A. That is the charge for connecting from the

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PBX out to the world, the network access charge. That is the charge that now we have consolidated into five for $49. It used to be $18 per --

Q. But that access allows customers to complete a local call, correct? Your customers complete a local call, correct?

A. Yes.

Q. So MDAD is charging for the completion of the local call, correct?

A. For the ability to complete the local call. We don't charge by the call.

Q. But for the ability to complete local calls.

A. Yes.

Q. You would agree with that?

A. Yes.

Q. Is there a reason for a customer to lease this equipment from you, as exemplified on the second page of MJ-29, that being Meridian One Port or Advanced Features, or single line local network access if they didn't want to complete either internal calls at the airport or local calls?

MR. HOPE: Objection to form.

THE WITNESS: No. That is the purpose of all that equipment

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documents or the time period. As we sit here today, I want to just confirm that the methodology is, as used by MDAD, that the network access cost is figured as exemplified in MJ-23, and then factored into the charges that are ultimately sent to the customer, via proposal like this under MJ-24. Is that correct?

MR. HOPE: Objection to form.

THE WITNESS: Yes. It is trying to establish some kind of relation between the two.

Q. And the network access, as defined in MJ-23, correlates to network access that goes out on the proposal as identified in MJ-24?

A. Yes.

MR. GOLDBERG: Let me just take a two-minute break, and we might be nearing the end. Thank you.

THE VIDEOGRAPHER: We are off.

(Recess in proceedings.)

THE VIDEOGRAPHER: We are back on.

Q. (By Mr. Goldberg) Mr. Garcia, we are going to continue and hopefully complete your deposition.

I am going to show you what has been

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marked as -- I will switch with you so you can use the marked one -- PG-32. This is an e-mail that you or your counsel brought with you to today's deposition. Is that correct?

A. Yes.

Q. And you wrote this e-mail to Mr. Jenkins on Tuesday, August 3rd, 2004?

A. Yes.

Q. Did you actually -- are these your words, from your own mind?

A. I wrote the e-mail, yes.

Q. What caused you to write the e-mail?

A. I can't recall exactly. It has to be a question that Mr. Jenkins posed to me that he wanted some information on this.

Q. Do you recall the question that Mr. Jenkins asked you?

A. No, I don't.

Q. Did Mr. Hope request in any way that you prepare this e-mail, or you just answer yes or no to that?

A. I'm sorry. Repeat the question.

Q. Did Mr. David Hope, your counsel here today, request in any way that you write this e-mail to Mr. Jenkins? And I would just like you to answer

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yes or no to that, without providing any more detail.

A. No.

Q. And you don't recall the conversation that you had with Mr. Jenkins that led to you writing this e-mail?

A. I don't, but I can tell you that from the first line it probably had to do with he wanted to know what we charge for for STS.

Q. The first line says, "For the provisioning local service to STS customers." So you are saying that you provide -- the County provides local service to STS customers, correct?

MR. HOPE: Objection to form.

THE WITNESS: That is what it says here.

Q. And this is your writing, correct?

A. Yes.

Q. Then it goes on to say, "MDAD charges for," and the first dot is, "the port in the PBX to connect the STS customer." Did I read that correctly?

A. Yes.

Q. Now, does that correlate to a charge that we see outlined on MJ-24, the form proposal that

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goes to the County's --

A. No. Actually, this answer is incomplete. I made it -- for reasons that I don't remember, I made it -- unless it was a mistake, I made it the network access charge.

As we have seen before, the cord is the connection to the phone. The second line in this e-mail is the phone and the cable, and the third charge would be the network access.

Q. So there should be three items there.

A. Yes.

Q. Can you explain to me the next line. Why you wrote that and what that means, and if that is correct, in your view.

A. Well, it says, "there is no additional charge for dial tone or for a local call completion." That is what it is. We charge for those two things, plus the one I omitted. There is no additional charges for anything else, per call or per dial tone or for anything else.

Q. So I understand you, you said there is no additional charge. But given your prior testimony here today, haven't you testified that since the County charges for the PBX, and the PBX is the piece of equipment that provides the dial tone, that the

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County is charging for dial tone
MR. HOPE: Objection to form.
THE WITNESS: The County is charging for the equipment that allows you to get the dial tone and complete the call.
Q. So you would agree, it is just common sense, that the County is charging for, in part, the dial tone that it provides.
MR. HOPE: Objection to form.
Q. Through its own PBX.
A. Yes.
Q. And then the next part of the sentence is, what you are saying is there is no additional charge for local call completion. Given everything that you have testified to here today, isn't local call completion a function of the network access component that the County charges for?
MR. HOPE: Objection to form.
THE WITNESS: Yes.
Q. So there --
A. Like I said, that third item is omitted. If you put it there, then that sentence would make sense. But right now it is not correct.
Q. Fair enough. So with all due respect, respectfully, the way this sentence is written now,

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it is incorrect. The third line, "there is no additional charge for a local call completion," forgetting the dial tone issue. But it is not correct if you read it, "there is no additional charge for local call completion."
MR. HOPE: Object to the form.
THE WITNESS: The local call completion is done through the network access charge, which is not in this memo.
Q. Fair enough.
Just for record purposes, let's go down the line. "The PBX access to the public network is through BellSouth trunk lines." Is that an accurate statement?
A. Yes.
Q. Next: "Long distance charges are passed through without any surcharges." Is that accurate?
A. Yes.
Q. "At this time, there are no STS voice service customers in any of the GA airports." Is that an accurate statement?
A. Yes.
Q. What is GA?
A. GA is general aviation airports. We also -- the County also owns the Homestead and

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Opa-Locka airports and Tamiami. So those three airports are also the property of the County.
Q. And I notice in this document that was sent to your boss, Mr. Jenkins, three times, at least, you use the word "customer" or "customers," correct?
A. Yes.
Q. Is there anywhere in that e-mail that you use the word "tenant" or "tenants?"
A. No.
MR. GOLDBERG: I think that's all the questions I have.
MR. HOPE: I have no questions.
THE COURT REPORTER. Would you like to read?
MR. HOPE: Yes.
THE VIDEOGRAPHER: Stand by to go off the video record. We are off.

(Thereupon, the deposition was concluded.)

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_____
PEDRO GAPCIA

Sworn to and subscribed before me this _____ day of _____, 2004

_____
Notary Public in and for the State of Florida at Large.

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC., a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

VIDEOTAPE DEPOSITION

OF

MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004
10:15 a.m. - 5:00 p.m.

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MR. HOPE: Correct, which is what I instructed earlier.
Q. It's fair to say that all the customers listed on MJ10, Mr. Jenkins, pay for your telecommunications service, correct?
MR. HOPE: Objection, form.
A. Yes
Q. There's no question that having these customers benefits the county financially, correct?
A. There's some benefit, yes.
Q There's some benefit?
A Yes, sir.
Q Let me show you what I am going to mark as MJ12 and 13, two photographs.
(Photographs marked Exhibits MJ12 and 13 for identification)
Q. MJ12 is a picture of Cafe Versaille, correct?
A. Yes, sir.
Q. That's one of the customers listed, one of your customers listed on MJ10, that's correct? I am pointing to it here.
A. Yes, sir.
Q. MJ13 -- by the way, are there a number of Cafe Versailles in the airport?

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A. I believe there are two. Maybe more.
Q Just for the record, because people may read this or see this videotape and don't know what Cafe Versaille is. Can you explain what it is?
A. It's a concession within the airport that provides coffee, Danish, pastries.
Q. MJ13 depicts a Bacardi shop, correct, or store where you can by Bacardi liquor?
A. It is a restaurant/bar type, yes.
Q. It's in the business of selling liquor, is that correct, and food?
A. Yes, sir.
Q. Do you know whether Bacardi is currently an MDAD customer?
MR. HOPE: Objection. Instruct the deponent not to answer.
Q Let's assume since you have been instructed not to answer that question I'll ask you to assume that they are a customer, they are out at the airport.
Again I go back to my question: Having Cafe Versaille and potentially Bacardi as clients at the airport, the purpose is, is it not, to derive income, revenue from them in return for your provision of telecommunications service?

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MR. HOPE Objection to form.
A Yes
Q Is there any other benefit that they provide the airport as a customer other than financial?
MR. HOPE Objection to form.
A I'm sorry, you got to repeat that one.
Q Sure. Other than providing you with revenue and increasing the money that you make off of the telecommunications business, is there any other benefit that they provide MDAD?
A These entities?
Q Yes
A They provide the customers with a product. The customer, the traveling public gets a benefit from these entities.
Q Fair enough The customers who purchase food or drinks?
A Food, pastries, coffee, yes, sir.
Q But does that provide the airport with a benefit? Does the airport receive any other benefit from having these shops there? No, right?
MR. HOPE Objection to form.
A The benefit to the airport is if we bring quality products to the airport our customers who travel through MIA will choose MIA in comparison to

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Fort Lauderdale or anywhere else. It is a branding of product a product and service
Q So it is a marketing tool as well I guess? I don't want to put words in your mouth, but you are essentially saying if you have quality shops you are hoping you will get more passengers, is that the --
A Yes, sir.
Q Any other benefit?
A No, sir.
Q Are there any studies that you have reviewed or come across that say if you have quality stores you'll get more traffic, they will choose Miami over Fort Lauderdale as you said?
A I don't, I don't have studies and I haven't done anything. But we have a commercial ops division that you can speak with. Their goal is to bring quality merchandise, quality products to the facility to give us what we need to be a world class facility.
And the traveling public, I think they have done -- not "they have" but industry has done studies or surveys as to what the traveling public wants to see when they go through a facility, like Miami International Airport and as it is compared to Atlanta, Jacksonville, Tampa, Houston, DFW, anywhere else for that matter

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Q. You would agree that having a Bacardi shop or have a Cafe Versaille doesn't make the airport a safer place to be, though it may bring more people but doesn't make it a safer place; you have to rely on security or other measures, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. And you also agree that having a Bacardi shop or Cafe Versaille or any of the other concessions stands, concessions on these lists doesn't help move freight or passengers more efficiently through your airport, correct?
MR. HOPE: Objection to form.
Q. Except get more passengers there?
A. Yes, sir.
Q. Let me ask you this. If John Q Public wanted to come into your airport and purchase Cafe Versaille how would John Q Public go ahead and purchase that concession technically, do you know?
A. For John Q Public to purchase Cafe Versaille has nothing to do with the airport. For John Q Public to purchase Cafe Versaille you need to deal with the enterprise or the entity that owns those rights.
Cafe Versaille I think is owned by La

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Caretta, the parent company, so you need to deal with them as a franchise or operation.
If you want to perform a service or sell a product within the airport you contact our commercial operations folks and you talk to them that you are willing, you are looking to do business within the airport and they tell you where you need to apply, what the airport is looking for, and you, whatever comes up to bid you bid on.
So there's a formal process nothing having to do anything with the --
Q. With your operation?
A. With my operation. They can do whatever they want to do.
Q. But I guess I am trying to understand, if John Q Public wanted to come in and let's say go to La Caretta --
A. I think La Caretta is the parent company. They are both owned by the same parent company.
Q. They would have to go to the parent company and say basically I want to buy you out of your airport space at the Miami Airport, correct, and let's say the answer from the parent company was fine, are there any other licenses or permits that somebody needs to go in and lease this space?

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A. That's out of my bailiwick. That's entirely within commercial operations.
There's a process by which is required to build out, permits, contracts have to be entered into before you can even start doing business. And then what the rental rate would be and what the pay back to the department would be in regards to utilizing that space.
Q. You said that's totally out of your bailiwick. Whose bailiwick is it in?
A. It belongs to property and operations. There's a commercial unit within the division, within the department that's responsible for bringing in business as well as managing or maintaining what these guys deem to be our customers and what they provide and what they do.
Q. But the details of how John Q Public gets in there is something you don't feel comfortable from a knowledge base answering, is that fair to say?
A. Yes, sir.
Q. So then I'll move on and ask you this. At least you'd agree with the general proposition, would you not, that John Q Public if he meets all, goes through the hoops and meets the requirements he can come in and operate a concession or a store at the

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airport, right?
MR. HOPE: Objection to form.
A. As long as he's complied and submitted his bid and he's awarded and approved, yes, he can.
Q. And that bid process as far as you know is at least open to the public, right, anybody who wants to bid?
A. Yes, sir.
Q. There's no discrimination or anything along those linings, anyone that wants to bid can bid?
A. Yes, sir, as long as you meet the minimum qualifications or whatever qualifications are established that goes out with the bid.
Q. Let's assume John Q Public takes over Cafe Versaille. They are going to be able to purchase your telecommunications services, correct?
A. If they want to, it's entirely up to them.
Q. But if they want to your services are available to John Q Public, correct?
A. Yes, sir.
Q. And if John Q Public wants to obtain telecommunications service from you at the airport John Q Public is going to enter into one of these rental agreements that we discussed earlier, correct?
A. Yes, sir.

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Q And then John Q Public is going to pay for that telecommunications service, correct?
A Yes, sir
Q And that telecommunications service that you offer that we discussed before includes two way communication capabilities, correct?
MR HOPE: Objection to form.
A Yes, sir
Q Let me mark a couple of more of these because I have another follow-up question. I am going to mark MJ14, MJ15, MJ16, MJ17, MJ18, MJ19, MJ20, MJ21, MJ22. Let me show you what I have marked as Exhibits MJ14 through and including MJ22 and just have you take a look at those photographs.
(Series of photographs marked Exhibits MJ14 through MJ22 for identification)
A OK.
Q Are those, as far as you can tell, accurate depictions of various stores and/or services as they presently exist at the Miami Airport?
A Yes, sir
Q And I am just going to walk through them real quickly if you don't mind me looking over your shoulder just to put them on the record because the record can't see the pictures.

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Correct me if I am wrong as I walk through these. MJ12 is Cafe Versaille, MJ13 is Bacardi, MJ14 is?
A They are both the same --
Q Eddy's ice cream. MJ15 shows Eddy's Ice Cream as well, Hebrew National hot dogs. MJ16 is duty free stop
MJ17 is TCBY and Cinnabon. MJ18 is Bacardi, a Burger King and Frankly Gourmet. MJ19 is Sunglass Hut. MJ20 is the company you mentioned before, Cafe La Caretta?
A Right
Q MJ21 is basically a mall of shops, correct?
A Yes, sir
Q And the mall of shops includes Barber Beauty and Nails, a Kleen cleaners --
A No, that's a shoe shine.
Q I'm sorry, shoe cleaner?
A And then the ice cream place.
Q Yes
A You didn't mention this one.
Q MJ22 is a leather store?
A Yes, sir.
MR GOLDBERG: Showing his counsel where he can go shopping

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Q That leads me to the next question. There is nothing that prevents Mr. Hope here or John Q Public or anybody else from going into the Miami International Airport to these mall of shops or any of the other stores that we have depicted here in the photographs, purchasing their product, using their services and then leaving without taking a flight or booking a flight or traveling anywhere?
A Right
MR HOPE: Objection to form
Q There's no dispute about that, they can walk in, do those things and walk out without traveling?
A. Yeah, if they want to
Q. And there's also no dispute, although your counsel is telling you not to answer certain questions, but there is no dispute that you are providing service to some or all of those shops or those type of shops at the airport, correct?
MR HOPE: Objection to form
A. Yes, sir.
Q. Can you tell me what the county, or MDAD, or the airport exactly pay for to provide either switch access or network access as those terms are used in the airport rental agreement?
MR HOPE: Objection to form

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A. What we actually pay for?
Q. Yes What costs are involved in providing those services to your customers
A. What costs are provided, I'm not sure I understand the question.
Q. OK. Obviously you charge your customers for the telecommunications service, correct? We established that That's not an issue, is it?
MR HOPE. Let me stop you there. I am going to object. If you are now going to try and get an itemization of the specific costs that the airport incurs and then at some point, which I think this is something that you asked before and you might be able to get a hold of the rental agreements, which shows what we charge, then you can come up with our profit margins, which you are not entitled to.
Just like when we requested specific request from BellSouth and you said you are not going to turn them over because it is internal to your rates of return, that would be the same thing
So unless you can show why you need specific cost information or specific costs that we incur like what BellSouth charges us this whole line of questioning is inappropriate and privileged and I am

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without you knowing about it?
MR. HOPE: Objection to form.
A. Staffing makes a recommendation to make a change. I can let staff know to go back and review and make said recommendation to make the change and go do it.
Currently, right now there's some things that I don't deal with in its minute points on a day-to-day basis. And as a CIO I govern almost $130 million worth of work.
So yes, I'm dealing with a multitude of items. I also rely upon my senior managers to make decisions and effectuate change.
Q. Do you get evaluated or reviewed in your job as to the bottom line financial performance of your telecommunications facility?
A. No, sir.
Q. Do you --
MR. HOPE: Objection to form.
Q. Do you look at any time as to how your telecommunications facility is doing from a financial standpoint?
MR. HOPE: Objection to form.
A. On occasion, yes.
Q. What's on occasion? Once a week? Once a

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day?
A. Every couple of months I'll do an inquiry as to where we are and what we have billed to date.
Q. And wouldn't anybody in your business with a business background understand that a major component of how you are going to do financially is revenue?
MR. HOPE: Objection to form.
A. Yes.
Q. Revenue is the amount of money that your business is taking in on a daily or monthly basis, correct?
MR. HOPE: Objection to form.
A. Yes.
Q. In any financial statement that you may see that's the top line on a financial statement, right?
A. I would say so.
Q. And in the simplest form a financial statement to determine how you are doing is going to take the revenue minus any expense to get to an operating profit, correct?
A. I would say yes.
Q. OK. So what you are saying to me today, and I just want to make sure that the record is very clear, is that you are not aware of or have knowledge of significant changes in your revenue stream?

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MR. HOPE: Objection to form.
A. I am aware of changes that -- it's not my revenue stream. I don't manage revenue. I don't manage billing, I don't manage revenue, I don't manage collections. That is done by our financial department and our business management group who is concerned about the bottom line.
My concern is providing IT and telecom services to my users. That's my primary focus as the CIO. My role as the CIO is not to bring money in the balance sheet. It is make sure that I maintain operations for my facility. That's my role.
Q. The people you supervise and as a result you don't deal with your customers and negotiate prices and charges?
A. No, I do not.
Q. You don't personally is what you are saying?
A. Yes, sir.
Q. How about people who work for you?
A. No.
Q. In all the groups we mentioned that doesn't occur?
A. Negotiating of pricing, no, my guys don't do -- they don't do that. We come up with a pricing structure and that is it. We cannot arbitrarily --

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we don't have the ability to arbitrarily make pricing changes.
Q. But people you supervise and therefore you come up with a pricing structure, correct?
A. We come up with a recommendation. That would have to be approved.
Q. Bottom line is you have no knowledge of this document which seems to indicate new pricing for STS customers as of September 30, '02?
A. I don't recall seeing the document.
Q. Does this refresh your recollection about new pricing that occurred in September, '02?
A. To be honest with you, no.
Q. OK. It lists on page 2 MDAD costs. Who was charging MDAD for the IPE, the DLC, the super loop and the common equipment at the amounts indicated on this document?
A. I believe that is Nextera, what would it cost us to purchase.
Q. What it cost to purchase Nextera's equipment under the purchase agreement that was consummated in February of 2002, or January of 2002?
A. I believe that to be true, yes.
Q. So then you come down, this is for voice line costs. What's voice line?

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A. That's telephone services
Q Two way telecommunication service, correct?
A Yes, sir.
Q And you have a total equipment cost in providing the voice line to your customers, correct, is that correct?
A Yes.
Q. You have an interest carrying cost, a maintenance cost and then you add on profit, correct?
A. Yes, sir.
Q. And you come up with a voice line charge per month of 930, is that correct?
A. Yes, sir.
Q. Are you familiar with how this gets calculated?
A. No, sir, I'm not.
Q. May I ask you to go to the page that has network access costs I understand you couldn't detail for me what network access is, but let me ask you in the middle of this page figured into MDAD's cost for network access there's a local line cost of S60,000. Do you see that?
A. Yes, I see it.
Q. And it does say next to it based on S500 per month per PRI. Can you tell the judge and us what a

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PRI is?
A. No, I cannot
Q. Would Mr. Pedro Garcia know what a PRI is?
A. I would say yes, I guess.
Q. But I guess that might be an unfair question I apologize but it's hard to know what he would know if you don't know what it is to begin with, right?
A. It's a possibility.
Q. Explain to me what the local line cost is.
A. Can't answer that question for you.
Q. What's a local line?
A. I believe one of my definitions was -- well, I'm not recalling right now. I'm not sure.
Q. Would Mr. Garcia be able to answer that question?
A. It's a possibility.
Q. It's more than a possibility, isn't it?
A. As I said, sir, it's a possibility.
Q. Again, it's a possibility because you don't know what local line is, right?
A. Yes.
Q. Local line sounds like local service to me, doesn't it?
A. Your interpretation, sir. I don't know.

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Q. Is there any fact, any document, any information that you have in your possession that would contradict my interpretation that local line sounds like local service?
MR. HOPE: Objection to form.
A. Not to my knowledge, sir.
Q. Back on that page, network access cost, directly below the local line cost of $60,000 is an entry of 15 percent profit, correct?
A. Yes, sir.
Q. So MDAD adds 15 percent profit or in this case S25,000 figure to its cost for network access, correct?
A Yes, sir.
Q And that's over and above the number that's been ascribed to local line cost, correct?
A. Yes, sir.
Q. So wouldn't you conclude that the $15,000 profit is a markup to the cost for network access?
MR. HOPE: Objection to form.
A. The $15,000 profit?
Q. Yes.
A. Which $15,000 are you referring to?
Q. Sorry. Wouldn't you agree that the 15 percent profit is a markup to the cost depicted for

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network access?
A. Yes, sir
Q. So, therefore, you'd agree that the 15 percent profit also is a mark up in part for the local line cost or what I've said is local service?
MR HOPE: Objection to form.
A. I don't know that to be factual You have to take these costs, total them, calculate 15 percent on the profit and determine whether that's included in 60 grand or not.
Q. Well, --
A. Or however the formula was calculated
Q. OK. We'll come back to that. But you'd agree that the 15 percent, if the S25,000 is 15 percent of all the numbers starting with $4,352 down to and including the local line cost of S60,000, then you are in fact according to this document marking up local line cost and/or local service, correct?
MR HOPE: Objection to form.
A. I don't know the fact that local line cost and local service are the same thing.
Q. Let's just assume for purposes of this deposition that they are. You'd agree then that you are marking up local service?
MR. HOPE: Objection to form.

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the location. But normally it would go back to a closet. If not to a closet, it would go directly to this port. Depends on the location of where we are running.

Q. But whether or not it goes through a closet it ultimately go backs to the PBX?

A. It goes to this meridian box.

Q. Where is the meridian box located?

A. They are strategically placed throughout the facility. They are in different parts of the airport.

Q. On the meridian box there's a port?

A. Yes, there are ports inside of them. Yes, sir.

Q. Is that where the line goes into?

A. It would run back to that line, yes, sir.

Q. What travels into that port?

A. Travels into that port?

Q. What goes into that port, just from a layman's perspective? I might be missing it.

A. The voice signal itself.

Q. The two way telecommunication?

A. Yes, sir.

Q. And the dial tone if there's not a voice goes into that port?

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A. The dial tone --

Q. Does the dial tone go into that port too?

A. It comes back this way, so, yes, sir.

Q. The dial tone goes both ways, in and out of that port?

A. It is routed, so, yes, sir.

Q. Without the port would you have dial tone? The answer is no, right?

A. The answer is no. It needs to be run back. So no, you wouldn't.

Q. Without dial tone there would be no need for the port, right?

A. Yes, sir.

Q. Now, the port, that's part of a piece of equipment?

A. Yes, sir.

Q. What piece of equipment is the port part of?

A. It's part of the meridian box itself.

Q. Is there another name for a meridian box?

A. There is model numbers. That's the only thing I could tell you.

Q. Do you charge for the use of the meridian box?

A. Yes, sir.

Q. Separate and apart from the port?

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A. Can't answer that question. If I'm not mistaken the port is connected to the box so it is part of the box. I'm looking at that's where the cost is coming from.

Q. Separate and apart from this meridian 1 port charge of $12, does MDAD charge for use of the box, the meridian box?

A. Outside of the use of that on this, no, I don't think we do.

Q. Not just on this document but on any -- and I only want you to answer if you know.

A. OK. I'm not sure. I would have to look at some other proposals as to the content, what the customer is asking for. So I would say no at this point, I'm not sure.

Q. Your phone is ringing. Do you need to get that?

A. No.

Q. On this airlines proposal at the end after a subtotal it has a line for discount. Do you see that?

A. Yes, sir.

Q. It says "if applicable." Who determines whether a customer gets a discount?

A. As there's nothing on there now, at one

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point when the service was being directly provided by our management entity if a customer engaged in long-term lease or long-term contract discounsel counts were issued to the entity.

So if they sign a five-year agreement for the provision or to get services from us or from the entity providing the service they get a discount. But since it's different from that now, so I believe we are not -- I don't think we are doing it any more.

Q. Also there is a line for cable and conduit if applicable. What is that for if you know?

A. If we need to get it to a customer premises and there are no facilities there, the cost to get to that premise is allocated as well to the customer.

Basically it's if you were in this building and there was no service and you were on the penthouse floor there would be a cost incurred to you to bring conduit to you, to bring service to you before you could get service. So that's the cost that's associated.

Q. Essentially in this proposal it is fair to say that there's a charge for everything that's associated with providing telecommunications service to your customers, correct?

MR. HOPE: Objection to form.

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A. Yes, sir.
Q. The bottom line is that your telecommunications business has a goal of increasing its profitability and making money for the county, correct?
MR. HOPE: Objection to form
A. Yes, sir.
Q. And so it behooves you and your entity to charge the customers for all of your costs and including marking up all of those costs to an appropriate profit percentage, correct?
MR. HOPE: Objection to form
Q. You can answer.
A. To what -- yes.
Q. I mean, in fact, it is your goal to grow this telecommunications business to reap revenues four, five times what it's presently making in the years 2003, 2004, correct?
MR. HOPE: Objection to form
A. That's speculation. I never looked at it that way.
Q. You have never contemplated growing the business multi-fold?
A. To make it four, five times, no We looked at making sure that we provide a service and we

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maintain that service.
It's offered and if an entity wants it. What we looked at primarily is to let our customers know, or potential customers, that we are on the airport facility and we could provide this. It's up to you whether you opt to use it or not, but if you do you're a customer and if not no But it's not looked at to grow this five, ten fold. I don't make that much money off it to my knowledge in comparison.
Q Are you saying under oath that you have had no knowledge or discussion about growing the revenue for your telecommunications facility three, four, five fold over the years?
MR. HOPE: Objection to form.
A. No, sir, not growing it three, four, five-fold
Q. Let me show you what we'll mark as MJ25.
(Two e-mails, Warner to Jenkins and Stout to Jenkins, marked Exhibit MJ25 for identification)
Q This is an e-mail, actually two e-mails. The Tom one is from Howard Warner to Leonard Stout, yourself and Pedro Garcia. But the bottom one, which is an earlier e-mail, is from Leonard Stout to yourself because you are the first addressee, Howard Warner and Pedro Garcia. And this e-mail reads, and

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it is directed to you, correct?
A. Yes, sir
Q. You are Maurice, right?
A. Yes, sir.
Q. "Maurice, I think you will like the numbers in this spread sheet Present STS via Nextera I is about $2.1 million per year." And I summarized the number. "Future estimates total $15,864,000 per year present Nextera I operations. I would think these levels could be achieved by the end of the present CIP construction schedule. I think we should recast Maria's document into a shared services tenant report and include this table in the report then transit via Bo to the director. Let me know what you want done with regards to the above "
A. OK.
Q. Isn't, doesn't this document completely contradict your sworn testimony 15 seconds ago this that you have had direct discussions regarding growing the revenues of your telecommunications facility not three-fold, not four-fold, not five-fold but even seven-fold?
MR. HOPE: Objection to form.
A. Don't recall having the discussion. However, the consultant that sent me back this e-mail

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with his recommendations, that was his thought process when he came up with such statements, one.
Two, not taking into consideration that some of the services that were provided by Nextera at the time are no longer provided, so it cuts into that dollar amount. And with the CIP ending in 2007 I don't see how we could make $15 million.
I understand what you said here and I go back to my statement. I don't recall reading this e-mail. Now that you are bringing it back to my attention fine and dandy but this is over two years ago, so I did not recall
Q. Well, a couple of questions. Number one, the e-mail asked you directly about something that should be sent to the director of the airport which is three or four levels above you. I mean, in any organization where you are asked to present information to your ultimate, ultimate supervisor and boss, isn't that a pretty serious issue or important issue for you to pay attention to?
MR. HOPE: Objection to form
A. Yes, it is, but it still needs to be validated. This is one consultant's recommendation or discussion point at the time wherein we were looking at our telecommunications plus IT operations

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

BELLSOUTH TELECOMMUNICATIONS, INC., a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant

CASE NO. 02-28688 CA 03

DEPOSITION OF: RICHARD A MOSES

TAKEN AT THE INSTANCE OF: The Plaintiff

DATE: October 6, 2004

TIME: Commenced at 1 30 p m.
Concluded at 3 33 p m.

LOCATION: Gunter Building, Room 282
2540 Shumard Oak Boulevard
Tallahassee, Florida

REPORTED BY: MARY ALLEN NEEL, RPR
Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
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PROCEEDINGS

The following deposition was taken on oral examination, pursuant to notice, for purposes of discovery, for use as evidence, and for such other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing of the deposition transcript by the witness is waived.

* * *

Thereupon,

RICHARD A. MOSES

the witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR GOLDBERG:

Q Mr. Moses, let me just introduce myself again on the record. My name is Martin Goldberg. I represent BellSouth Telecommunications in a case that's currently pending in Miami-Dade County, Florida, in the Circuit Court there. It's entitled BellSouth vs. Miami-Dade County. The case number is 02-28688 03.

You are here, and we appreciate your time very much, pursuant to a subpoena that was issued for your deposition; is that correct?

A That's correct.

Q Okay. Let me just show you what I've marked as

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communications by and between the PSC and the airport regarding issues of certification?
A Well, at that time, Jackie Gilchrist and Tom Williams, neither worked for me, so they could have had conversations that I'm not aware of. As far as myself, I don't recall having any conversations as far as certification.
Q Do you know where Jackie Gilchrist is presently?
A No, I do not She's no longer with the Commission.
Q Do you know where Tom Williams is presently?
A He should be in his office
Q So that means he's still employed here at the PSC?
A Yes.
Q Okay. Fair enough. Fair enough.
Let me ask you to turn the page in that composite exhibit, if I may. Let me ask you if you recognize this document or a document like this entitled "FPSC Alphabetic Listing of Regulated Telecommunications Companies: Shared Tenant Service."
A I believe this is what a report would look like if you generated it from our website.
Q And just in simple English, what is this

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listing supposed to or meant to show or indicate?
A It's a list of certificated shared tenant providers as of that date that's listed on there.
Q So do only certificated companies get placed on this list as far as you know?
A I believe that's the way they have it set up on the website, so you don't end up looking at companies that have discontinued service or been canceled for whatever reason
Q If a company is not on this list -- well, strike that. Let me ask you, if a company is not certificated, but still an STS provider, do you know whether they would appear on this list?
A If they're not certificated, no, they would not appear on that list
Q Let me continue to ask you along those lines, if you have an STS provider who is not certificated and obviously wouldn't appear on this list, are they still a telecommunications company?
A I believe they would meet the requirements under 364 as a telecommunications company if they're providing two-way telecommunications for hire.
Q And as a telecommunications company providing two-way telecommunications for hire, would they be subject to the exclusive jurisdiction of the PSC for

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which you work?
A Yes.
Q Let me take you to another portion of this composite exhibit and direct your attention to page 6 of the exhibit, back to the beginning part. And before I ask you questions, if you just want to generally peruse pages 6 through 16, I'm going to ask you questions about that document.
A Okay.
Q Do you recognize that document as a whole?
A Yes, I do.
Q Okay. What is this document, setting aside the handwritten notes for now that are on there?
A It's an application to provide shared tenant service, requesting authority from the Commission
Q And is this a form that is utilized by the PSC for those who want to apply for a certificate to provide STS services?
A Yes, it is.
Q Let me direct your attention to the second page of that application, particularly question number 1, which is on Bates stamped page number 7, where it says, "This is an application for." And then am I correct that it gives four possible options to check, either an original certificate or the three below that?

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A You're correct.
Q You can pick original certificate, which this application has hand marked; correct?
A Correct.
Q And then going down the list of options, what does the next option essentially require if you were to select that?
A That would be the approval of transferring a certificate to another entity.
Q So if a non-certificated company purchases a certificated company and desires to retain that original certificate, you would have to check that box; correct?
A That's correct.
Q The next line or selection down, does that deal with the assignment of an existing certificate?
A Yes, it does.
Q So an entity that wants to have a certificate assigned to them would check that box; correct?
A I believe they give an example right below that where a certificated company purchases a certificated company and desires to retain the certificate of authority of that company, so that would be correct.
Q And the last option that's laid out is approval of transfer of control. And the example there is a company purchases 51 percent of a certificated company,

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County, the County has applied for a certificate for STS services?
A Not to my knowledge
Q You do not know as we sit here today that they have applied? Is that --
A No, I do not.
Q Okay. If the County were to argue that the fact that they did not apply for a certificate and have been operating without a certificate from the time of these e-mails in March of 2003 to the present, that that somehow approves or sanctions their operation without a certificate, would you agree with that, if you understood my question?
MR. HOPE: Objection to the form.
A No. Only the Commission can approve the authority to provide shared tenant service.
Q And do you say that because the Commission has exclusive jurisdiction over that area?
A Yes
Q And actually, the Commission's grant of exclusive jurisdiction is stated very clearly in Florida law; correct?
A Correct.
Q And would you agree with me that the PSC has exclusive jurisdiction over whether or not an entity

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needs or does not need certification, and that by definition means any other person or entity in the State of Florida cannot make that determination?
MR. HOPE: Objection to the form.
BY MR. GOLDBERG:
Q Correct?
A Correct.
Q So in other words, just to be clear, you would agree that another entity or person cannot self-determine whether or not they need a certificate or do not need a certificate to provide STS services? Would you agree with that?
MR. HOPE: Objection to the form
A Yes.
Q Let me direct your attention back to PSC-5, the customer list that you received from Miami-Dade County Airport as of February 2003. Based on the customer list that you reviewed, and assuming no partitioning of the switch, as you've referred to it here, would Miami-Dade County need to apply for certification as an STS provider?
MR HOPE: Objection to the form
A Yes.
Q And can you explain that answer, please?
A Under the title "Concession/Others," the

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companies that are listed underneath there, in my opinion, would not be necessary for the safe passage of passengers through the terminal, so it would lay outside of the exemption if they have not partitioned their switch. And the same would hold true for management companies.
Q If I could ask you to go back for a minute to PSC-7, which is a composite exhibit of notes and the application, and go again to page 17, I would appreciate that. I'm sorry to have you jump back and forth.
A Okay.
Q In the middle of the page, the notes written by an individual at the County says, "If MIA is going to provide service not related to public transportation (hotels, shops, et cetera) we need to file an application." Is that language consistent with your testimony that you've given here today?
A If they don't partition their switch to those entities, yes, it would be.
Q Whether or not an STS provider partitions their trunks, or switch, partitions their switch, as you've used, or did not partition the switch, are they still a telecommunications provider or company under Florida law?
A Yes.

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Q During your time here at the PSC, have you dealt with certification issues relating to Orlando International Airport?
A I don't recall specifically if I was involved with it or not It may have happened on my watch, but I don't recall.
Q If the County were to argue in this case that because Orlando International Airport provides STS without a PSC certificate, that that somehow sanctions the County's operation without a certificate, would you agree or disagree with that statement?
A I would not agree that it allows anyone to operate without a certificate, no.
Q Can you explain that a little bit further, please?
A Well, the Orlando Airport is one entity, and the Miami Airport is another entity. I don't know if the two operate the same. Orlando may have partitioned their switch, and certification wouldn't be required.
Q If I could ask you to stay in that same exhibit, PSC-7, and if I could direct your attention to a certain page that I'll be able to find in a second, Bates stamp 18 again, the list of certificated STS providers, let me direct your attention to the middle of that page. On the list it says Hillsborough County

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definition of local exchange telecommunications company?
A Yes, it does.
Q And does that help refresh your recollection as to the date you were looking for before?
A Yes, it does.
Q Can you just read that date into the record?
A June 30, 1995.
Q Does that help you out okay?
A Yes, it does I couldn't remember the correct date to save my life.
Q That's okay. Mr. Hope also asked you in his cross-examination about whether or not the PSC has mechanisms to resolve disputes between parties. Do you remember that series of questions?
A Yes
Q And are you saying in your testimony that a court, a state circuit court in Florida does not have jurisdiction or the ability to resolve a dispute involving certification or PSC statutes or rules?
A I'm sure the courts do. The Supreme Court is what references anything that we have that we make a decision on If the parties don't care for it, they take it to the Supreme Court.
Q But you are not saying by your testimony, are you, that any dispute that happens to involve PSC rules

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or statutes has to come to the PSC first before a court can address that issue?
MR. HOPE: Object to the form of the question.
A No, I'm not saying that.
Q Mr. Hope was asking various questions about local service, and some of the requests had to do with what can overlap, and I think there was one question that dealt with whether local service can overlap with local service. Be that as it may, my question is, can an STS service, a provider of STS service overlap with a provider of local service?
A Yes
Q And when I use the word "overlap," would you agree that an STS provider can overlap and therefore compete with a local service provider?
MR. HOPE: Objection to the form.
A Yes
Q Would you accommodate me for another three or four minutes so that I can just review my notes and talk to Ms. Liebman and see if we can conclude?
A Certainly.
MR. GOLDBERG: I appreciate it. Thank you very much.
(Short recess.)
BY MR. GOLDBERG:

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Q Okay. Mr. Moses, I actually just have one question, and then we're going conclude, so if you'll indulge me for one second.
Earlier in your deposition I asked you whether or not you understood the nature of the lawsuit that brings us here today to take your deposition; correct?
A Correct.
Q And correct me if I'm wrong, but I recall you answering no, you didn't have a great understanding of the lawsuit.
A That's correct
Q And I think you also testified, and correct me if I'm wrong, that you had not even read the complaint that has been filed in this case by BellSouth.
A That's correct.
Q Let me represent to you that in that complaint, the majority of the complaint concerns whether or not Miami-Dade County has violated its own charter by operating and providing telecommunications services at the Miami-Dade County Airport and other airports, so in essence, it is an issue regarding the Miami-Dade charter and whether or not it has been violated.
Having said that, is it your testimony that that would be a matter -- strike that. Would that be a matter that would be brought before the PSC for

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resolution?
MR. HOPE: Objection to the form.
MR. FORDHAM Unless he's comfortable answering it, I would object on the basis that that requires a rather sophisticated legal analysis.
MR. GOLDBERG: Okay Fair enough.
BY MR. GOLDBERG:
Q But would you agree it's not your testimony today that an alleged violation of the Miami-Dade charter needs to be resolved by the PSC and not a court?
MR. HOPE: Objection to the form.
A Again, I knew nothing of the charter before you just now spoke about it, so I wouldn't think that would be something that would be addressed with the Commission
MR. GOLDBERG: Well, that was probably a couple of questions, but that's it. It was one main question
That concludes the deposition. As I'm sure your lawyer, who is well experienced, more experienced than me, can explain to you, at the end of every deposition, the witness such as yourself gets an option to either read the transcript of your answers to make sure that they're accurate, and once

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DADE COUNTY, FLORIDA

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R-31-02

NON-EXCLUSIVE TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES MANAGEMENT AGREEMENT



Conf 13
5-21-03

made as of the 1st day of February in the year Two Thousand and Two.

Between the County: **Miami-Dade County Florida**, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns

AND THE CONTRACTOR: **NEXTIRAONE, LLC**
2800 Post Oak Boulevard
Suite 200
MD 25-12
Houston, Texas 77056

Which term shall include its officers, partners, employees, successors, legal representatives and assigns.

Description of the Project: Provides for the operations, management, maintenance, service; support and equipment and supplies of certain telecommunications and data network, infrastructure, hardware and software systems for Miami-Dade Aviation Department as more specifically herein.

Dated 1/24/02

1.28 **Project Manager:** The chief of the MDAD Telecommunications Section, or his or her designee. The primary responsibilities of the Project Manager are to coordinate and communicate with the Contractor and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement. All parties may rely on the instructions or determinations made by the Project Manager; provided, however, that such instructions and determinations do not change the Scope of Services or modify the terms and conditions of this Agreement The County shall from time to time provide written notice to the Contractor designating the assigned Project Manager.

1.29 **Reimbursable Expenses:** Those expenses delineated in the Payments and Costs Reimbursable article, of this Agreement which are separately approved by the County that are incurred by the Contractor in fulfillment of this Agreement.

1.30 **Risk Management Division:** A division of Miami-Dade County, with offices in the Stephen P. Clark Center, 111 N.W. 1st Street, Miami, FL 33128.

1.31 **Services:** All services, work and actions by the Contractor performed pursuant to or undertaken under this Agreement.

1.32 **Shared Airport Tenant Service ("SATS"):** The provision of service which duplicates or competes with local service provided by an existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

1.33 **Software:** Is defined as any set of one or more computer or telephone system programs which is composed of routines, subroutines, concepts, processes, algorithms, formulas, ideas, or know-how severally owned by or licensed by the County and/or any one of its suppliers, regardless of the particular delivery media in or on which such intangible assets may be embodied. Software shall also include any corrections, patches, updates, or revisions to Software originally provided.

1.34 **Sub-System:** The integrated systems, including voice mail, automated attendants, automatic call distributors, customized control routing, power supplies, remote access devices, battery back-up units, integrated voice response, uninterruptible power supplies, and any related and embedded Software reporting products so designated by the County.

1.35 **System:** The telecommunications system, which may include Equipment, switches, Sub-Systems, related Software, and peripheral equipment. As used in this Agreement, the terms System and switch have equal meaning.

1.36 **Tenant:** Shall mean any individual, company, or business located at any of the

Westlaw.

West's F.S.A. § 364.02

C
West's Florida Statutes Annotated Currentness
Title XXVII. Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I. General Provisions

→364.02. Definitions

As used in this chapter:

(1) "Basic local telecommunications service" means voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, such term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

(2) "Commercial mobile radio service provider" means a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

(3) "Commission" means the Florida Public Service Commission.

(4) "Competitive local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications services in this state on or after July 1, 1995.

(5) "Corporation" includes a corporation, company, association, or joint stock association.

(6) "Intrastate interexchange telecommunications company" means any entity that provides intrastate interexchange telecommunications services.

(7) "Local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

(8) "Monopoly service" means a telecommunications service for which there is no effective competition, either in fact or by operation of law.

(9) "Nonbasic service" means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement described in s. 364.16, or a network access service described in s. 364.163.

(10) "Operator service" includes, but is not limited to, billing or completion of third-party, person-to-person, collect, or calling card or credit card calls through the use of a live operator or automated equipment.

(11) "Operator service provider" means a person who furnishes operator service through a call aggregator

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West's F.S.A. § 364.02

(12) "Service" is to be construed in its broadest and most inclusive sense. The term "service" does not include voice-over-Internet protocol service for purposes of regulation by the commission. Nothing herein shall affect the rights and obligations of any entity related to the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service.

(13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include:

(a) An entity which provides a telecommunications facility exclusively to a certificated telecommunications company;

(b) An entity which provides a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;

(c) A commercial mobile radio service provider;

(d) A facsimile transmission service;

(e) A private computer data network company not offering service to the public for hire;

(f) A cable television company providing cable service as defined in 47 U.S.C. s. 522; or

(g) An intrastate interexchange telecommunications company

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for any taxes imposed pursuant to chapters 202, 203 and 212 and any fees assessed pursuant to ss. 364.025 and 364.336. Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company, shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service, and shall reduce its intrastate long distance toll rates in accordance with s. 364.163(2).

(14) "Telecommunications facility" includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

CREDIT(S)

Amended by Laws 1980, c. 80-36, § 2, eff. July 1, 1980; Laws 1984, c. 84-215, § 1, eff. Oct. 1, 1984; Laws 1990, c. 90-244, § 2, eff. Oct. 1, 1990; Laws 1995, c. 95-403, § 6, eff. July 1, 1995; Laws 1998, c. 98-277, § 12, eff. May 28, 1998; Laws 2003, c. 2003-32, § 3, eff. May 23, 2003.

HISTORICAL AND STATUTORY NOTES

Derivation:
Laws 1965, c. 65-451, § 1.
Laws 1965, c. 65-52, § 1.
Laws 1963, c. 63-279, § 1.

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West's F.S.A. § 364.339

C
West's Florida Statutes Annotated Currentness
Title XXVII. Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I. General Provisions

→364.339. Shared tenant service; regulation by commission; certification; limitation as to designated carriers

(1) The commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which:

(a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and

(b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

(2) No person shall provide shared tenant service without first obtaining from the commission a certificate of public convenience and necessity to provide such service. The commission shall grant certificates to telecommunications companies upon showings that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services. The commission may require such service to be offered and priced differently to residential and commercial tenants if deemed to be in the public interest.

(3)(a) Shared tenant services provided to government entities pursuant to this section are exempt from paragraph (1)(b), and the commission may exempt such entities from any certification requirements imposed by this chapter.

(b) As provided in subsection (4), the commission may authorize such service notwithstanding the provisions of s. 364.335. The commission may prescribe the type, extent, and conditions under which such service may be provided and may exempt such service, except appropriate certification, from commission regulation.

(4) In determining whether the actions authorized by subsections (1) and (2) are consistent with the public interest, the commission shall consider the following

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EXHIBIT
TABBIES
PSC-9

West's F.S.A. § 364.339

(a) The number of firms providing the service

(b) The availability of the service from other firms or the local exchange telecommunications company

(c) The quality of service available from alternative suppliers.

(d) The effect on telecommunications service rates charged to customers of the local telecommunications company

(e) The geographic extent of the service to be provided

(f) Any other factors which the commission deems relevant

(5) The offering of shared tenant service shall not interfere with or preclude a residential or commercial tenant's right to obtain direct access to the lines and services of the telecommunications company or the right of the telecommunications company to serve the residential or commercial tenant directly under the terms and conditions of the commission-approved tariffs.

CREDIT(S)

Added by Laws 1986, c. 86-270, § 1, eff. July 9, 1986 Amended by Laws 1990, c. 90-244, § 40, eff. Oct. 1, 1990, Laws 1995, c. 95-403, § 27, eff. July 1, 1995; Laws 1998, c 98-277, § 15, eff. May 28, 1998.

HISTORICAL AND STATUTORY NOTES

Prior Provisions for Legislative Review of Regulatory Statutes:

Laws 1986, c. 86-270, § 2, provided for repeal of this section October 1, 1989, and review pursuant to § 11 61, the Regulatory Sunset Act.

LIBRARY REFERENCES

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C

FLORIDA ADMINISTRATIVE CODE ANNOTATED
TITLE 25. PUBLIC SERVICE COMMISSION
CHAPTER 25-24. TELEPHONE COMPANIES
PART XII. SHARED TENANT SERVICES
Current through March 1, 2004

25-24.575 Shared Tenant Service Operations.

(1) All shared tenant service providers shall allow the carrier of last resort of local exchange telecommunication services direct access to tenants who desire local service from the carrier of last resort of local exchange telecommunication services instead of the shared tenant service provider

(2) Each shared tenant service provider shall allow access to a provider of local exchange telecommunication services "zero" operators for emergencies and for line verification purposes.

(3)(a) Each shared tenant service provider shall provide direct access to 911 service where available at a level at least equivalent to theservice provided by the incumbent local exchange company.

(b) By July 1, 1997, access to 911 services shall be maintained for the duration of any temporary disconnection for non-payment of aresidential subscriber's local service.

(4) Each shared tenant service provider shall provide access via 800, 888, 10XXX, or 950, where available, to all locally available interexchange companies.

(5) Shared tenant service providers shall be subject to the following conditions when operating in a rate base, rate of return local exchangecompany's service area, as provided in Chapter 364.052(2), F.S.

(a) Where two (2) or more buildings are served by the same private branch exchange (PBX), the trunks serving each building shall be separately partitioned

(b) Shared tenant service customers in one building shall not access or use the trunks partitioned for another building

(c) Shared tenant service shall be limited to a total of 250 inward, outward, and combinational trunks per private branch exchange (PBX)

(d) Shared tenant service providers shall not be allowed to

1. Establish dedicated facilities (provide lines) direct to an interexchange company's point of presence (POP)

2. Construct facilities for interconnecting other shared tenant service locations.

3. Allow intercommunication between unaffiliated entities.

(6) The carrier of last resort of local exchange telecommunication services must be able to gain access to all facilities up to the demarcation point of the tenant's premises, and retain responsibility for provision and maintenance of the network up to that point.

(7) The carrier of last resort of local exchange telecommunication services shall use the STS provider's or the STS building owner's cable, if made available, to gain access to the tenant The carrier of last resort of local exchange telecommunication services shall be required to provide reasonable compensation. Such compensation shall not exceed the amount it would have cost the carrier of last resort of local exchange telecommunication services to serve the tenant through installation of its own cable. This cost must be calculated on a pro rata basis.

(8) In those circumstances where the STS provider and landlord of a building are not the same, the STS provider shall obtain and guarantee the permission of the building owner to allow direct access by the carrier of last resort of local exchange telecommunication services to any tenant upon the tenant's request

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.035, 364.337, 364.339, 364.345 FS. History--New 1-28-91, Amended 7-29-97.

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25 FL ADC 25-24.575
END OF DOCUMENT

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FACTUAL ALLEGATIONS

A. THE LEGAL FRAMEWORK

8. Section 1.01(A)(14)(b) of the Charter states

> The county shall not operate a . . telephone utility to serve any territory in the county which is being supplied with a similar service except by a majority vote of those qualified electors voting in an election held not less than six (6) months after the Board has passed an ordinance to that effect by a two-thirds (2/3) vote of the members of the Board present. Such ordinance shall contain information on cost, method of financing, agency to regulate rates, agency to operate, location and other information necessary to inform the general public of the feasibility and practicability of the proposed operation. (Emphasis added).

9 A "telephone utility," as used in the Charter, is a "Telecommunications Company" as provided in Section 364.02 (13), Fla Stat. and the regulations promulgated thereunder.

10 Section 364.02 (13), Fla. Stat. defines a Telecommunications Company, and thus a telephone utility, as:

> 13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. (Emphasis added).

11. The County, a political subdivision, is operating a Telecommunications Company and is thus subject to regulation by, and the exclusive jurisdiction of, the FPSC with respect to the County's offering two-way telecommunications services to the public for hire.

BANK OF AMERICA TOWER
SUITE 1500
100 SOUTHEAST 2ND STREET
MIAMI, FLORIDA 33131-2115

LASH&GOLDBERG

WESTON CORPORATE CENTER
SUITE 400
2500 WESTON ROAD
FT. LAUDERDALE, FLORIDA 33331

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ., of the firm of ADORNO & YOSS, P.A. on behalf of the Plaintiff

DAVID STEPHEN HOPE, and CYNTIA LEE, Assistant Miami-Dade County Attorneys on behalf of the Defendant

Also present
Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS EXAMINATION PAGE
PEDRO J. GARCIA
BY MR. BLOOMBERG 4

EXHIBITS

EXHIBITS	FOR IDENT.
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(All exhibits are attached hereto.)

(Ms. Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q. Would you tell me your name, please, sir.

A. Pedro J. Garcia.

Q. What is your occupation?

A. Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years.

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

the airports are exempt from any explicit authorization to perform STS services.
Q. What does STS mean?
A. It means Shared Tenant Services.
Q. What does that mean?
A. Which means that provisioning of services -- of telecommunications services to tenants of the airport.
Q. So STS is Shared Tenant Services?
A. Shared Tenant Services.
Q. All right. So back to my question. Has the County interpreted the Florida law to mean that it does not need explicit authorization from P.S.C.?
A. Yes, sir.
Q. Who, to your knowledge, has made that determination?
A. It was made by the gentleman sitting on my left.
Q. The counsel?
A. The counsel and basically all the management, Maurice Jenkins and the management of the airport and myself.
Q. By the way, does Miami-Dade Aviation Department provide similar services at other

airports within Dade County?
A. The airports that Miami-Dade owns?
Q. Right.
A. Specifically Opa-Locka and Tamiami we provide the same services, and those airports are owned by Miami-Dade County.
Q. Are there any airports within Miami-Dade County within the geographical boundaries of the County that the County does not own?
A. As far as I know, the airports are owned by Miami-Dade County, unless there's an obscure landing strip which I'm not aware of.
Q. And we won't discuss those.
In other words, the County provides these services at every airport it owns --
A. At two of the airports.
Q. At two of the airports.
A. The other two just have independent telephone systems and they're connected to BellSouth for telecommunications. We have a direct correction via T1 to two of those airports in which we provide voice services and network services from MIA connected to the satellite system that they have at those airports.
Q. At Opa-Locka and Tamiami?

A. At Tamiami, right.
Q. By the way, we've discussed already and we've used the phrase telecommunications services, telephone services. What are telephone communications, so we have an understanding? Tell me -- wait. Let me finish.
Tell me how you define the term telecommunications services.
A. The industry itself -- sometimes it's a gray area of what is telecommunications and what is telephone services. To me, as far as this conversation goes, I take telecommunications to mean voice and network transmission. If we're just talking about the voice side, it would be called voice services, telecommunication, both the voice services or the telephone and the network transmission, which is the network that goes where you plug in your PCs.
Q. My e-mails and so forth?
A. That's right.
Q. So you would agree with me, wouldn't you, that the County provides telephone services at these airports?
MR. HOPE: Objection. Form.
A. Yes.

Q. All right. Let me make a point.
There may be two kinds of objections here today.
A. I can -- I didn't hear what you said.
MR. HOPE: I just said objection to form.
Q. Right.
A. That means what?
Q. There are two kinds of objections here at a deposition. One is an objection to the form of the question or other objections where you can go ahead and answer the question. The only time you shouldn't answer the question is if your lawyer says I object for whatever reason, don't answer the question.
A. Okay.
Q. If he just objects, he's objecting to preserve the record.
A. Okay. So can you repeat the question?
Q. I'll repeat the question.
Does the County provide telephone services to customers at airports in Dade County?
A. Yes, sir.
Q. Does the County provide telecommunications services, using your definition,

to customers at airports within Dade County?
A. Yes, sir.
Q. Has your department had any communications with the Public Service Commission about the requirement or nonrequirement of receiving authorization from the Public Service Commission to provide such services?
A. We had some communication in the sense of we started the process to obtain an STS license from the Public Service Commission on behalf of the airport to provide those services and then the process was never completed
(Plaintiff's Exhibit 2 was marked for identification.)
BY MR. BLOOMBERG
Q. Let me show you what's been marked as Plaintiff's Exhibit No. 2 for the purposes of the deposition and ask if you recognize that document.
A. Yes.
Q. What is it, please?
A. This is a -- seems to be a list of the tenants at the airport that we provide services to --
Q. Okay. And --
A. -- telecommunications services or either

voice or data or both.
Q. And it's attached to an e-mail what appears to be an e-mail from Pedro Garcia to rmoses@psc.state.fl us; correct?
A. Yes.
Q. Did you prepare that list?
A. This is a form that we keep. Obviously we need to know who our customers are, and there was a request by Mr. Moses to comply with.
Q. And you responded to Mr. Moses?
A. We responded.
(Plaintiff's Exhibit 3 was marked for identification.)
BY MR. BLOOMBERG:
Q. And the request, if you take a look at Exhibit 3, ask you first tell me whether you recognize Exhibit 3.
A. Okay.
Q. Do you recognize Exhibit 3?
A. Yes.
Q. Is Exhibit 3 Mr. Moses' request for that information, a customer list?
A. Yes, I believe this was the -- yes, this was a request they sent us.
Q. All right. Now Mr. Moses' request,

Exhibit 3, the second paragraph of the request, Mr. Moses' e-mail says therefore, any services provided to entities such as concessions stands, restaurants or hotels would be outside of the exemption, and certification would be required before telephone service can be provided.
Do you see that?
A. Yes.
Q. If you look at Exhibit 2, are there any concessions stands to whom the County provides telephone services or offers telephone services?
A. Yes, there's some -- there seems to be some concessions here
Q. Okay. Cafe Versailles, the ice cream place --
A. Cafe Versailles, Duty-Free, et cetera.
Q. Those would clearly not be airlines?
A. That's right.
Q. Did you have a discussion with Mr. Moses at any time or anybody with the P.S.C. concerning the P.S.C.'s position that concessions stands, restaurants, hotels would need your certification before you could provide telecommunications services to those entities?
A. No, we did not.

Q. You just felt he was wrong?
A. No. He requested from us a list of entities, and we provided that.
Q. These two e-mails, was that the sum and substance of the communication?
A. As far as I remember, that was it.
Q. And you mentioned the process of applying. Was that before or after these e-mails?
A. This was, like, two years ago. It was at the beginning when I started working for the aviation department.
Q. Were you personally involved in any discussions concerning whether or not there was a certification requirement from the P.S.C.?
A. Yes, we had conversations, Maurice Jenkins and counsel and other people.
Q. And you were involved in some of those conversations?
A. Yes.
Q. Do you agree or do you disagree with Mr. Moses' statement in his e-mail that services provided to entities such as concessions stands, restaurants or hotels would be outside of the exemption, and certification would be required?
A. I think this is a -- I read the Florida

(Plaintiff's Exhibit 9 was marked for identification.)
BY MR. BLOOMBERG:
Q Let me show you what's been marked as Exhibit 9 for purposes of the deposition and ask you to turn to what would be Page 17 of that -- no, I'm sorry -- Page 17, the bottom of Page 17, No. 14 on that page -- actually, I'm sorry, you've got to go to Page 16, Section 101 first.
MR HOPE: Could we just go off the record for a second
MR BLOOMBERG: Sure.
(Discussion off the record)
(A break was taken.)
BY MR. BLOOMBERG:
Q. Start at Page 16, 101, Subparagraph A, the powers. And then turn over to Page 17, No. 14, at the bottom of the page. And if you would read that for me
A. Regulate control --
Q. To yourself.
And then if you go over to, I guess, sub B on Page 18 --
A. Right.
Q. -- which is the one in the bracket, if

you would read that to yourself.
A. Okay
Q. Are you familiar with those provisions at all?
A. I have seen this paragraph before.
Q. Paragraph B?
A. Yes
Q. Where did you see it before?
A. I've seen it in some of the correspondence.
Q. All right.
A. It looks familiar to me. That's what I'm saying.
Q. Were you ever asked by anybody to offer opinions concerning the meaning of subparagraph B and how it affected or how it impacted on what MDAD was doing at the airports?
A. No, sir.
Q. As the person involved and the chief of the telecommunications unit, is MDAD operating a telephone utility at the airport?
A. It's operating -- it's providing telephone services at a County-owned facility.
Q. Is it a telephone utility?
A. The word utility, it's -- I'm not sure

that it applies. Is every vendor that provides services a utility? I'm not sure that definition is correct.
Q. How would you define telephone utility as somebody who's been in this business --
A. It's a regular entity like Florida Power & Light, the water company, which is the way BellSouth used to be. It still is a carrier preference. I mean BellSouth has some rights and duties different than any other vendor because it's still the carrier of last resort. They have to provide phones and ground lines to the corner even though it takes a lot of money to run the wire and not make money out of it. Nobody is forced to do that except BellSouth
So BellSouth in that sense, the way I interpret it, is a utility or maybe the way everybody interprets it. And just like the power company and so forth because they're regulated. And we're not regulated in that sense and neither are the other vendors who provide those services.
Q. Now other vendors are regulated, also; correct?
A. Not the other vendors, no. BellSouth is, the other vendors are not.

Q MCI is not regulated?
A Not to the extent that BellSouth is.
Q Not at all?
A. Well, I don't know what you call regulation. I'm saying not to the extent that BellSouth is regulated I don't consider MCI a utility, but I consider BellSouth a utility. But that's just me.
Q. Now, if the County -- I realize this is a hypothetical -- but if the County had made the determination that it had to submit the application to the Public Service Commission, if you had made that determination when you had those discussions, would you consider the County a utility?
A. No, sir.
MR. HOPE: Objection to form.
Q Even though it was regulated, you wouldn't consider it a utility?
MR HOPE: Objection to form.
A That's not a regulation. That's just the license to perform the duties.
MR HOPE: Objection to form.
Q All right. Just to make sure that I understand your distinction, BellSouth is a utility, is the only telephone utility in the state

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

BELLSOUTH TELECOMMUNICATIONS, INC., a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant
_____/

CASE NO. 02-28688 CA 03

DEPOSITION OF	RICHARD A MOSES
TAKEN AT THE INSTANCE OF:	The Plaintiff
DATE	October 5, 2004
TIME	Commenced at 1:30 p.m. Concluded at 3 33 p.m.
LOCATION:	Gunter Building, Room 282 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
2894-A REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
(850) 878-2221

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APPEARANCES:

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REPRESENTING THE DEFENDANT:

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REPRESENTING THE WITNESS:

C. LEE FORDHAM, ESQUIRE
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0863

PROCEEDINGS

The following deposition was taken on oral examination, pursuant to notice, for purposes of discovery, for use as evidence, and for such other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing of the deposition transcript by the witness is waived.

* * *

Thereupon,

RICHARD A. MOSES

the witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLDBERG:

Q Mr. Moses, let me just introduce myself again on the record. My name is Martin Goldberg. I represent BellSouth Telecommunications in a case that's currently pending in Miami-Dade County, Florida, in the Circuit Court there. It's entitled BellSouth vs. Miami-Dade County. The case number is 02-28688 03.

You are here, and we appreciate your time very much, pursuant to a subpoena that was issued for your deposition; is that correct?

A That's correct.

Q Okay. Let me just show you what I've marked as

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communications by and between the PSC and the airport regarding issues of certification?
A Well, at that time, Jackie Gilchrist and Tom Williams, neither worked for me, so they could have had conversations that I'm not aware of. As far as myself, I don't recall having any conversations as far as certification.
Q Do you know where Jackie Gilchrist is presently?
A No, I do not. She's no longer with the Commission.
Q Do you know where Tom Williams is presently?
A He should be in his office.
Q So that means he's still employed here at the PSC?
A Yes
Q Okay. Fair enough. Fair enough.
Let me ask you to turn the page in that composite exhibit, if I may. Let me ask you if you recognize this document or a document like this entitled "FPSC Alphabetic Listing of Regulated Telecommunications Companies: Shared Tenant Service."
A I believe this is what a report would look like if you generated it from our website.
Q And just in simple English, what is this

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listing supposed to or meant to show or indicate?
A It's a list of certificated shared tenant providers as of that date that's listed on there
Q So do only certificated companies get placed on this list as far as you know?
A I believe that's the way they have it set up on the website, so you don't end up looking at companies that have discontinued service or been canceled for whatever reason
Q If a company is not on this list -- well, strike that. Let me ask you, if a company is not certificated, but still an STS provider, do you know whether they would appear on this list?
A If they're not certificated, no, they would not appear on that list
Q Let me continue to ask you along those lines, if you have an STS provider who is not certificated and obviously wouldn't appear on this list, are they still a telecommunications company?
A I believe they would meet the requirements under 364 as a telecommunications company if they're providing two-way telecommunications for hire
Q And as a telecommunications company providing two-way telecommunications for hire, would they be subject to the exclusive jurisdiction of the PSC for

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which you work?
A Yes.
Q Let me take you to another portion of this composite exhibit and direct your attention to page 6 of the exhibit, back to the beginning part. And before I ask you questions, if you just want to generally peruse pages 6 through 16, I'm going to ask you questions about that document.
A Okay.
Q Do you recognize that document as a whole?
A Yes, I do
Q Okay. What is this document, setting aside the handwritten notes for now that are on there?
A It's an application to provide shared tenant service, requesting authority from the Commission.
Q And is this a form that is utilized by the PSC for those who want to apply for a certificate to provide STS services?
A Yes, it is.
Q Let me direct your attention to the second page of that application, particularly question number 1, which is on Bates stamped page number 7, where it says, "This is an application for." And then am I correct that it gives four possible options to check, either an original certificate or the three below that?

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A You're correct
Q You can pick original certificate, which this application has hand marked; correct?
A Correct.
Q And then going down the list of options, what does the next option essentially require if you were to select that?
A That would be the approval of transferring a certificate to another entity.
Q So if a non-certificated company purchases a certificated company and desires to retain that original certificate, you would have to check that box; correct?
A That's correct.
Q The next line or selection down, does that deal with the assignment of an existing certificate?
A Yes, it does.
Q So an entity that wants to have a certificate assigned to them would check that box; correct?
A I believe they give an example right below that where a certificated company purchases a certificated company and desires to retain the certificate of authority of that company, so that would be correct.
Q And the last option that's laid out is approval of transfer of control. And the example there is a company purchases 51 percent of a certificated company,

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County, the County has applied for a certificate for STS services?
A Not to my knowledge.
Q You do not know as we sit here today that they have applied? Is that --
A No, I do not
Q Okay. If the County were to argue that the fact that they did not apply for a certificate and have been operating without a certificate from the time of these e-mails in March of 2003 to the present, that that somehow approves or sanctions their operation without a certificate, would you agree with that, if you understood my question?
MR. HOPE: Objection to the form
A No. Only the Commission can approve the authority to provide shared tenant service.
Q And do you say that because the Commission has exclusive jurisdiction over that area?
A Yes
Q And actually, the Commission's grant of exclusive jurisdiction is stated very clearly in Florida law; correct?
A Correct.
Q And would you agree with me that the PSC has exclusive jurisdiction over whether or not an entity

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needs or does not need certification, and that by definition means any other person or entity in the State of Florida cannot make that determination?
MR. HOPE: Objection to the form.
BY MR. GOLDBERG:
Q Correct?
A Correct.
Q So in other words, just to be clear, you would agree that another entity or person cannot self-determine whether or not they need a certificate or do not need a certificate to provide STS services? Would you agree with that?
MR. HOPE: Objection to the form.
A Yes
Q Let me direct your attention back to PSC-5, the customer list that you received from Miami-Dade County Airport as of February 2003. Based on the customer list that you reviewed, and assuming no partitioning of the switch, as you've referred to it here, would Miami-Dade County need to apply for certification as an STS provider?
MR. HOPE: Objection to the form.
A Yes
Q And can you explain that answer, please?
A Under the title "Concession/Others," the

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companies that are listed underneath there, in my opinion, would not be necessary for the safe passage of passengers through the terminal, so it would lay outside of the exemption if they have not partitioned their switch And the same would hold true for management companies.
Q If I could ask you to go back for a minute to PSC-7, which is a composite exhibit of notes and the application, and go again to page 17, I would appreciate that. I'm sorry to have you jump back and forth.
A Okay.
Q In the middle of the page, the notes written by an individual at the County says, "If MIA is going to provide service not related to public transportation (hotels, shops, et cetera) we need to file an application." Is that language consistent with your testimony that you've given here today?
A If they don't partition their switch to those entities, yes, it would be
Q Whether or not an STS provider partitions their trunks, or switch, partitions their switch, as you've used, or did not partition the switch, are they still a telecommunications provider or company under Florida law?
A Yes

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Q During your time here at the PSC, have you dealt with certification issues relating to Orlando International Airport?
A I don't recall specifically if I was involved with it or not. It may have happened on my watch, but I don't recall
Q If the County were to argue in this case that because Orlando International Airport provides STS without a PSC certificate, that that somehow sanctions the County's operation without a certificate, would you agree or disagree with that statement?
A I would not agree that it allows anyone to operate without a certificate, no
Q Can you explain that a little bit further, please?
A Well, the Orlando Airport is one entity, and the Miami Airport is another entity. I don't know if the two operate the same. Orlando may have partitioned their switch, and certification wouldn't be required.
Q If I could ask you to stay in that same exhibit, PSC-7, and if I could direct your attention to a certain page that I'll be able to find in a second, Bates stamp 18 again, the list of certificated STS providers, let me direct your attention to the middle of that page. On the list it says Hillsborough County

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

DEPOSITION

OF

ALVIS WAYNE TUBAUGH

Office of the County Attorney
Miami International Airport
Terminal Building
Concourse A, Fourth Floor
Miami, Florida

Thursday, October 27, 2004
10:10 a.m. - 1:00 p.m.

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notice of deposition for the corporate representative with the most knowledge of this particular area as well as, you know, seven or eight others. We have given you dates for that, those depositions that are coming up. I don't see, really, any prejudice to the County.

In any event, the instruction stands not to answer. We will move for a protective order

Thank you, Mr. Hope.

MR HOPE: You are welcome

Q. Besides George Hill and Nancy Sims and yourself, is there anyone else that has knowledge either about paragraph 7 or more knowledge than those people identified?

A. There may be. But those are the ones that I can think of and identify when I was going through this.

Q. Please turn to page 3 and read paragraph 9, which defines a telephone utility.

A. Okay.

Q. Who has knowledge of the allegation in paragraph 9?

MR GOLDBERG: I object It calls

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for a legal conclusion.

If you can answer the question, you can answer it.

THE WITNESS The best way I read it, the lawyers. It is a legal determination. So, you know, I can speculate on it, but I am not the best person to ask for a legal opinion.

Q. If you know, was this paragraph drafted by your counsel?

A. In this complaint?

Q. Correct

A. Yes.

Q. So besides your counsel, there is no one at BellSouth that you can identify for me that has knowledge about this paragraph?

A. If you are talking about a legal determination, that is correct

Q. Actually, I am just talking about the sentence as it reads. "A 'telephone utility,' as used in the charter, is a 'telecommunications company' as provided in Section 364.02 subparagraph 13, Florida statutes, and the regulations promulgated thereunder."

A. If there is anybody in the telephone

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company other than the lawyer who can answer the question and tell you, it would be me, and the way I interpret the rules and statutes, PSC, and the state statute.

Q If you know offhand, is there any specific rule or statute that comes to mind in support of paragraph 9?

MR. GOLDBERG: Again, let me object. It gets into the same issue of taking a substantive deposition of his knowledge on the issues, which is not the purpose of why he is appearing here today. So for the same reason, we will file a protective order as on the other question, and I will add this to it. I will instruct him not to answer.

Q Please read paragraph 11.

A Yes.

Q Who has knowledge of the information contained in paragraph 11?

A It would be me. I would be the main person, and Nancy Sims and the folks that work for her in the regulatory group.

Q Also, let me just go back and state that when I ask you who has knowledge, it is not

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necessarily confined to just BellSouth employees. So if there are other people that you might know that have knowledge particular to that instance, you can tell -- you should tell me who they are and their affiliation, if there is an affiliation. I will go person by person if it is relevant.

MR. GOLDBERG: Let me just clarify Are you saying he should answer as to all persons, not just BellSouth people?

MR. HOPE: If he knows of people that have knowledge particular to a specific aspect of your second amended complaint, he can identify who those people are. This notice doesn't necessarily say -- and probably what is going to happen is, he is just going to have BellSouth specific knowledge.

As he said, for example, he deals with the PSC. There are allegations in this complaint which deal with the PSC. He might have had some communication or know of some communication with the PSC which was a basis for a statement made in his complaint Therefore, if he knows who that is, then he should identify who

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those people are.
MR. GOLDBERG: Okay.
Q. You identified yourself and Nancy Sims. What is the extent of your knowledge?
A. Well, you know, I interpret the rule, look at how you operate, and the fact that I believe you're a telecommunications utility, and you are subject to the rules and regulations of the PSC. When I interpret the rule, that is what I determine.
Q. Now, when you say "rule," what rule are you speaking of?
A. There is a commission rule 25.22, 25.24. It is 25-4. It deals with shared tenant services providers.
Q. If you know, what is the extent of Nancy Sims' knowledge?
A. Pretty much what we talk about. I informed her that I am dealing with the issue and asked her if she understands the rule. Basically, what the rule says and am I right in interpreting the rule.
Q. Besides yourself and Nancy Sims and her subordinates, is there anyone else in BellSouth with knowledge of paragraph 11 or more knowledge than you or Nancy Sims?

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A. No.
Q. Please look at paragraph 14 on page 4.
A. What paragraph, please?
Q. 14.
A. Okay.
Q. Who has knowledge of the allegation in paragraph 14?
A. You know, when I was reading this thing and trying to form -- determine who knew about these things, it didn't jump out at me. If you can tell me what that word is, I can help you out.
Q. Fortiori?
A. Yes.
Q. De facto.
A. Yes. I'm sorry.
MR. GOLDBERG: I will make an objection and observation to the pending question. You are asking about the person's knowledge of paragraph 14, but the complaint speaks for itself. It is a conclusion premised upon the prior paragraph in the complaint. The document speaks for itself. It calls for a legal conclusion to some extent.
If you can answer the question,

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please feel free to answer.
MR. HOPE: Can we just cease with that sort of response? Because that is not an objection. So if he knows the answer, if he knows who has knowledge to that paragraph, then he states it. You shouldn't be, basically, answering the question for him.
MR. GOLDBERG: I don't think I am answering the question for him. I am just making an objection.
MR. HOPE: What was the basis of the objection?
MR. GOLDBERG: It calls for a legal conclusion. Quite frankly, it is a little misleading. You asked him just to focus on paragraph 14, but you didn't have him review paragraphs 11, 12, and 13. I was trying to be respectful. I am not suggesting you are misleading him, but I am just saying the complaint speaks for itself.
MR. HOPE: That is fine. The objection that you can have is to the form of the question or something is

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privileged. So if I ask him specifically who has knowledge as to the allegation contained in paragraph 14, the objection that you stated is not an objection.
MR. GOLDBERG: I believe it is. The record will just stand, and we will move forward.
MR. HOPE: Can you just read back my question, please.
(Thereupon, the requested portion of the record was re-read by the Court Reporter.)
THE WITNESS: Now that the term has been expressed to me, it would be me.
Q. What is the extent of that knowledge?
A. The extent of the knowledge is the way you operate, what I have seen in the documents that we filed, listening to depositions. But you are a telephone company, a telephone utility, operating in the State of Florida.
Q. Besides you, is there anybody else?
A. I have discussed the issue with Nancy Sims and her two people.
Q. Please look at paragraph 18 on page 5.
A. Okay.
Q. Who has knowledge of the allegation

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DADE COUNTY, FLORIDA

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R-31-02

NON-EXCLUSIVE TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES MANAGEMENT AGREEMENT



made as of the 1st day of February in the year Two Thousand and Two

Between the County: **Miami-Dade County Florida**, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns.

AND THE CONTRACTOR: **NEXTIRAONE, LLC**
2800 Post Oak Boulevard
Suite 200
MD 25-12
Houston, Texas 77056

Which term shall include its officers, partners, employees, successors, legal representatives and assigns

Description of the Project: Provides for the operations, management, maintenance, service, support and equipment and supplies of certain telecommunications and data network, infrastructure, hardware and software systems for Miami-Dade Aviation Department as more specifically herein.

vi) Construction Administration Services. The construction administration work for authorized projects shall include attendance of construction meetings, inspection of installed work, and coordination with related work trades and resolution of issues that arise in the course of construction.

vii) As-Built Documentation in accordance in the Documentation subarticle of this Agreement.

D **Shared Airport Tenant Services ("SATS")**

The Contractor agrees to use its best efforts to establish, market, maintain, operate and manage SATS for the County, including CUTE, to Tenants and users at the Airport, consistent with the requirements of the Public Service Commission of Florida ("PSC") or whatever other governmental entity has jurisdiction over SATS, if and where applicable, and all applicable laws. Both Parties stipulate

1. The Contractor, as provided in the Shared Airport Tenant Service Agreement dated July 24, 1990, assigned all of its contracts with SATS customers to the County, and the County agreed to the assignment.

2. The Contractor shall maintain and provide labor to repair the equipment so that the shared tenant service is operating in accordance with this Agreement. The Contractor shall submit a yearly marketing and customer service plan (the "Marketing and Customer Service Plan"), for review and approval by the County, to ensure the Airport's business partners receive the most efficient, effective and reliable telephone service possible. The Marketing and Customer Service Plan shall include, but not be limited to, the Contractor's plans to establish, market, and sell SATS and to be compensated therefor as authorized in accordance with the Payments and Cost Reimbursements article, as well as procedures for the handling of customer complaints and downtimes, including associated equipment requirements, and staffing plans. Upon receiving prior authorization from the Project Manager, additional equipment may be procured when required to support these shared airport tenant services

3. The Contractor shall invoice all SATS customers. The Contractor shall receive from the Department, a billing form with instructions to be used for billing SATS customers. A copy of all submitted bills shall be forwarded to the Miami-Dade Aviation Department, Finance Division. Checks are to be made payable to Miami-Dade Aviation Department. SATS customers shall be instructed to send checks directly to the Department's Finance Division to the following addresses:

In Person – To during normal business hours, 8:00 A.M to 5:00 P.M (Monday through Friday)

Westlaw.

West's F S.A § 364.339

C
West's Florida Statutes Annotated Currentness
Title XXVII Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I. General Provisions

→364.339. Shared tenant service; regulation by commission; certification; limitation as to designated carriers

(1) The commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which:

(a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and

(b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

(2) No person shall provide shared tenant service without first obtaining from the commission a certificate of public convenience and necessity to provide such service. The commission shall grant certificates to telecommunications companies upon showings that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services. The commission may require such service to be offered and priced differently to residential and commercial tenants if deemed to be in the public interest.

(3)(a) Shared tenant services provided to government entities pursuant to this section are exempt from paragraph (1)(b), and the commission may exempt such entities from any certification requirements imposed by this chapter.

(b) As provided in subsection (4), the commission may authorize such service notwithstanding the provisions of s. 364.335. The commission may prescribe the type, extent, and conditions under which such service may be provided and may exempt such service, except appropriate certification, from commission regulation.

(4) In determining whether the actions authorized by subsections (1) and (2) are consistent with the public interest, the commission shall consider the following:

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(a) The number of firms providing the service.

(b) The availability of the service from other firms or the local exchange telecommunications company.

(c) The quality of service available from alternative suppliers.

(d) The effect on telecommunications service rates charged to customers of the local telecommunications company

(e) The geographic extent of the service to be provided.

(f) Any other factors which the commission deems relevant.

(5) The offering of shared tenant service shall not interfere with or preclude a residential or commercial tenant's right to obtain direct access to the lines and services of the telecommunications company or the right of the telecommunications company to serve the residential or commercial tenant directly under the terms and conditions of the commission-approved tariffs.

CREDIT(S)

Added by Laws 1986, c. 86-270, § 1, eff. July 9, 1986. Amended by Laws 1990, c 90-244, § 40, eff. Oct. 1, 1990; Laws 1995, c 95-403, § 27, eff. July 1, 1995; Laws 1998, c. 98-277, § 15, eff. May 28, 1998.

HISTORICAL AND STATUTORY NOTES

Prior Provisions for Legislative Review of Regulatory Statutes:

Laws 1986, c 86-270, § 2, provided for repeal of this section October 1, 1989, and review pursuant to § 11.61, the Regulatory Sunset Act.

LIBRARY REFERENCES

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West's F S.A § 364.32

C
West's Florida Statutes Annotated Currentness
Title XXVII Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I. General Provisions

→364.32. Definitions applicable to ss. 364.33, 364.337, 364.345 and 364.37

As used in ss. 364.33, 364.337, 364.345 and 364.37:

(1) "Person" means:

(a) Any natural person, firm, association, county, municipality, corporation, business, trust, or partnership owning, leasing, or operating any facility used in the furnishing of public telecommunications service within this state; and

(b) A cooperative, nonprofit, membership corporation, or limited dividend or mutual association, now or hereafter created, with respect to that part or portion of its operations devoted to the furnishing of telecommunications service within this state.

(2) "Territory" means any area, whether within or without the boundaries of a municipality.

CREDIT(S)

Amended by Laws 1980, c. 80-36, § 24, eff. July 1, 1980; Laws 1990, c. 90-244, § 30, eff. Oct. 1, 1990.

HISTORICAL AND STATUTORY NOTES

Derivation:
Laws 1965, c. 65-52, § 1.
Laws 1963, c. 63-279, § 1
Laws 1957, c. 57-1, § 24.

Laws 1953, c. 28013, § 9.

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Telecommunications ⚭75, 76
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West's F.S.A. § 364.01

C
West's Florida Statutes Annotated Currentness
Title XXVII. Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I. General Provisions

→364.01. Powers of commission, legislative intent

(1) The Florida Public Service Commission shall exercise over and in relation to telecommunications companies the powers conferred by this chapter.

(2) It is the legislative intent to give exclusive jurisdiction in all matters set forth in this chapter to the Florida Public Service Commission in regulating telecommunications companies, and such preemption shall supersede any local or special act or municipal charter where any conflict of authority may exist. However, the provisions of this chapter shall not affect the authority and powers granted in s. 166.231(9) [FN1] or s. 337.401.

(3) The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure. The Legislature further finds that the transition from the monopoly provision of local exchange service to the competitive provision thereof will require appropriate regulatory oversight to protect consumers and provide for the development of fair and effective competition, but nothing in this chapter shall limit the availability to any party of any remedy under state or federal antitrust laws. The Legislature further finds that changes in regulations allowing increased competition in telecommunications services could provide the occasion for increases in the telecommunications workforce; therefore, it is in the public interest that competition in telecommunications services lead to a situation that enhances the high-technological skills and the economic status of the telecommunications workforce. The Legislature further finds that the provision of voice-over-Internet protocol (VOIP) free of unnecessary regulation, regardless of the provider, is in the public interest.

(4) The commission shall exercise its exclusive jurisdiction in order to:

(a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

(b) Encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services.

(c) Protect the public health, safety, and welfare by ensuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.

(d) Promote competition by encouraging new entrants into telecommunications markets and by allowing a transitional period in which new entrants are subject to a lesser level of regulatory oversight than local exchange telecommunications companies.

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(e) Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints.

(f) Eliminate any rules and/or regulations which will delay or impair the transition to competition.

(g) Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.

(h) Recognize the continuing emergence of a competitive telecommunications environment through the flexible regulatory treatment of competitive telecommunications services, where appropriate, if doing so does not reduce the availability of adequate basic local telecommunications service to all citizens of the state at reasonable and affordable prices, if competitive telecommunications services are not subsidized by monopoly telecommunications services, and if all monopoly services are available to all competitors on a nondiscriminatory basis.

(i) Continue its historical role as a surrogate for competition for monopoly services provided by local exchange telecommunications companies

CREDIT(S)

Amended by Laws 1980, c. 80-36, § 1, eff. July 1, 1980; Laws 1983, c. 83-218, § 25, eff. Aug. 12, 1983; Laws 1990, c. 90-244, § 1, eff. Oct. 1, 1990; Laws 1995, c. 95-403, § 5, eff. July 1, 1995; Laws 2003, c. 2003-32, § 2, eff. May 23, 2003.

[FN1] Repealed by Laws 2000, c. 2000-260, § 38.

HISTORICAL AND STATUTORY NOTES

Derivation:

Laws 1967, c. 67-541, § 1.
Laws 1965, c. 65-52, § 1.
Laws 1963, c. 63-279, § 1.
Comp.Gen.Laws 1927, § 6357.
Riv.Gen.St. 1920, § 4393.
Laws 1913, c. 6525, § 1.
Laws 1911, c. 6187, §§ 1 to 6.
Laws 1911, c. 6186, §§ 1 to 4.

Prior Provisions for Legislative Review of Regulatory Statutes:

Laws 1976, c. 76-168, the Regulatory Reform Act of 1976, which provided for legislative review of programs and functions which regulate professions, occupations, business, industry and other endeavors in Florida, provided in section 3 of the law for repeal of this chapter on July 1, 1980. Laws 1980, c. 80-36, which amends provisions of this chapter, provided in section 31 for the repeal of some sections and provided in section 32 that notwithstanding the Regulatory Reform Act of 1976, the remaining provisions enumerated therein are revived and readopted. Laws 1981, c. 81-318, repealed all prior laws providing for regulatory review pursuant to the Regulatory Reform Act of 1976 and provided for the repeal of this chapter on Oct. 1, 1989. Laws 1989, c. 89-163, § 6, provided that the provisions of this chapter would not stand repealed Oct. 1, 1989, but were readopted. Laws 1989, c. 89-163, § 7, provided for the repeal of provisions of this chapter on Oct. 1, 1990, and review pursuant to § 11.61. Laws 1990, c. 90-244, § 48, provided that chapter 364 would not stand repealed on Oct. 1, 1990, and would continue in full force and effect as amended.

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West's F S.A § 337.401

C
West's Florida Statutes Annotated Currentness
Title XXVI Public Transportation
Chapter 337. Contracting; Acquisition, Disposal, and Use of Property (Refs & Annos)

→337.401. Use of right-of-way for utilities subject to regulation; permit; fees

(1) The department and local governmental entities, referred to in ss. 337 401-337 404 as the "authority," that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining along. across, or on any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles, railways, ditches, sewers, water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures hereinafter referred to as the "utility." The department may enter into a permit-delegation agreement with a governmental entity if issuance of a permit is based on requirements that the department finds will ensure the safety and integrity of facilities of the Department of Transportation; however, the permit-delegation agreement does not apply to facilities of electric utilities as defined in s. 366.02(2).

(2) The authority may grant to any person who is a resident of this state, or to any corporation which is organized under the laws of this state or licensed to do business within this state, the use of a right-of-way for the utility in accordance with such rules or regulations as the authority may adopt. No utility shall be installed, located, or relocated unless authorized by a written permit issued by the authority. However, for public roads or publicly owned rail corridors under the jurisdiction of the department, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit. The permit shall require the permitholder to be responsible for any damage resulting from the issuance of such permit. The authority may initiate injunctive proceedings as provided in s. 120 69 to enforce provisions of this subsection or any rule or order issued or entered into pursuant thereto.

(3)(a)1 Because of the unique circumstances applicable to providers of communications services, including, but not limited to, the circumstances described in paragraph (e) and the fact that federal and state law require the nondiscriminatory treatment of providers of telecommunications services, and because of the desire to promote competition among providers of communications services, it is the intent of the Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way. Rules or regulations imposed by a municipality or county relating to providers of communications services placing or maintaining communications facilities in its roads or rights-of-way must be generally applicable to all providers of communications services and, notwithstanding any other law, may not require a provider of communications services, except as otherwise provided in subparagraph 2., to apply for or enter into an individual license, franchise, or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way. In addition to other reasonable rules or regulations that a municipality or county may adopt relating to the placement or maintenance of communications facilities in its roads or rights-of-way under this subsection, a municipality or county may require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county and to provide the name of the registrant, the name, address, and telephone number of a contact person for the registrant, the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission or the Federal Communications Commission; and proof of insurance or self-insuring status adequate to defend and cover claims. Nothing in this subparagraph is intended to limit or expand

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any existing zoning or land use authority of a municipality or county; however, no such zoning or land use authority may require an individual license, franchise, or other agreement as prohibited by this subparagraph.

2. Notwithstanding the provisions of subparagraph 1., a municipality or county may, as provided by 47 U.S.C. s. 541, award one or more franchises within its jurisdiction for the provision of cable service, and a provider of cable service shall not provide cable service without such franchise. Each municipality and county retains authority to negotiate all terms and conditions of a cable service franchise allowed by federal law and s. 166.046, except those terms and conditions related to franchise fees and the definition of gross revenues or other definitions or methodologies related to the payment or assessment of franchise fees and permit fees as provided in paragraph (c) on providers of cable services. A municipality or county may exercise its right to require from providers of cable service in-kind requirements, including, but not limited to, institutional networks, and contributions for, or in support of, the use or construction of public, educational, or governmental access facilities to the extent permitted by federal law. A provider of cable service may exercise its right to recover any such expenses associated with such in-kind requirements, to the extent permitted by federal law.

(b) Registration described in subparagraph (a)1. does not establish a right to place or maintain, or priority for the placement or maintenance of, a communications facility in roads or rights-of-way of a municipality or county. Each municipality and county retains the authority to regulate and manage municipal and county roads or rights-of-way in exercising its police power. Any rules or regulations adopted by a municipality or county which govern the occupation of its roads or rights-of-way by providers of communications services must be related to the placement or maintenance of facilities in such roads or rights-of-way, must be reasonable and nondiscriminatory, and may include only those matters necessary to manage the roads or rights-of-way of the municipality or county.

(c)1. It is the intention of the state to treat all providers of communications services that use or occupy municipal or charter county roads or rights-of-way for the provision of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees. Certain providers of communications services have been granted by general law the authority to offset permit fees against franchise or other fees while other providers of communications services have not been granted this authority. In order to treat all providers of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees, each municipality and charter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and must inform the Department of Revenue of the election by certified mail by July 16, 2001. Such election shall take effect October 1, 2001.

a. (I) The municipality or charter county may require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not be offset against the tax imposed under chapter 202, include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental, include any general administrative, management, or maintenance costs of the roads or rights-of-way, or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub- subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this sub- subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

(II) To ensure competitive neutrality among providers of communications services, for any municipality or charter county that elects to exercise its authority to require and collect permit fees under this sub-subparagraph, the rate of

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the local communications services tax imposed by such jurisdiction, as computed under s. 202.20, shall automatically be reduced by a rate of 0.12 percent.

b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a municipality or charter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20 for that municipality or charter county may be increased by ordinance or resolution by an amount not to exceed a rate of 0.12 percent. If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.

c. A municipality or charter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

2. Each noncharter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and shall inform the Department of Revenue of the election by certified mail by July 16, 2001. Such election shall take effect October 1, 2001.

a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental, include any general administrative, management, or maintenance costs of the roads or rights-of-way, or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a noncharter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

b. Alternatively, the noncharter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies noncharter county roads or rights-of-way for the provision of communications services; however, each noncharter county that elects to operate under this sub-subparagraph shall retain all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a noncharter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20 for that noncharter county may be increased by ordinance or resolution by an amount not to exceed a rate of 0.24 percent, to replace the revenue the noncharter county would otherwise have received from permit fees for providers of communications services. If a noncharter county elects to increase its rate effective October 1, 2001, the noncharter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.

c. A noncharter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

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3. Except as provided in this paragraph, municipalities and counties retain all existing authority to require and collect permit fees from users or occupants of municipal or county roads or rights-of-way and to set appropriate permit fee amounts.

(d) After January 1, 2001, in addition to any other notice requirements, a municipality must provide to the Secretary of State, at least 10 days prior to consideration on first reading, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way. After January 1, 2001, in addition to any other notice requirements, a county must provide to the Secretary of State, at least 15 days prior to consideration at a public hearing, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way. The notice required by this paragraph must be published by the Secretary of State on a designated Internet website. The failure of a municipality or county to provide such notice does not render the ordinance invalid.

(e) The authority of municipalities and counties to require franchise fees from providers of communications services, with respect to the provision of communications services, is specifically preempted by the state, except as otherwise provided in subparagraph (a)2., because of unique circumstances applicable to providers of communications services when compared to other utilities occupying municipal or county roads or rights-of-way. Providers of communications services may provide similar services in a manner that requires the placement of facilities in municipal or county roads or rights-of-way or in a manner that does not require the placement of facilities in such roads or rights-of-way. Although similar communications services may be provided by different means, the state desires to treat providers of communications services in a nondiscriminatory manner and to have the taxes, franchise fees, and other fees paid by providers of communications services be competitively neutral. Municipalities and counties retain all existing authority, if any, to collect franchise fees from users or occupants of municipal or county roads or rights-of-way other than providers of communications services, and the provisions of this subsection shall have no effect upon this authority. The provisions of this subsection do not restrict the authority, if any, of municipalities or counties or other governmental entities to receive reasonable rental fees based on fair market value for the use of public lands and buildings on property outside the public roads or rights-of-way for the placement of communications antennas and towers.

(f) Except as expressly allowed or authorized by general law and except for the rights-of-way permit fees subject to paragraph (c), a municipality or county may not levy on a provider of communications services a tax, fee, or other charge or imposition for operating as a provider of communications services within the jurisdiction of the municipality or county which is in any way related to using its roads or rights-of-way. A municipality or county may not require or solicit in-kind compensation, except as otherwise provided in subparagraph (a)2. Nothing in this paragraph shall impair any ordinance or agreement in effect on May 22, 1998, or any voluntary agreement entered into subsequent to that date, which provides for or allows in-kind compensation by a telecommunications company.

(g) A municipality or county may not use its authority over the placement of facilities in its roads and rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, qualifications, services, service quality, service territory, and prices of a provider of communications services.

(h) A provider of communications services that has obtained permission to occupy the roads or rights-of-way of an incorporated municipality pursuant to s. 362.01 or that is otherwise lawfully occupying the roads or rights-of-way of a municipality shall not be required to obtain consent to continue such lawful occupation of those roads or rights-of-way; however, nothing in this paragraph shall be interpreted to limit the power of a municipality to adopt or enforce reasonable rules or regulations as provided in this section.

(i) Except as expressly provided in this section, this section does not modify the authority of municipalities and

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counties to levy the tax authorized in chapter 202 or the duties of providers of communications services under ss. 337 402-337 404 This section does not apply to building permits, pole attachments, or private roads, private easements, and private rights-of-way.

(j) Pursuant to this paragraph, any county or municipality may by ordinance change either its election made on or before July 16, 2001, under paragraph (c) or an election made under this paragraph.

1. a If a municipality or charter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the sum of 0.12 percent plus the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)1.b.

b. If a municipality or charter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

2. a If a noncharter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)2 b.

b. If a noncharter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

3. a Any change of election pursuant to this paragraph and any tax rate change resulting from such change of election shall be subject to the notice requirements of s. 202.21, however, no such change of election shall become effective prior to January 1, 2003

b Any county or municipality changing its election under this paragraph in order to exercise its authority to require and collect permit fees shall, in addition to complying with the notice requirements under s. 202.21, provide to all dealers providing communications services in such jurisdiction written notice of such change of election by September 1 immediately preceding the January 1 on which such change of election becomes effective. For purposes of this sub-subparagraph, dealers providing communications services in such jurisdiction shall include every dealer reporting tax to such jurisdiction pursuant to s. 202.37 on the return required under s. 202.27 to be filed on or before the 20th day of May immediately preceding the January 1 on which such change of election becomes effective.

(k) Notwithstanding the provisions of s. 202.19, when a local communications services tax rate is changed as a result of an election made or changed under this subsection, such rate shall not be rounded to tenths.

(4) As used in this section, "communications services" and "dealer" have the same meanings ascribed in chapter 202, and "cable service" has the same meaning ascribed in 47 U.S.C. s. 522, as amended.

(5) This section, except subsections (1) and (2) and paragraph (3)(g), does not apply to the provision of pay telephone service on public, municipal, or county roads or rights-of-way.

(6)(a) As used in this subsection, the following definitions apply

1. A "pass-through provider" is any person who places or maintains a communications facility in the roads or rights-of-way of a municipality or county that levies a tax pursuant to chapter 202 and who does not remit taxes

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imposed by that municipality or county pursuant to chapter 202

2. A "communications facility" is a facility that may be used to provide communications services. Multiple cables, conduits, strands, or fibers located within the same conduit shall be considered one communications facility for purposes of this subsection.

(b) A municipality that levies a tax pursuant to chapter 202 may charge a pass-through provider that places or maintains a communications facility in the municipality's roads or rights-of-way an annual amount not to exceed $500 per linear mile or portion thereof. A municipality's roads or rights-of-way do not include roads or rights-of-way that extend in or through the municipality but are state, county, or another authority's roads or rights-of-way.

(c) A county that levies a tax pursuant to chapter 202 may charge a pass-through provider that places or maintains a communications facility in the county's roads or rights-of-way, including county roads or rights-of-way within a municipality in the county, an annual amount not to exceed $500 per linear mile or portion thereof. However, a county shall not impose a charge for any linear miles, or portions thereof, of county roads or rights-of-way where a communications facility is placed that extend through any municipality within the county to which the pass-through provider remits a tax imposed pursuant to chapter 202. A county's roads or rights-of-way do not include roads or rights-of-way that extend in or through the county but are state, municipal, or another authority's roads or rights-of-way.

(d) The amounts charged pursuant to this subsection shall be based on the linear miles of roads or rights-of-way where a communications facility is placed, not based on a summation of the lengths of individual cables, conduits, strands, or fibers. The amounts referenced in this subsection may be charged only once annually and only to one person annually for any communications facility. A municipality or county shall discontinue charging such amounts to a person that has ceased to be a pass-through provider. Any annual amounts charged shall be reduced for a prorated portion of any 12-month period during which the person remits taxes imposed by the municipality or county pursuant to chapter 202. Any excess amounts paid to a municipality or county shall be refunded to the person upon written notice of the excess to the municipality or county.

(e) This subsection does not alter any provision of this section or s. 202.24 relating to taxes, fees, or other charges or impositions by a municipality or county on a dealer of communications services or authorize that any charges be assessed on a dealer of communications services, except as specifically set forth herein. A municipality or county may not charge a pass-through provider any amounts other than the charges under this subsection as a condition to the placement or maintenance of a communications facility in the roads or rights-of-way of a municipality or county by a pass-through provider, except that a municipality or county may impose permit fees on a pass-through provider consistent with paragraph (3)(c) if the municipality or county elects to exercise its authority to collect permit fees under paragraph (3)(c).

(f) The charges under this subsection do not apply to communications facilities placed in a municipality's or county's rights-of-way prior to the effective date of this subsection with permission from the municipality or county, if any was required, except to the extent the facilities of a pass-through provider were subject to per linear foot or mile charges in effect as of October 1, 2001, in which case the municipality or county may only impose on a pass-through provider charges consistent with paragraph (b) or paragraph (c) for such facilities. Notwithstanding the foregoing, this subsection does not impair any written agreement between a pass-through provider and a municipality or county imposing per linear foot or mile charges for communications facilities placed in municipal or county roads or rights-of-way that is in effect prior to the effective date of this subsection. Upon the termination or expiration of any such written agreement, any charges imposed shall be consistent with paragraph (b) or paragraph (c). Notwithstanding the foregoing, until October 1, 2005, this subsection shall not affect a municipality or county continuing to impose charges in excess of the charges authorized in this subsection on facilities of a pass-through provider that is not a dealer of communications services in the state under chapter 202, but only to the

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extent such charges were imposed by municipal or county ordinance or resolution adopted prior to February 1, 2002. Effective October 1, 2005, any charges imposed shall be consistent with paragraph (b) or paragraph (c).

(g) The charges authorized in this subsection shall not be applied with respect to any communications facility that is used exclusively for the internal communications of an electric utility or other person in the business of transmitting or distributing electric energy.

CREDIT(S)

Laws 1955, c. 29965, § 127; Laws 1963, c. 63-279, § 1; Laws 1965, c. 65-52, § 1; Laws 1969, c. 69-106, §§ 23, 35; Fla.St.1983, § 338.17; Laws 1984, c. 84-309, § 141; Laws 1985, c. 85-174, § 8; Laws 1986, c. 86-155, § 8; Laws 1988, c. 88-168, §§ 2, 21; Laws 1989, c. 89-232, § 8. Amended by Laws 1991, c. 91-221, § 41; Laws 1994, c. 94-237, § 26, eff. May 25, 1994; Laws 1998, c. 98-147, § 1, eff. May 22, 1998; Laws 1999, c. 99-354, § 2, eff. June 11, 1999; Laws 2000, c. 2000-260, § 59, eff. June 30, 2001; Laws 2001, c. 2001-140, § 34, eff. June 1, 2001; Laws 2001, c. 2001-140, § 35, eff. Oct. 1, 2001; Laws 2002, c. 2002-20, § 81, eff. July 1, 2002; Laws 2002, c. 2002-48, § 6, eff. April 16, 2002; Laws 2003, c. 2003-286, § 57, eff. July 14, 2003; Laws 2004, c. 2004-366, § 13, eff. June 24, 2004.

HISTORICAL AND STATUTORY NOTES

Amendment Notes:

Laws 2000, c. 2000-260, § 52, provides:

"The Legislature finds that it may be necessary to adopt a state policy regarding in-kind requirements, institutional networks, and contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law currently imposed only on providers of cable service, especially in light of the in-kind requirements for providers of telecommunications services under s. 337.401(5), Florida Statutes, 1999. Given the development of alternative choices in the delivery of multichannel video programming, including programming by providers of wireless, satellite, Internet, and other video delivery systems, and the potential competitive inequities which may be associated with such requirements, networks, and contributions, the appropriate committees of the Legislature shall study and evaluate, during the 2001 legislative session, an appropriate state policy regarding these issues, including the option of calculating the present and future value of such requirements, networks, and contributions available to local governments in excess of the limitations imposed on franchise fees under 47 U.S.C. s. 542(b) as a part of the computation of replacement revenues under s. 202.20, Florida Statutes, in setting the local communications services tax rate."

CROSS REFERENCES

Public Service Commission, powers, see § 364.01.

Telecommunications companies, local government authority, nondiscriminatory exercise, see § 364.0361.

Utilities along roads, see §§ 362.01, 362.02.

LIBRARY REFERENCES

2003 Main Volume

Highways ⇐88
Municipal Corporations ⇐53, 592(1).

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C

FLORIDA ADMINISTRATIVE CODE ANNOTATED
TITLE 25. PUBLIC SERVICE COMMISSION
CHAPTER 25-24. TELEPHONE COMPANIES
PART XII. SHARED TENANT SERVICES
Current through March 1, 2004

25-24.567. Application for Certificate.

(1) An applicant desiring to provide shared tenant service shall submit an application on Commission Form PSC/CMP 37 (7/97), which is incorporated into this rule by reference. Form PSC/CMP 37 (7/97), entitled "Application Form For Authority To Provide Shared Tenant Service," may be obtained by contacting the Commission's Division of Competitive Markets and Enforcement. A non-refundable application fee of $100.00 must accompany the filing of all applications.

(2) An original and six copies of the application shall be filed with the Division of the Commission Clerk and Administrative Services.

(3) A certificate will be granted if the Commission determines that such approval is in the public interest.

(4) Any shared tenant service authority granted hereafter is subject to the following:

(a) Shared tenant authority granted to all companies is on a statewide basis and is restricted to tenants as defined in subsection 25-24.560(10), F.A.C.

(b) Each shared tenant service applicant shall

1. Advise all customers of its current rates and conditions for resold local exchange service and its quality of service standards.

2. Inform each customer in advance of agreement to provide service, that the Florida Public Service Commission will not set rates or regulate the service quality standards.

(c) A certificate to provide shared tenant service does not carry with it the authority to provide competitive local exchange telecommunication, alternative access vendor, interexchange or pay telephone service. A separate application must be made for such authority.

Specific Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339, 364.345 FS. History--New 1-28-91, Amended 5-8-91, 11-20-91, 7-29-97.

25 FL ADC 25-24.567
END OF DOCUMENT

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C

FLORIDA ADMINISTRATIVE CODE ANNOTATED
TITLE 25. PUBLIC SERVICE COMMISSION
CHAPTER 25-24. TELEPHONE COMPANIES
PART XII. SHARED TENANT SERVICES
Current through March 1, 2004

25-24.575 Shared Tenant Service Operations.

(1) All shared tenant service providers shall allow the carrier of last resort of local exchange telecommunication services direct access to tenants who desire local service from the carrier of last resort of local exchange telecommunication services instead of the shared tenant service provider.

(2) Each shared tenant service provider shall allow access to a provider of local exchange telecommunication services "zero" operators for emergencies and for line verification purposes.

(3)(a) Each shared tenant service provider shall provide direct access to 911 service where available at a level at least equivalent to theservice provided by the incumbent local exchange company.

(b) By July 1, 1997, access to 911 services shall be maintained for the duration of any temporary disconnection for non-payment of aresidential subscriber's local service.

(4) Each shared tenant service provider shall provide access via 800, 888, 10XXX, or 950, where available, to all locally available interexchange companies.

(5) Shared tenant service providers shall be subject to the following conditions when operating in a rate base, rate of return local exchangecompany's service area, as provided in Chapter 364.052(2), F.S.

(a) Where two (2) or more buildings are served by the same private branch exchange (PBX), the trunks serving each building shall be separately partitioned.

(b) Shared tenant service customers in one building shall not access or use the trunks partitioned for another building.

(c) Shared tenant service shall be limited to a total of 250 inward, outward, and combinational trunks per private branch exchange (PBX).

(d) Shared tenant service providers shall not be allowed to:

1. Establish dedicated facilities (provide lines) direct to an interexchange company's point of presence (POP).

2. Construct facilities for interconnecting other shared tenant service locations.

3. Allow intercommunication between unaffiliated entities.

(6) The carrier of last resort of local exchange telecommunication services must be able to gain access to all facilities up to the demarcation point of the tenant's premises, and retain responsibility for provision and maintenance of the network up to that point.

(7) The carrier of last resort of local exchange telecommunication services shall use the STS provider's or the STS building owner's cable, if made available, to gain access to the tenant. The carrier of last resort of local exchange telecommunication services shall be required to provide reasonable compensation. Such compensation shall not exceed the amount it would have cost the carrier of last resort of local exchange telecommunication services to serve the tenant through installation of its own cable. This cost must be calculated on a pro rata basis.

(8) In those circumstances where the STS provider and landlord of a building are not the same, the STS provider shall obtain and guarantee the permission of the building owner to allow direct access by the carrier of last resort of local exchange telecommunication services to any tenant upon the tenant's request.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.035, 364.337, 364.339, 364.345 FS. History--New 1-28-91, Amended 7-29-97.

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25 FL ADC 25-24.575
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Rule 25-24.580, F.A.C.

21. As the plain language of the rule makes clear, the Airport Exemption does not grant the County an exemption from the certification requirement applicable to all STS providers with respect to the County's provision of shared tenant services to facilities such as hotels, shopping malls and industrial parks.

22. As set forth below, the County offers shared tenant services to at least one hotel, to restaurants, to retail shops, and to other commercial entities which are "facilities such as hotels, shopping malls and industrial parks."

23. Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, incorporates certain prior provisions of the Constitution of 1885, as amended, that expressly limit the authority of Miami-Dade County as follows:

> Section 11 (5): Nothing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the state of Florida . . . and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County . . nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein. (emphasis added).
>
> Section 11(9): [I]t is further declared to be the intent of the Legislature and of the electors of the State of Florida that the provisions of the Constitution and general laws which shall relate to Dade County and any other one or more counties of the State of Florida or to any municipality in Dade County and any other one or me municipalities of the State of Florida enacted pursuant thereto by the Legislature shall be the supreme law in Dade County, Florida, except as expressly provided herein and this section shall be strictly construed to maintain such supremacy of this Constitution and of the Legislature in the enactment of general laws pursuant to this Constitution (emphasis added).

Bank of America Tower
Suite 1200
100 Southeast 2nd Street
Miami, Florida 33131-2115

LASH & GOLDBERG LLP

Weston Corporate Center
Suite 400
2500 Weston Road
Ft. Lauderdale, Florida 33331

5. Regarding Paragraph 9, the definition of "telephone utility" as used in the Charter speaks for itself.

6. Regarding Paragraph 10, § 364 02(13), Florida Statutes speaks for itself.

7. Regarding Paragraph 11, the County denies operating a telecommunications company offering two-way telecommunications services to the public for hire.

8. Regarding Paragraph 12, Florida Administrative Code Rule 25-9.002 speaks for itself

9. Regarding Paragraph 13, Florida Administrative Code Rule 25-4.003(10) speaks for itself

10. Regarding Paragraph 16, the County admits that the authority of the Miami-Dade County Board of County Commissioners (the "Board") shall not conflict with applicable general laws related or applying to Miami-Dade County.

11. Regarding Paragraph 17, § 364.01(2), Florida Statutes speaks for itself.

12. Regarding Paragraph 18, the County admits providing shared airport tenant services to airport tenants at Miami International Airport ("MIA").

13. Regarding Paragraphs 19 and 20, § 364.339, Florida Statutes speaks for itself.

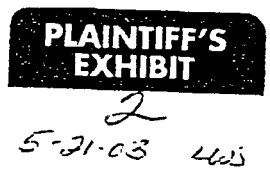
14. Regarding Paragraphs 23, Article VIII, Florida Constitution of 1985 speaks for itself.

15. Regarding Paragraph 25, on January 29, 2002, the Board passed and adopted Resolution No. R-31-02 related to telecommunications, data network, and shared network services at County airport system facilities. The resolution authorized the: (i) purchase of leased telecommunications, data network, and common use terminal equipment infrastructure, software, licenses, permits, and other assets; and (ii) approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with NextiraOne, LLC for an interim two (2) year period

Exhibit 6
SATS Airport Rental and CUTE Agreements

Airtele Customers (Excluding MDAD)	Customer Number
1 Abaris International	10391420
2 Aces - CUTE & Voice	10338645
3 ADT Securities	10506587
4 AeroMexico	10506587
5 Aeropostal - CUTE & Voice	10427644
6 Air France - CUTE	10450333
7 Air Jamaica	10518850
8 Air Tran Airways	10354615
9 American Airlines - CUTE & Voice	10363503
10 ASI Baggage	10381495
11 ASIG Miami Inc	10377170
12 Aserca Airlines	10519350
13 Atlas Air	10337970
14 AT&T	10344625
15 Avianca - CUTE & Voice	10484758
16 British Airways - CUTE & Voice	10408278
17 Cafe Versailles	10339696
18 Carne Ice Cream Shop	10351663
19 Centers for Disease Control	10396494
20 Cirilo Rodriguez d/b/a Bright Additions	10363032
21 Commodore Aviation	10416024
22 Communitel	10404505
23 Continental Airlines	10421360
24 Copa - CUTE	10494895
25 Cyber Express	10464227
26 Evergreen International	10338837
27 Flagship (American Eagle)	10338283
28 Gray Construction	10497202
29 Gulfstream Airlines	10341784
30 Host Marriott	10406827
31 ICI	10422707
32 Lan Chile - CUTE	10377882
33 Martin Air - CUTE & Voice	10411203
34 Mexicana	10505015
35 Miami Airport Duty Free Joint Venture	10396900
36 Midway Airlines	10506157
37 National Airlines	10477140
38 Polar Air	10345528
39 Sergany Bencomo	10407537
40 Sita Communications	10459735
41 Smarte Carte	10428523
42 Swiss Air	10462868
43 Taca International	10518491
44 Underground Construction	10514494
45 United Airlines -	10342394
46 USDA - Cargo	10344972
47 USDA - Network	10427656
48 USDA - Terminal	10370069
49 USDA - Operations	10517502
50 USDA - Bldg 100	10518435
51 USDA - Bldg 701	10518440
52 Varig Brasil - CUTE	10467672
53 Virgin Atlantic - CUTE	10467591
54 Worldwide Concessions	10518818
55 Worldwide Flight Services	10464296
Expected New Contracts	
Global Concessions	TBD

EXHIBIT
C



-----Original Message-----
From: Pedro Garcia [mailto:PJGarcia@miami-airport.com]
Sent: Monday, March 17, 2003 5:18 PM
To: rmoses@psc.state.fl.us
Cc: Maurice Jenkins; Maria Perez; Anthony Brown
Subject: MIa STS List

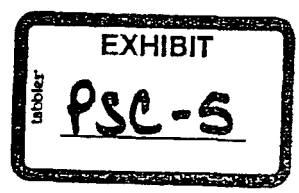
Mr. Moses,

Attached is the list that you requested.

<<SATS Customer List.xls>>

Pedro J. Garcia
Chief, Telecommunications
Miami-Dade Aviation Department
Phone: 305 876-7523
Fax: 305 869-1413

> The Miami-Dade County Aviation Department is a public agency subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure. All e-mail sent and received is captured by our server and kept as a public record.
>
>
>



SATS CUSTOMER LIST AS OF 2/03

AIRLINES	GOVERNMENT AGENCIES	CONCESSIONS/OTHERS	MANAGEMENT COMPANIES
ACES GROUP	CENTER FOR DISEASE CONTROL	ADT	AIRPORT PARKING ASSOCIATES (MEYERS)
AEROMEXICO	TRI-COUNTY COMMUTER RAIL	ASI BAGGAGE	AVIATION CLUB B
AEROPOSTAL	US CUSTOMS	ASIG, MIAMI INC	AVIATION CLUB F
AIR FRANCE	USDA, APHIS	AT&T WIRELESS	CLUB AMERICA TWOV
AIR JAMAICA		CAFÉ VERSAILLES	MIAMI INTERNATIONAL AIRPORT HOTEL
AIR TRAN		CARRIES ICE CREAM	N&KI ENTERPRISES
ALASKAN AIRLINES		COMMUNITEL	NFL MANAGEMENT
AMERICAN AIRLINES		DATO ELECTRIC	QUALITY AIRCRAFT (SKYCAPS)
ASERCA AIRLINES		GLOBAL MIAMI JOINT VENTURE	SHUTTLE SERVICES
ATLAS AIR		GUAVA & JAVA	SIRGANY CENTURY
AVIANCA		HMS HOST	TERMINAL REXALL
BRITISH AIRWAYS		INTERMEDIA COMMUNICATIONS	TOP OF THE PORT
COMMODORE AVIATION		MATRIX SYSTEMS	UNICO
CONTINENTAL AIRLINES		MIAMI DUTY FREE	VISTA BLDG MANAGEMENT
COPA		SIRGANY BENCOMO	
CYBER EXPRESS		SITA	
TCH CARIBBEAN AIRLINES		SMARTE CARTE	
EVERGREEN AVIATION		UNDERGROUND CONSTRUCTION	
FLAGSHIP AIRLINES		WORLDWIDE CONCESSIONS	
GULFSTREAM AIRLINES		WORLDWIDE FLIGHT SERVICES	
LAN CHILE			
MARTIN AIR			
MEXICANA			
POLAR AIR CARGO			
SWISS AIR			
TACA INT'L			
TAMPA AIRLINES			
UNITED AIRLINES			
VARIG			
VIRGIN ATLANTIC			

PLAINTIFF'S EXHIBIT 3 5-21-03 LMS

From: RMoses@PSC.STATE.FL.US
To: mjenkins@miami-airport.com
Subject: Certification Issues

I have been informed that the Miami Airport may be providing telephone service beyond its current authority. Pursuant to Rule 25-24.580, Florida Administrative Code, an airport is exempt from the certification requirements of this commission as long as it is only providing telephone service necessary to ensure the safe and efficient transportation of passengers and freight through the airport facility.

Therefore, any services provided to entities such as concession stands, restaurants, or hotels would be outside of the exemption and certification would be required before telephone service can be provided.

Please respond with a list of entities served by the Miami Airport by March 10, 2003. If you have questions, please contact me at 850/413-6582. Thank you.

EXHIBIT tabbies PSC-6

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant

/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ., of the firm of ADORNO & YOSS, P.A. on behalf of the Plaintiff

DAVID STEPHEN HOPE, and CYNJI A LEE, Assistant Miami-Dade County Attorneys on behalf of the Defendant

Also present
Sharon R Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq , BellSouth

WITNESS	EXAMINATION	PAGE
PEDRO J GARCIA		
	BY MR. BLOOMBERG	4

EXHIBITS

EXHIBITS	FOR IDENT.
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3	18
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12	81
13	82
14	104
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(All exhibits are attached hereto)

(Ms Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q. Would you tell me your name, please, sir.

A Pedro J. Garcia.

Q What is your occupation?

A Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years.

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

to customers at airports within Dade County?
A. Yes, sir.
Q. Has your department had any communications with the Public Service Commission about the requirement or nonrequirement of receiving authorization from the Public Service Commission to provide such services?
A. We had some communication in the sense of we started the process to obtain an STS license from the Public Service Commission on behalf of the airport to provide those services and then the process was never completed.
(Plaintiff's Exhibit 2 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Plaintiff's Exhibit No. 2 for the purposes of the deposition and ask if you recognize that document.
A. Yes.
Q. What is it, please?
A. This is a -- seems to be a list of the tenants at the airport that we provide services to --
Q. Okay. And --
A. -- telecommunications services or either

voice or data or both.
Q. And it's attached to an e-mail what appears to be an e-mail from Pedro Garcia to rmoses@psc.state.fl.us; correct?
A. Yes.
Q. Did you prepare that list?
A. This is a form that we keep. Obviously we need to know who our customers are, and there was a request by Mr. Moses to comply with.
Q. And you responded to Mr. Moses?
A. We responded
(Plaintiff's Exhibit 3 was marked for identification.)
BY MR. BLOOMBERG:
Q. And the request, if you take a look at Exhibit 3, ask you first tell me whether you recognize Exhibit 3.
A. Okay.
Q. Do you recognize Exhibit 3?
A. Yes
Q. Is Exhibit 3 Mr. Moses' request for that information, a customer list?
A. Yes, I believe this was the -- yes, this was a request they sent us.
Q. All right. Now Mr. Moses' request,

Exhibit 3, the second paragraph of the request, Mr. Moses' e-mail says therefore, any services provided to entities such as concessions stands, restaurants or hotels would be outside of the exemption, and certification would be required before telephone service can be provided.
Do you see that?
A. Yes
Q. If you look at Exhibit 2, are there any concessions stands to whom the County provides telephone services or offers telephone services?
A. Yes, there's some -- there seems to be some concessions here
Q. Okay. Cafe Versailles, the ice cream place --
A. Cafe Versailles, Duty-Free, et cetera
Q. Those would clearly not be airlines?
A. That's right.
Q. Did you have a discussion with Mr. Moses at any time or anybody with the P.S.C. concerning the P.S.C.'s position that concessions stands, restaurants, hotels would need your certification before you could provide telecommunications services to those entities?
A. No, we did not.

Q. You just felt he was wrong?
A. No. He requested from us a list of entities, and we provided that.
Q. These two e-mails, was that the sum and substance of the communication?
A. As far as I remember, that was it.
Q. And you mentioned the process of applying. Was that before or after these e-mails?
A. This was, like, two years ago. It was at the beginning when I started working for the aviation department.
Q. Were you personally involved in any discussions concerning whether or not there was a certification requirement from the P.S.C.?
A. Yes, we had conversations, Maurice Jenkins and counsel and other people.
Q. And you were involved in some of those conversations?
A. Yes.
Q. Do you agree or do you disagree with Mr. Moses' statement in his e-mail that services provided to entities such as concessions stands, restaurants or hotels would be outside of the exemption, and certification would be required?
A. I think this is a -- I read the Florida

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Statutes, and this is an interpretation of Mr. Moses as to the Florida Statute intent, and I respect his opinion, but it's not what the Florida Statutes verbatim, what it says.

Q. Have you had the opportunity to review and read at any time the Florida Administrative Code?

A. I'm not sure about that name. I don't -- it doesn't ring a bell to me.

Q. Let's mark that as Exhibit 4, please.

(Plaintiff's Exhibit 4 was marked for identification.)

BY MR. BLOOMBERG:

Q. Let me show you what's been marked as Plaintiff's Exhibit No. 4 for the purposes of the deposition which is a copy of the Florida Administrative Code, Annotated, Chapter 25-24 and ask have you ever seen that before?

A. Yes, sir.

Q. Is that one of the things you looked at?

A. Yes.

Q. And do you have any training as a lawyer?

A. Any what?

Q. Training as a lawyer.

22

A. No, sir.

Q. Now, the first sentence of this regulation says that airports are -- essentially I'm paraphrasing -- airports are exempt from other STS rules due to the necessity to ensure safe and effective transportation of passengers and freight; fair paraphrase?

A. Yes.

Q. The second sentence says the airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks

Do you see that?

A. Yes, I see it.

Q. And are you providing facilities, shared local services to facilities such as hotels, shops and so forth?

A. We're not providing service to any shopping malls.

Q. Hotels?

A. We're providing service to hotels -- there's a management company that manages the hotel and it's a pass-through situation. We're not making any profit from that.

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Q. So is that why you determined you don't need a certificate?

A. It was determined that we didn't need a certificate based on the overall interpretation of this paragraph. We're now providing services within the airport. We're not going outside to shopping malls or to outside hotels or any outside the airport property, which belongs to Miami-Dade County.

Q. And the hotel belongs to whom?

A. The hotel building belongs to Miami-Dade County, and we have a management company managing the operation.

Q. You mentioned that you started the process of applying for a certificate at some point?

A. Yes, sir.

Q. Who decided to apply? Who decided you needed to apply?

A. I don't believe it was anybody in particular. It was something that it was just decided to -- let's do it -- at the time we were engaged in purchasing the infrastructure from the service provider NextiraOne which was -- they were the owners of all the infrastructure at the time.

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That was three years ago.

They owned all the telephone switches, the wiring, the network equipment. They owned everything and we were basically leasing from them that equipment and we were paying them as customers before the service provision to everybody in the airport, both STS customers and Miami-Dade Aviation Department staff.

So as of February of 2002 we concluded negotiations with them to purchase all of that from them and then at that point we became owners of the equipment and, therefore, we were actually the service providers from that point on. Before that it was them. So that at the time it was considered that -- perhaps it was explored and, you know, whether we should get a license or not for STS provisioning and so forth.

Q. So as I understand it, before the sale, the Nextira sale, the decision was that Nextira was -- actually the County's perspective was that Nextira was the service provider?

MR. HOPE: Objection.

A. Not from the County's perspective. It was the service provider.

Q. So therefore, you did not need a

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

VIDEOTAPED DEPOSITION

OF

PEDRO GARCIA

Suite 1200
100 Southeast 2nd Street
Miami, Florida

Thursday, October 28, 2004
11:15 a.m.

Page 70

MR. HOPE: Objection to form.
Q. Do you understand my question?
A We are talking about the voice customers?
Q. Yes
A Do they all end up at the PBX?
Q. Yes
Let me help you. Setting aside your other scenario of one customer going from one customer location to a second location.
A Not counting that?
Q Not counting that.
A Yes, they end up at the PBX.
Q Does each MDAD customer have a separate entry point into the PBX switch?
A Meaning a telephone?
Q Meaning, I am sorry --
A Do you mean by entry point a telephone or port?
Q On the PBX side A port.
A Yes. Every phone is connected to a separate port.
Q Are the ports grouped by customer in any way?
A. I don't believe so.
Q. Is there any grouping of either wires or

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ports or any other type of equipment by customer at the airport?
A There is only one -- there is a hotel at the airport. And the trunks for that hotel, they are partitioned in the PBX to be separate In other words, they have their own trunk groups They actually get the service from AT&T instead of BellSouth, and they cannot call -- they cannot dial four digits and call anybody else at the airport.
Q I have to ask you a number of questions about that to see if I understand it all. Okay? Let me just start from the beginning. What hotel are you referring to?
A The Miami International Airport Hotel, which is located inside the airport
Q And the Miami International Airport Hotel is an MDAD customer?
A The Miami International Hotel is owned by the County, and is operated by a management company.
Q Is it serviced by MDAD?
A We provide them the telephone service with partition trunks, and they own the instruments in the rooms
Q You say you provide the telephone service with partition trunks. First let me ask you, you

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mentioned that the County owns two PBX's.
A. Yes.
Q. Is there one PBX for the airport and another PBX for everybody else?
A. No. They are interlaced for disaster recovery purposes, so we don't lose one and everybody else is out of service.
Q. Does the County own two PBX's just because of size and volume?
A. Size and redundancy.
Q. What is redundancy?
A. You know, like if one fails, you have another
Q. But if MDAD had a smaller operation, is it fair to say they could just use one?
MR. HOPE: Objection to form
Q. One PBX?
A. Probably not. We would probably still remain like this because we like to have redundancy
Q. Now, the Miami Hotel, how is that -- you say -- when you use the word partition trunks, what exactly do you mean from a technical perspective as it relates to that hotel?
A. It means two things. It means that everybody else that is getting telephone

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connectivity through our PBX, when they go out to the world, to a local call, to the rest -- to the public network, they go into these ten T1's that I explained before that Southern Bell provides, or BellSouth. I am showing my age here.
So the hotel is -- their calls go out through a separate trunk group that also terminates in the PBX, which was contracted by them separately and they are provided by AT&T. That is with their local calls, and their long-distance calls go out through those separate trunks.
Also, what it means, partition, is they cannot dial four digits and talk to any of the other customers connected to the MDAD-owned PBX, the County-owned PBX.
Q. In that type of situation where you say those trunks have been partitioned, it only relates to the Miami International Airport Hotel that you spoke about. Is that correct?
A. Yes, yes
Q For every other MDAD customer, is there any partitioning of the trunks in any manner, shape or form?
A No.
Q When were the trunks partitioned for the

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

VIDEOTAPE DEPOSITION

OF

MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004
10:15 a.m. - 5:00 p.m.

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MR HOPE: Correct, which is what I instructed earlier.
Q. It's fair to say that all the customers listed on MJ10, Mr. Jenkins, pay for your telecommunications service, correct?
MR. HOPE: Objection, form
A. Yes.
Q. There's no question that having these customers benefits the county financially, correct?
A. There's some benefit, yes
Q. There's some benefit?
A. Yes, sir.
Q. Let me show you what I am going to mark as MJ12 and 13, two photographs.
(Photographs marked Exhibits MJ12 and 13 for identification)
Q. MJ12 is a picture of Cafe Versaille, correct?
A. Yes, sir.
Q. That's one of the customers listed, one of your customers listed on MJ10, that's correct? I am pointing to it here.
A. Yes, sir.
Q. MJ13 -- by the way, are there a number of Cafe Versailles in the airport?

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A I believe there are two. Maybe more.
Q Just for the record, because people may read this or see this videotape and don't know what Cafe Versaille is. Can you explain what it is?
A It's a concession within the airport that provides coffee, Danish, pastries.
Q MJ13 depicts a Bacardi shop, correct, or store where you can by Bacardi liquor?
A It is a restaurant/bar type, yes.
Q It's in the business of selling liquor, is that correct, and food?
A Yes, sir.
Q Do you know whether Bacardi is currently an MDAD customer?
MR. HOPE: Objection. Instruct the deponent not to answer.
Q Let's assume since you have been instructed not to answer that question I'll ask you to assume that they are a customer, they are out at the airport.
Again I go back to my question: Having Cafe Versaille and potentially Bacardi as clients at the airport, the purpose is, is it not, to derive income, revenue from them in return for your provision of telecommunications service?

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MR HOPE Objection to form.
A. Yes.
Q. Is there any other benefit that they provide the airport as a customer other than financial?
MR HOPE Objection to form.
A. I'm sorry, you got to repeat that one
Q. Sure. Other than providing you with revenue and increasing the money that you make off of the telecommunications business, is there any other benefit that they provide MDAD?
A. These entities?
Q. Yes.
A. They provide the customers with a product. The customer, the traveling public gets a benefit from these entities.
Q. Fair enough. The customers who purchase food or drinks?
A. Food, pastries, coffee, yes, sir.
Q. But does that provide the airport with a benefit? Does the airport receive any other benefit from having these shops there? No, right?
MR. HOPE Objection to form.
A. The benefit to the airport is if we bring quality products to the airport our customers who travel through MIA will choose MIA in comparison to

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Fort Lauderdale or anywhere else. It is a branding of product a product and service.
Q. So it is a marketing tool as well I guess? I don't want to put words in your mouth, but you are essentially saying if you have quality shops you are hoping you will get more passengers, is that the --
A. Yes, sir.
Q. Any other benefit?
A. No, sir.
Q. Are there any studies that you have reviewed or come across that say if you have quality stores you'll get more traffic, they will choose Miami over Fort Lauderdale as you said?
A. I don't, I don't have studies and I haven't done anything But we have a commercial ops division that you can speak with Their goal is to bring quality merchandise, quality products to the facility to give us what we need to be a world class facility
And the traveling public, I think they have done -- not "they have" but industry has done studies or surveys as to what the traveling public wants to see when they go through a facility, like Miami International Airport and as it is compared to Atlanta, Jacksonville, Tampa, Houston, DFW, anywhere else for that matter

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Q. And then John Q Public is going to pay for that telecommunications service, correct?
A. Yes, sir.
Q. And that telecommunications service that you offer that we discussed before includes two way communication capabilities, correct?
MR. HOPE Objection to form.
A. Yes, sir.
Q. Let me mark a couple of more of these because I have another follow-up question. I am going to mark MJ14, MJ15, MJ16, MJ17, MJ18, MJ19, MJ20, MJ21, MJ22 Let me show you what I have marked as Exhibits MJ14 through and including MJ22 and just have you take a look at those photographs.
(Series of photographs marked Exhibits MJ14 through MJ22 for identification)
A. OK
Q. Are those, as far as you can tell, accurate depictions of various stores and/or services as they presently exist at the Miami Airport?
A. Yes, sir.
Q. And I am just going to walk through them real quickly if you don't mind me looking over your shoulder just to put them on the record because the record can't see the pictures.

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Correct me if I am wrong as I walk through these MJ12 is Cafe Versaille, MJ13 is Bacardi, MJ14 is?
A. They are both the same --
Q. Eddy's ice cream. MJ15 shows Eddy's Ice Cream as well, Hebrew National hot dogs MJ16 is duty free stop.
MJ17 is TCBY and Cinnabon MJ18 is Bacardi, a Burger King and Frankly Gourmet. MJ19 is Sunglass Hut MJ20 is the company you mentioned before, Cafe La Caretta?
A. Right.
Q. MJ21 is basically a mall of shops, correct?
A. Yes, sir.
Q. And the mall of shops includes Barber Beauty and Nails, a Kleen cleaners --
A. No, that's a shoe shine
Q. I'm sorry, shoe cleaner?
A. And then the ice cream place.
Q. Yes.
A. You didn't mention this one
Q. MJ22 is a leather store?
A. Yes, sir.
MR. GOLDBERG: Showing his counsel where he can go shopping.

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Q. That leads me to the next question. There is nothing that prevents Mr. Hope here or John Q Public or anybody else from going into the Miami International Airport to these mall of shops or any of the other stores that we have depicted here in the photographs, purchasing their product, using their services and then leaving without taking a flight or booking a flight or traveling anywhere?
A. Right.
MR. HOPE: Objection to form
Q. There's no dispute about that, they can walk in, do those things and walk out without traveling?
A. Yeah, if they want to
Q. And there's also no dispute, although your counsel is telling you not to answer certain questions, but there is no dispute that you are providing service to some or all of those shops or those type of shops at the airport, correct?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. Can you tell me what the county, or MDAD, or the airport exactly pay for to provide either switch access or network access as those terms are used in the airport rental agreement?
MR. HOPE: Objection to form.

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A. What we actually pay for?
Q. Yes What costs are involved in providing those services to your customers
A What costs are provided, I'm not sure I understand the question.
Q. OK Obviously you charge your customers for the telecommunications service, correct? We established that That's not an issue, is it?
MR HOPE: Let me stop you there. I am going to object. If you are now going to try and get an itemization of the specific costs that the airport incurs and then at some point, which I think this is something that you asked before and you might be able to get a hold of the rental agreements, which shows what we charge, then you can come up with our profit margins, which you are not entitled to
Just like when we requested specific request from BellSouth and you said you are not going to turn them over because it is internal to your rates of return, that would be the same thing
So unless you can show why you need specific cost information or specific costs that we incur like what BellSouth charges us this whole line of questioning is inappropriate and privileged and I am

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

BELLSOUTH TELECOMMUNICATIONS, INC , a foreign corporation,

Plaintiff,

vs.

CASE NO. 02-28688 CA 03

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

DEPOSITION OF:	RICHARD A. MOSES
TAKEN AT THE INSTANCE OF:	The Plaintiff
DATE	October 5, 2004
TIME	Commenced at 1:30 p.m. Concluded at 3:33 p.m.
LOCATION	Gunter Building, Room 282 2540 Shumard Oak Boulevard Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC
2894-A REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
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PROCEEDINGS

The following deposition was taken on oral examination, pursuant to notice, for purposes of discovery, for use as evidence, and for such other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing of the deposition transcript by the witness is waived.

* * *

Thereupon,

RICHARD A. MOSES

the witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLDBERG:

Q Mr. Moses, let me just introduce myself again on the record. My name is Martin Goldberg. I represent BellSouth Telecommunications in a case that's currently pending in Miami-Dade County, Florida, in the Circuit Court there. It's entitled BellSouth vs. Miami-Dade County. The case number is 02-28688 03.

You are here, and we appreciate your time very much, pursuant to a subpoena that was issued for your deposition; is that correct?

A That's correct.

Q Okay. Let me just show you what I've marked as

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to provide STS services be indisputable?
MR HOPE: Objection to the form.
A Well, I --
Q Do you want me to rephrase the question?
A Yes.
Q According to your testimony today, if the Miami Airport is not partitioning its trunks, then they cannot avail themselves of this exemption that you made reference to in your e-mail; is that correct?
MR. HOPE: Objection to the form.
A That would be my opinion.
Q And if they cannot avail themselves of the exemption, then is it clear under the law that they need to apply for a certificate from the PSC to provide STS services?
MR. HOPE: Objection to the form.
MR. GOLDBERG. You can answer yes or no and explain if you want
A I believe they would need a certificate if they had not partitioned the switch and were providing service to entities that are not really associated with the airport
Q And let's talk about those entities that are not really associated with the airport. Would those entities be entities such as a hotel, concession stands,

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shopping mall, ice cream shops, pizza places, and the like? Would you agree with that?
A Yes
Q So if the Miami-Dade County Airport has not partitioned its trunks and is providing telecommunications service to entities such as a hotel, concession stands, pizza places, and the like, would you agree that there's no dispute under the law that they need to apply for a certificate with the PSC?
A I would agree with that.
Q And that in fact in that scenario, the act of applying for a certificate is mandated by law?
A Yes
One thing also I need to make sure is clear on the record, I am not a lawyer, so all these opinions are strictly mine and are not a position of the Commission, nor to be construed as such.
Q Okay. At the time you sent this e-mail to Mr. Jenkins, did you have any telephone communications with Mr. Jenkins or anybody else at the airport about this e-mail before you received a response, which we'll get to in a minute?
A We did speak on the phone. He was essentially trying to get more clarification of what I was looking for, and he did provide a list in compliance with my

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e-mail request.
Q Do you recall what Mr. Jenkins said at the time or what you said to him?
A I told him that I was looking for a list of every entity that they were providing service to through their switch, and he provided that.
Q And did he provide it as documented in what I've marked before you as PSC-5? Is that the response?
A Yes
Q And that's the response e-mail on Monday, March 17, 2003, directed to Mr. Moses from Pedro Garcia, which says, "Attached is the list you requested"?
A Yes
Q Understanding what we've talked about in this deposition here today about partitioning trunks and the exemption and your understanding of that, did you have any such discussion with Mr. Jenkins or Mr. Garcia or anybody at the airport subsequent to receiving this list that's referenced in PSC-5?
A I don't know if I did or not, it's been so long ago
Q Do you recall whether anybody affiliated with Miami-Dade County or the airport contacted you after they sent this list to further discuss your e-mail in March of 2003 which indicates that certification would

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be required before telephone service can be provided?
A I received a phone call, I believe, from Mr. Garcia, if I'm not mistaken, just making sure that I did get the information, and that if there was anything else I needed, just to let him know.
Q At the time you received that phone call from Mr. Garcia, did he bring any facts whatsoever to your attention to try and suggest that Miami-Dade County Airport was somehow exempt or had some basis not to file an application with the PSC?
MR. HOPE: Objection to the form.
A No. I think the discussion was mainly about emergency services. They were concerned about emergency services. There was nothing more discussed at that time. I essentially acknowledged that I did get the information.
Q Did you in any way, shape, or form tell Mr. Garcia when he called that you had changed or altered your opinion as referenced in your earlier e-mail in March of 2003 identified as PSC-6?
A No.
MR. HOPE Objection to the form
BY MR. GOLDBERG:
Q As we sit here today, do you know whether or not subsequent to this correspondence with Miami-Dade

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County, the County has applied for a certificate for STS services?
A Not to my knowledge.
Q You do not know as we sit here today that they have applied? Is that --
A No, I do not.
Q Okay. If the County were to argue that the fact that they did not apply for a certificate and have been operating without a certificate from the time of these e-mails in March of 2003 to the present, that that somehow approves or sanctions their operation without a certificate, would you agree with that, if you understood my question?
MR. HOPE: Objection to the form
A No Only the Commission can approve the authority to provide shared tenant service.
Q And do you say that because the Commission has exclusive jurisdiction over that area?
A Yes.
Q And actually, the Commission's grant of exclusive jurisdiction is stated very clearly in Florida law; correct?
A Correct
Q And would you agree with me that the PSC has exclusive jurisdiction over whether or not an entity

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needs or does not need certification, and that by definition means any other person or entity in the State of Florida cannot make that determination?
MR HOPE: Objection to the form.
BY MR. GOLDBERG:
Q Correct?
A Correct
Q So in other words, just to be clear, you would agree that another entity or person cannot self-determine whether or not they need a certificate or do not need a certificate to provide STS services? Would you agree with that?
MR HOPE: Objection to the form.
A Yes.
Q Let me direct your attention back to PSC-5, the customer list that you received from Miami-Dade County Airport as of February 2003. Based on the customer list that you reviewed, and assuming no partitioning of the switch, as you've referred to it here, would Miami-Dade County need to apply for certification as an STS provider?
MR HOPE: Objection to the form.
A Yes.
Q And can you explain that answer, please?
A Under the title "Concession/Others," the

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companies that are listed underneath there, in my opinion, would not be necessary for the safe passage of passengers through the terminal, so it would lay outside of the exemption if they have not partitioned their switch. And the same would hold true for management companies.
Q If I could ask you to go back for a minute to PSC-7, which is a composite exhibit of notes and the application, and go again to page 17, I would appreciate that. I'm sorry to have you jump back and forth.
A Okay
Q In the middle of the page, the notes written by an individual at the County says, "If MIA is going to provide service not related to public transportation (hotels, shops, et cetera) we need to file an application." Is that language consistent with your testimony that you've given here today?
A If they don't partition their switch to those entities, yes, it would be
Q Whether or not an STS provider partitions their trunks, or switch, partitions their switch, as you've used, or did not partition the switch, are they still a telecommunications provider or company under Florida law?
A Yes.

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Q During your time here at the PSC, have you dealt with certification issues relating to Orlando International Airport?
A I don't recall specifically if I was involved with it or not It may have happened on my watch, but I don't recall
Q If the County were to argue in this case that because Orlando International Airport provides STS without a PSC certificate, that that somehow sanctions the County's operation without a certificate, would you agree or disagree with that statement?
A I would not agree that it allows anyone to operate without a certificate, no.
Q Can you explain that a little bit further, please?
A Well, the Orlando Airport is one entity, and the Miami Airport is another entity. I don't know if the two operate the same. Orlando may have partitioned their switch, and certification wouldn't be required.
Q If I could ask you to stay in that same exhibit, PSC-7, and if I could direct your attention to a certain page that I'll be able to find in a second, Bates stamp 18 again, the list of certificated STS providers, let me direct your attention to the middle of that page. On the list it says Hillsborough County

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Aviation Authority. Do you know whether that entity is the entity that operates the Orlando International Airport or any other airport?

A I believe they operate Tampa International.

Q Tampa International?

A Yes.

Q So this would mean that the authority operating Tampa International Airport has been certificated by the PSC to the best of your knowledge; is that correct?

A Yes.

MR GOLDBERG: Could we take a five-minute break, because I may be close to finishing up with my questions

THE WITNESS: Sure.

(Short recess.)

BY MR. GOLDBERG

Q I just have one sort of small area to follow up with you on, and I appreciate your time again, and then I'll be done with my questioning. Mr. Hope may have some questions for you, and then I may have some short follow-up.

One area I wanted to go back to is this. Let me just see if I can summarize some of your testimony, and please correct me if I summarize it incorrectly.

In your testimony today you have said that if

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the County is not partitioning its switch and it is providing STS services to entities such as a hotel, shopping mall, concession stands, pizza places, and the like, then they would need to file and obtain a certificate from the PSC before providing those services; is that correct?

A That's correct.

Q If the County were to argue that they were not making any money through the operation of a hotel or a pizza place or a shopping mall, they weren't profiting from the provision of that service, would that change your answer in any way?

A No.

MR. GOLDBERG: I do not have any further questions at this time.

CROSS-EXAMINATION

BY MR. HOPE:

Q Thank you, Mr. Moses. I'm David Stephen Hope. I'm an assistant county attorney with Miami-Dade County. I'm going to ask you some questions, and remember, you're still under oath. And also, if the answers to the questions that I pose to you conceivably conflict with or change answers that you've given previously to questions that Mr. Goldberg provided, then you can go back and clarify that previous question if

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you remember it.

If a dispute exists between two entities that may be regulated by the PSC, what's the mechanism for resolving that dispute?

A Well, I guess it depends on the dispute. If the dispute is something that is regulated by this Commission, a filing with the Commission would be appropriate.

Q Now, when you say a filing, is the filing considered a complaint, or what's the proper terminology for that filing?

A Well, it depends on the dispute. There are people that file complaints with us that we handle without going to the Commission in some instances. There are formal filings that are done if there's something that the parties want brought before the Commission specifically. That's really the only two avenues I can think of off the top of my head

Q So in this situation where BellSouth has alleged that Miami-Dade County through its Aviation Department is operating a telephone utility without proper PSC certification, what sort of filing would be necessary to bring that matter in front of the PSC?

MR GOLDBERG: Objection to the form. You can answer.

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A I'm not sure there would necessarily have to be a filing. Certainly staff on its own motion can do things, investigations, things of that nature. We get whistle-blowers, for instance, that give us information. So it's not a necessity. It's also not something they couldn't do They could also do a filing if they choose.

Q Are you aware of any filings that have been made related to the facts that I've laid out to you today and also what has been discussed in this deposition?

A No.

Q Are you aware of any current filings involving Miami-Dade County?

A Not to my knowledge.

Q Are you aware of any current filings involving BellSouth Telecommunications, Inc.?

A Well, BellSouth makes filings just about every day. As far as regarding Miami-Dade County, I don't believe there have been any filings

Q But there may be -- since you say they make filings every day, they may have filed other disputes against other --

A That's correct.

Q To your knowledge, are any of those other

Q If someone inside the facility only has the capability of dialing inside the facility and not outside of the facility, is that considered local service?

MR. GOLDBERG: Objection to the form.

A Could you repeat that, please?

Q If someone inside the facility can only dial inside the facility, hence, dialing another extension inside the facility, but does not have the ability to dial outside the facility, is that considered local service?

MR. HOPE: Same objection.

A Are you speaking of this as being a shared tenant provider?

Q Yes.

A That's prohibited under the rules.

Q Why?

A It says right here, allow intercommunication between unaffiliated entities. It says, "Shared tenant service providers shall not be allowed to," and under (d)3, "Allow intercommunication between unaffiliated entities."

Q Can I get the rule you're reading from, for the record?

A 25-24.575, and it's titled "Shared Tenant

Service Operations."

MR. GOLDBERG: Thank you.

BY MR. HOPE:

Q And which sub was it?

A It's under paragraph (5)(d)1. No, excuse me, (5)(d)3.

Q What if outside dialing isn't prohibited by the provider, meaning that the customer only wants to be able to dial internally and does not want to be able to dial externally?

MR. GOLDBERG: Objection to the form.

A I don't know. I would have to study on that. I don't know.

Q Is the provision of STS services by governmental entities exempt from PSC regulation?

MR. GOLDBERG: Objection to the form.

A Hold on one minute, because I've got to refresh my memory on that. Just one moment.

The statute, from my understanding, under 364.339(3)(a), allows the Commission to exempt from certification entities that provide STS services to government entities.

Q Is the provision of STS services at airports exempt from PSC regulation?

MR. GOLDBERG: Object to the form.

A Again, it depends on how you're providing the service.

Q And that gets down to whether the trunk is partitioned and to whom?

A Exactly.

Q Just a couple more things. You stated earlier, and this refers to PSC-5, which has the listing of customers that are being supplied with shared tenant services at Miami International, that it was your opinion that unless Miami International had partitioned its trunk, it would require certification for provision of services to everyone listed under the concessions and others column and the management companies column.

MR. GOLDBERG: Object to the form.

A Definitely under the concessions part. As far as the management, not being familiar with every entity under that management part -- actually, if airport management were there, I think that would be part of the necessary persons to serve. But certainly the Miami International Airport Hotel, they would need to partition that.

Q Okay. Does it matter where the concession is located?

A No.

Q So there's no difference between the concession

being located physically in the terminal building versus a mile away as far as a trunk would need to be partitioned in order to provide service to them absent a PSC certificate?

A It would not matter where they were located.

Q Is there any other exemption to PSC certification besides the airport exemption?

A Well, an entity can petition for waivers or exemptions, provided that the language is in the rules that you can petition for such. Certainly the Commission cannot waive anything that's statutorily required.

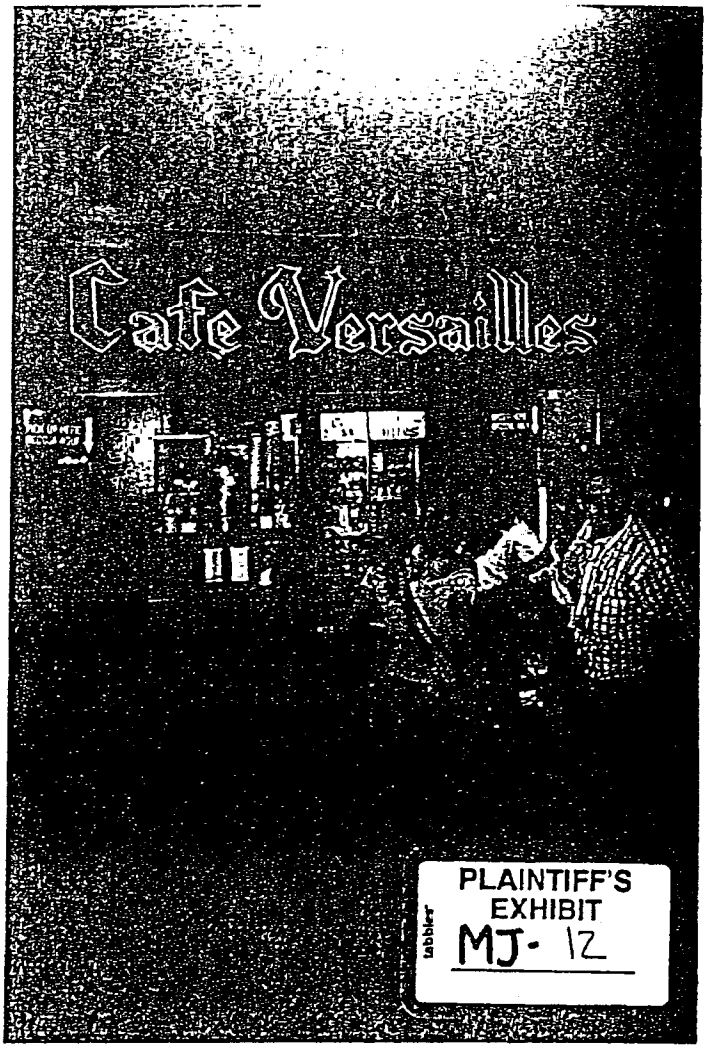
MR. HOPE: Nothing further.

REDIRECT EXAMINATION

BY MR. GOLDBERG:

Q Let me ask a few follow-up questions, and then I think that will conclude the deposition. Let me sort of begin where Mr. Hope left off. He asked you a question that gave rise to your answer that an entity could petition the PSC for a waiver. Are you using waiver in the same manner as the word "exemption"?

A No, I don't think the two mean the same. Again, not being a lawyer, I'm not sure. There is certain language in certain statutes that allows the Commission to do certain things when it comes to


Cafe Versailles
PLAINTIFF'S
EXHIBIT
MJ- 12

BACARDI
PLAINTIFF'S
EXHIBIT
MJ- 13

PLAINTIFF'S
EXHIBIT
MJ- 14

PLAINTIFF'S
EXHIBIT
MJ- 15

DUTY FREE
PLAINTIFF'S
EXHIBIT
MJ-16

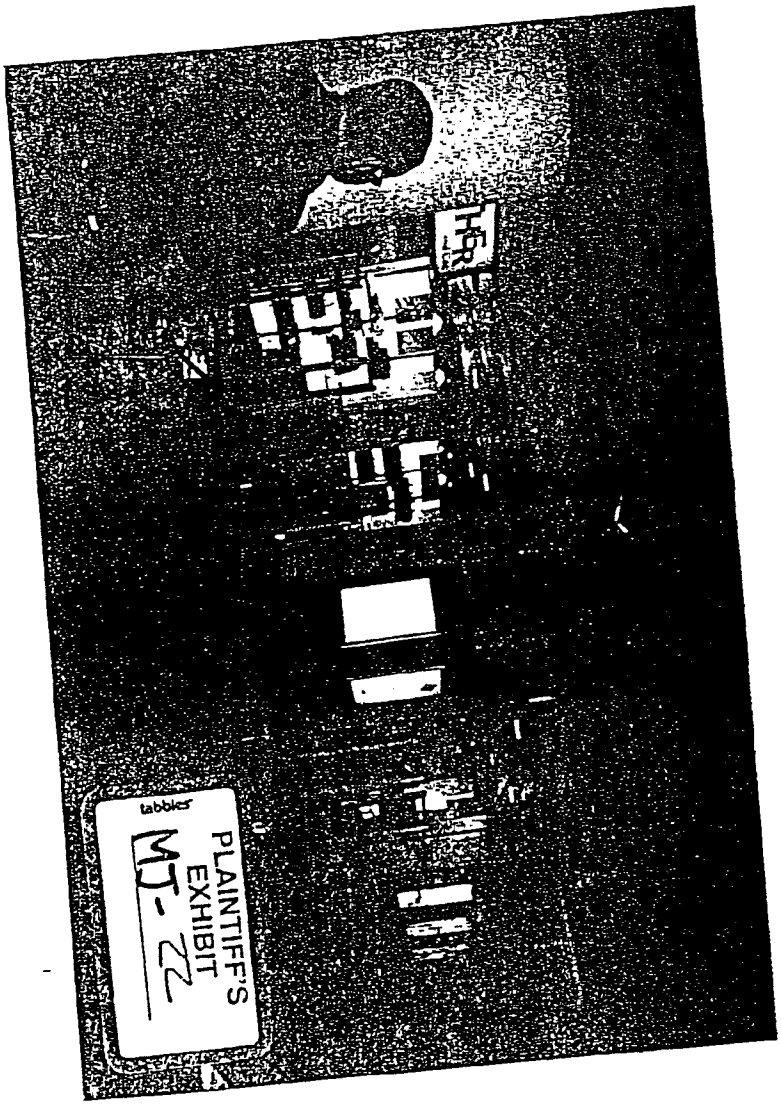
PLAINTIFF'S
EXHIBIT
MJ - 17

FRANKLY, GOLDWATER
PLAINTIFF'S
EXHIBIT
tabbies
MJ-18

PLAINTIFF'S
EXHIBIT
MJ- 19

LA CARRETA
PLAINTIFF'S
EXHIBIT
MJ-20

PLAINTIFF'S
EXHIBIT
MJ- 21


tabbies
PLAINTIFF'S
EXHIBIT
MJ-22

28. During 2001, the year prior to the County's acquisition and operation of the telephone utility at the airports, the gross revenues for the provision of telecommunications services to airport tenants totaled approximately $2,670,024.

29. On September 24, 2002, the Board adopted Resolution No. R-1091-02 (collectively, R-1091-02 and R-31-02 are referenced hereinafter as the "Resolutions") authorizing the County Manager or his/her designee to negotiate and execute new Airport Rental Agreements between the County and customers at the airports to govern the County's provision of telecommunications services to these tenants, including hotels, restaurants, retail shops and other commercial entities ("Commercial Tenants"). See Resolution R-1091-02, County Manager's Memorandum and Miami-Dade Aviation Department Airport Rental Agreement attached as Composite Exhibit B.

30. Prior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company because it did not offer two-way telecommunications services to the public for hire by use of a telecommunications facility at MIA or the Other Airports

31. Nextira and, upon information and belief, its predecessor private entities offered the two-way telecommunications services to the airport tenants for hire using telecommunications facilities owned by these private entities prior to the passage of the Resolutions.

32 Thus, by passing the Resolutions, and, based solely on the Resolutions, the County now owns and operates a telephone utility by offering two-way telecommunications

BANK OF AMERICA TOWER
SUITE 1200
100 SOUTHEAST 2ND STREET
MIAMI, FLORIDA 33131-2163

LASH&GOLDBERG LLP

WESTON CORPORATE CENTER
SUITE 400
2500 WESTON ROAD
FT LAUDERDALE FLORIDA 33331

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9 03 a.m

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ., of the firm of ADORNO & YOSS, P.A. on behalf of the Plaintiff

DAVID STEPHEN HOPE, and CYNJI A. LEE, Assistant Miami-Dade County Attorneys on behalf of the Defendant

Also present:
Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS	EXAMINATION	PAGE
PEDRO J. GARCIA-		
	BY MR. BLOOMBERG	4

EXHIBITS

EXHIBITS	FOR IDENT
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(All exhibits are attached hereto.)

(Ms. Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q Would you tell me your name, please, sir.

A Pedro J. Garcia.

Q What is your occupation?

A Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A About two years, give or take a couple months.

Q How long have you been with the County?

A About 15 years.

Q Take me through your positions with the County.

A I started as a Telecommunications Engineer III which is a senior position The

Q. What do you mean by the term infrastructure?
A. Infrastructure is all -- basically the wires that are behind the walls that are running through the airport providing where the information flows to provide the services.
Q. Let's go to the 2002 agreement. Had the County been involved in the telecommunications business, so to speak, at the airport prior to that?
MR. HOPE: Objection to form
A. The County was basically a customer of NextiraOne prior to that We were their customers as far as they were providing us the services along with the services they were providing to other tenants of the airport.
Q. Before February of 2002 was the County providing in any way telecommunications services to other tenants at the airport?
MR. HOPE: Objection to form
A. No.
Q. Strike that
A. Nextira was providing the services. We were getting -- I believe it was a 10 percent commission on the services provided to other

tenants of the airport other than the aviation department.
Q. Was that just for allowing Nextira to provide it?
A Yes.
Q Did Nextira provide those services pursuant to an RFP, or how did Nextira get to the airport to provide those services? What was the arrangement?
A This was a contract that existed, I think, prior to -- ten years prior to me starting there. I'm not sure how it was awarded. I presume it was a process of an RFP at the time. It wasn't even Nextira. It was Williams. It changed names a few times after that So in any event, this has been going on for over ten years they've been there providing the services, as far as I know.
Q. Let me make sure I understand this. Up until 2002 or February 2002, Nextira or its predecessor, whoever it may have been, provided telecommunications services to tenants of the airport?
MR. HOPE: Objection to form.
A. To some of the tenants.
Q. Some?

A Including the Miami-Dade Aviation Department.
Q Did Miami-Dade County receive some sort of commission or payment from Nextira or its predecessor prior to February 2002?
A. We received, I believe, 10 percent of the gross for allowing them to provide the service.
Q Did Miami-Dade County pay Nextira to provide services to the County, or did the County get those services for free?
A We paid them through the nose for the services that they provided us
Q So on one hand the County was getting 10 percent or roughly 10 percent of what Nextira got from other tenants but also the County was paying?
A We were paying and we were paying a lot more than what we were getting for the services.
Q All right. And in February 2002, pursuant to this agreement with NextiraOne, the County became the provider and Nextira became, if you will, a subcontractor; is that a fair characterization?
A That's correct.
Q So there are Nextira employees now who

still work at the airport --
A. Yes.
Q. -- and who, in essence, report to MDAD?
A. Do not report to MDAD -- well, they have their own organization The manager is Pedro De Camillo and they in turn are basically -- we have a subcontractor relationship.
Q. Okay.
A. We don't report, you know, in the sense of -- in an organization chart to us, but they basically are accountable to us for what they do. If they do what we tell them, we pay them.
Q. And they get paid for the services that they provide?
A. That's right.
Q. What, if you know, was the genesis that led up to this February 2002 agreement? How did it come about? Where did it start? Where did it come from?
A. I don't know who started it. That was done before I came to work at the airport. But it was a business decision, basically It was -- we been -- they were charging the airport a lot of money for the services that we were getting, and it was decided that -- by analyzing the situation that

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

VIDEOTAPE DEPOSITION

OF

MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004
10:15 a.m. - 5:00 p.m.

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Whatever else is out there, Opa Locka. Any other facility. I think there is a jump school at Homestead General. You have those things that are sitting out there.
Q. Why doesn't the county or MDAD provide telecommunication service to those commercial tenants at the other county owned airports?
A. Don't know. I guess we haven't gotten around to either discussing or asking.
Q. Are you aware of any plans to do that?
A. I haven't had any discussions with my guys about it yet.
Q. When you say your guys, have you had any discussions with anybody who you report to about that?
A. Oh, no, sir.
Q. Who does Angela Giddens report to?
A. County manager.
Q. Who is who right now?
A. Mr. George Burgess.
Q. How long has he been the county manager?
A. He just came back. I'm not sure.
Q. Recently?
A. Yes.
Q. Are you aware of any discussions with the

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current county manager with respect to this lawsuit?
A. No, sir.
Q. Are you aware of any discussions with the prior county manager with respect to this lawsuit?
A. No, sir.
Q. Are you aware of any meetings that have taken place regarding this lawsuit that you have not been in attendance at?
A. No, sir.
Q. Would you expect to be at any meeting where this lawsuit was discussed?
A. I guess it depends. I'm not sure if I need to attend. I don't know.
Q. Why did the county enter into the transaction it did in January of 2002 to purchase the assets of Nextera?
A. It was, if I recall properly, based upon an audit and a review by county auditors, as well as there was an individual that came from the police department that was there temporarily, I believe it was Tom Arnold, that looked at processes from law enforcement and looked at processes and looked at the agreement and other things and said it would be in the county's best interest to buy out and own and operate rather than the existing way we were doing

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business at that time.
Q. What was the existing way that you were doing business at that time?
A. It was a managed services agreement in which Nextera provided the service, did the billing and operated, supported the MDAD voice network or voice system, voice network as it stood and they managed and operated, and there's a management fee.
There was I think a percentage of the share tenant revenue that came back. Whatever was generated came back to the department.
Q. So before January 2002, Nextera owned and operated the telecommunications facility, correct?
MR. HOPE: Objection to form.
A. They owned it. They operated it under a management agreement with the department, yes, sir.
Q. And then after January of 2002 the county owned and operated the facility, correct?
A. The county owned the facility and we contracted to have someone operate it for us.
Q. But aren't we saying the same thing. If the county is operating the facility after 2002, albeit through a management agreement, the county is still operating the facility? You are operating it, correct?

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A. We are still operating it, yes.
Q. There is no dispute about the fact that you are operating it, correct?
A. All right.
Q. And you weren't operating it before January 2002 because Nextera was?
A. Yes, sir.
Q. There's no dispute about that, correct?
A. Yes, sir.
Q. Meaning there's no dispute, you agree with me, right? Sorry. You do agree with me, there is to dispute, right?
A. I concur with your last statement.
Q. Thank you. I appreciate that.
MR. GOLDBERG: No further questions. Mr. Hope.
MR. HOPE: None.
MR. GOLDBERG: You have a right after every deposition once the court reporter prepares a transcript, it is your right to elect to either read the transcript to make sure that it's accurate or to waive reading of the transcript. I'm sure Mr. Hope --
MR. HOPE: We want to read.
MR. GOLDBERG: He has said you are going to

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 6(A)(1)(A)
9-24-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

RESOLUTION NO. R-1091-02

RESOLUTION AUTHORIZING THE COUNTY MANAGER OR DESIGNEE TO EXECUTE AIRPORT RENTAL AGREEMENTS FOR AIRPORT TENANT TELECOMMUNICATIONS SERVICES AND NETWORK ACCESS; NEGOTIATE TERMS AND CONDITIONS; AND ISSUE RENEWAL AND DEFAULT NOTICES AND TAKE NECESSARY TERMINATION ACTION FOR FAILURE TO CORRECT DEFAULTS.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the County Manager or designee to: (i) execute the standard form of an airport rental agreement attached to the accompanying memorandum for shared airport tenant telecommunications services and network access; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and default notices and, in the instance of default, to take necessary termination actions for failure to timely correct defaults all in accordance with the agreement.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Gwen Margolis and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro	absent	Jose "Pepe" Cancio, Sr.	aye
Dr. Barbara Carey-Shuler	absent	Betty T. Ferguson	absent
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	nay

Sen. Javier D. Souto absent

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of September, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS LOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency. dsh

David Stephen Hope

5

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

Agenda Item No. 6(A)(1)(A)

TO:	Honorable Chairperson and Members Board of County Commissioners	DATE:	September 24, 2002
FROM:	Steve Shiver County Manager	SUBJECT:	Resolution approving recommendations relating to shared airport tenant services for the Aviation Department

RECOMMENDATION

It is recommended that the Board approve the attached resolution that will authorize the County Manager or his designee to: (i) execute standard form airport rental agreements for shared airport tenant services ("SATS") to offer telecommunications and network access to airport tenants; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and event of default notices, and in the instance of default, to take necessary termination actions for failures to correct defaults on a timely basis all in accordance with the airport rental agreement.

BACKGROUND

On January 29, 2002, the Board of County Commissioners (the "Board") approved Resolution No. R-31-02 relating to the telecommunications, data network, and shared airport tenant services at Miami-Dade Aviation Department ("MDAD"), and entered into a non-exclusive management agreement with NextiraOne, LLC (the "Contractor") wherein MDAD receives all SATS gross revenues.

Shared airport tenant services consist of telecommunications, voice and data network services which MDAD offers to its tenants. The Contractor is required to use its best efforts to establish, market, maintain, operate and manage SATS for the County to tenants and users at Miami International Airport ("MIA") and the General Aviation Airports ("GAA"), consistent with the requirements of the Public Service Commission of Florida ("PSC") or whatever other governmental entity has jurisdiction over SATS, if and where applicable, and all applicable laws.

It is requested that the Board delegate to the County Manager or his designee certain specific and limited authority that would provide for more efficient management of airport properties, maximization of revenues, and better operational flexibility for users of said facilities. Given the changing or different needs of each tenant requesting SATS, it is also requested that the Board delegate the authority to negotiate such terms and conditions as may be necessary, on a tenant by tenant basis, to allow the County to be responsive to the needs of the MIA and GAA business partners. The rental term may vary depending on the [illegible] in no occasion will any airport rental agreement exceed forty-eight (48) months

The installation and monthly rental fees for SATS is dependent on the scope of the tenant's request for services.

The following chart provides a sampling of three levels of service (i.e., small, medium, and large tenant) that is presently offered by MDAD:

Tenant	Type of Service	Number of Subscribers	Installed Costs	Actual Monthly Rental Fee (period 5/1/02 – 5/31/02)
Air Jamaica (small)	Telecommunications Access	6 Subscribers	$860.00	$206.88
Miami Airport Duty Free (medium)	Network Access	46 Subscribers	$15,690.00	$ 2,516.44
United Airlines (large)	Telecommunications Access	593 Subscribers	$99,297.00	$16,142.88

The requested delegation of authority is similar to that which has existed for standard form aviation leases for the use and occupancy of real property at MDAD facilities.

At present, there are fifty-five (55) tenants with existing SATS agreements with MDAD. These agreements must be renewed, and as MDAD takes additional tenants into service, it is expected the number of users of our telecommunications and data network system and resulting revenues will increase. Per the previous SATS agreement with NextiraOne, LLC[1], last year the MDAD received $267,000, which was based on ten (10) percent of gross revenues. Under the new non-exclusive management agreement with NextiraOne, LLC, approved by the Board on January 29, 2002, MDAD will receive all SATS gross revenues which last year totalled $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

[1] NextiraOne, LLC was the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement

This Agreement is made as of _____, 20__ between Miami-Dade County (the "County"), a political subdivision of the State of Florida, and _____, a _____ corporation/partnership/sole proprietorship (the "Customer"), conducting business at Miami International Airport ("MIA" or the "Airport").

1) Agreement. The County agrees to deliver, install, rent, and maintain telecommunications systems and services consisting of: (1) switch access to its common telecommunications switching equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" or the "Department") and its tenants at the Airport ("Switch Access"); (2) network access to the local telephone exchange carrier ("Network Access"); and (3) telecommunication terminal equipment and cabling when itemized and enumerated on Schedule I. Such equipment and services are described in the Equipment and Services Schedule I and Maintenance Schedule III attached hereto, including optional services and features and made a part hereof (collectively the "System") and the Customer agrees to rent the System (the "Rental") subject to the terms and conditions of this Agreement.

This Agreement is subject to credit approval by the County. The Customer agrees to cooperate with the County by providing all credit and financial information that may be required by the County. Upon the County's approval of the Customer's rental application, the Customer agrees to execute all documents relating to the Rental and promptly return them to the County. In the event all required and properly executed documents and advance payments are not provided to the County, the County may, in addition to other delineated rights and remedies, delay cutover until such executed documents and advance payments are received and approved by the County.

2) Schedules. The attached schedules (the "Schedules") are part of this Agreement:

- Schedule I	Equipment and Services Schedule
- Schedule II	Acknowledgment and Certificate of Acceptance
- Schedule III	Maintenance Schedule

3) Installation.

a) The Customer will be responsible for, and provide or arrange for at its own expense (in a timely manner as required or directed by the County): (1) necessary floor plans and accessible System locations free from environmental hazards; (2) reasonable access for the County; (3) completed copies of database feature forms; (4) necessary conduit, holes and wireways, where not otherwise provided herein; and (5) easements and right-of-way licenses.

b) The System will meet Federal Communications Commission Part 68 regulations regarding connection to the public telephone network. The County will install the System in a workmanlike manner without damage to the Customer's premises, and will obtain necessary work permits to install the System. The County will not be responsible for removing any cabling or equipment of the Customer's old telephone system.

4) Force Majeure. The County's performance under this Agreement shall be excused to the extent and for the time compliance is beyond the County's reasonable control, for reasons that include but are not limited to: strikes, work stoppages, fire, storms, wind, acts of God, disruption in service for any cause, storms, lightning, delays by suppliers and subcontractors, delays of power company, delays of the local exchange company, interexchange carrier, or any other carrier, governmental action, or any Customer non-performance such as (i) non-payment, or (ii) failure to execute an acceptance certificate or rental document.

5) Term and Acceptance. This Agreement shall be effective upon execution by the Customer and the County, but the term of this Agreement (the "Rental Term") shall commence on the "Commencement Date" (as hereinafter defined) and shall terminate on the last day of the Rental Term stated in Schedule I, provided, however, the Customer's indemnities, assumption of liabilities and other duties, and all of the County's disclaimers herein shall survive the termination of this Agreement. The Customer shall be deemed to have accepted the System for all purposes of this Agreement, including the payment of rent hereunder, with the Customer's execution of the "Acknowledgment and Certificate of Acceptance" contained in Schedule II, attached hereto and made a part hereof. The date of execution of the Acknowledgment and Certificate of Acceptance shall be the Commencement Date under this Agreement. The Customer shall execute the Acknowledgment and Certificate of Acceptance upon the County's completion of installation and pre-operational testing and first connection of the equipment to the public telephone network in a manner permitting calls to be made through the System (the "Cutover").

6) Payment of Rent. The rent for the System (the "System Rent") shall be as listed in Schedule I and shall be payable, without notice or demand, pursuant to said Schedule.

7) Cancellation. After paying the first twelve (12) monthly payments under this Agreement including twelve (12) months of payments for any additions, the Customer may cancel this Agreement by giving sixty (60) days written notice to the County and by paying a cancellation fee equal to: (a) seventy percent (70%) of the unpaid System Rent, AND (b) three (3) monthly payments for Switch Access and Network Access. With the County's prior written approval, the cancellation fees will be waived if this Agreement is assigned to a MDA tenant who assumes all the obligations of this Agreement.

8) Training. The County will provide instruction and training in the use of the System, to employees of the Customer for a reasonable time (not to exceed thirty (30) days) after the Cutover.

9) Maintenance. The County will maintain the System in good repair, and will provide the necessary parts and labor to maintain the System as provided in Schedule III, provided the Customer is current on its payments hereunder and is otherwise in compliance with terms and conditions of this Agreement. The Customer's SOLE AND EXCLUSIVE REMEDY for the County to correct a defect in the System is limited to the County's performance under this Section 9.

The County's duty to maintain the System:

a) Excludes any service in connection with maintenance or repair of the equipment caused by negligence, theft or unexplained loss, source connection to faulty power, fire, water, wind, storms, lightning, acts of God, acts of public enemies, improper wiring, installation of equipment, owners material or software by the Customer or third parties, failures or changes resulting from local exchange company, failures or changes resulting from local power company, failures or changes resulting from other transmission providers, or repair or alteration of the equipment or software by anyone other than the County; and

b) requires that Customer maintain a suitable operating environment for the System.

BY CUSTOMER REQUEST, REPAIRS NECESSITATED BY ANY OF THE EXCEPTED CAUSES IN SECTION 9(a) ABOVE, SHALL BE PERFORMED BY THE COUNTY AT ITS THEN PREVAILING RATES. THIS MAINTENANCE AGREEMENT IS IN LIEU OF ANY WARRANTY OR OTHER OBLIGATION, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY AGREEMENT OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COUNTY DISCLAIMS ANY WARRANTY TO PREVENT UNAUTHORIZED USE OF THE SYSTEM, INCLUDING TOLL FRAUD.

10) LIMITATION OF LIABILITY. THE COUNTY SHALL BE LIABLE FOR PHYSICAL INJURIES TO INDIVIDUALS AND DAMAGES TO TANGIBLE PHYSICAL PROPERTY (OTHER THAN THE SYSTEM WHICH IS COVERED BY THE MAINTENANCE PROVISIONS OF THIS AGREEMENT) CAUSED BY THE COUNTY'S NEGLIGENCE. IN NO EVENT, HOWEVER, WILL THE COUNTY AND ITS CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR: (A) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (B) COMMERCIAL LOSS OF ANY KIND (INCLUDING LOSS OF BUSINESS OR PROFITS); OR (C) ANY DAMAGE OF ANY KIND RESULTING FROM UNAUTHORIZED USE OF THE SYSTEM INCLUDING TOLL FRAUD. THIS LIMITATION SHALL APPLY TO ANY CLAIM OF THE CUSTOMER WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OF THE COUNTY, ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS, STRICT TORT OR ANY OTHER LEGAL THEORY WHETHER OR NOT THE COUNTY OR ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

11) Title. The County shall retain title to the System and the Customer shall have no interest in the System other than the rights acquired as a customer hereunder. The Customer acknowledges the County may affix to and maintain on such System identifying labels indicating the County's ownership. The System shall remain County personal property and not become a fixture or part of any Customer real estate regardless of the manner in which it may be installed or attached. If requested by the County, the Customer will, at the Customer's expense, furnish a landlord and/or mortgagee waiver with respect to the System. The Customer shall protect and defend the County's title and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those which through the County, and shall not permit the County's rights or interest hereunder to be subject to any lien, charge or encumbrance, including but not limited to: (a) any lien of the owner of real property upon which the System is installed; or (b) of any purchaser of or future creditor obtaining a lien on said real property. The Customer shall give the County immediate notice of any attachment or judicial process affecting any item of the System.

12) Use of the System(s), Inspections and Reports. The Customer shall use the System(s) solely for business and not for personal, family or household purposes. The Customer may only use the System at the location set forth in Schedule I. The Customer's use of the System shall conform with all applicable federal, state and local laws and rules. The County shall have the right to inspect the System at all reasonable times during the Customer's normal business hours.

Additional Terms and Conditions

13) Alterations and Attachments. The Customer shall not permit any equipment or other items or material (the "Other Equipment") or software (the "Other Software") to be used on or in connection with the System, which does not meet the specifications of the manufacturer of the equipment in the System. All Other Equipment and Other Software which may be used on or in connection with the System shall be acquired and installed by the Customer at Customer's own expense and risk. The County makes no representation concerning the compatibility of any such Other Equipment and/or Other Software for use with the System.

Without the prior written approval of the County, at the end of the Rental Term, the Customer must remove any additions to the System not otherwise subject to this Agreement (the "Additions") made by Customer during the Rental Term and restore the System, at the Customer's expense, to its original condition, reasonable wear and tear only excepted. In the event the Customer fails to remove an Addition, it shall become the property of the County.

14) Indemnification. The County will be responsible only for physical injury to persons (including death) and damage to tangible physical property to the extent caused by its negligence during delivery, installation or maintenance of the System, and which is reported to the County in writing within sixty (60) calendar days of the incident.

The Customer shall indemnify and hold harmless the County and its officers, employees, agents and authorized representatives and instrumentalities from any and all claims, liabilities, losses, damages, and causes of action, including attorney's fees and costs of defense, which may arise or be incurred as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Customer or its employees, agents, servants, partners, principals or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay all claims and losses of any nature whatsoever in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be issued thereon. The Customer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Customer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and authorized representatives and instrumentalities as herein provided. Nothing contained in this Section 14 shall be construed so as to require the Customer to indemnify the County's employees, agents and authorized representatives for their own negligence.

15) Return of System. Upon termination of this Agreement, excepting equipment covered under a renewal agreement, the Customer will make the System available for removal which shall be accomplished in a careful and reasonable fashion by the County. The System will be returned to the County in the same condition as originally installed, ordinary wear and tear excepted, or the Customer will pay for the restoration of the System to such condition. The County shall not be obligated to restore the premises to its original condition. If the Customer does not return the System or make it available for removal by the County, then in addition to all other remedies in this agreement, the County has available all other remedies available at law or equity. All obligations of the Customer under this Agreement shall remain in force and effect until the System is returned to the County.

16) Events of Default by the Customer. The occurrence of any one or more of the following events (an "Event of Default") shall constitute a default under this Agreement:

a) Failure by the Customer to pay any installment of System Rent or any other amount payable hereunder as and when the same becomes due and payable and the continuation of such failure for a period of ten (10) calendar days thereafter;

b) failure by the Customer to perform or observe any other term, covenant or condition of this Agreement or any Schedule or the inaccuracy in any material respect of any representation, warranty or statement made by the Customer in this Agreement, any Schedule, or any document or certificate furnished to the County at any time, which such failure or inaccuracy shall continue for a period of ten (10) calendar days after notice from the County;

c) dissolution, termination, or discontinuance of the Customer's business (including, without limitation, the death of the proprietor if the Customer is a sole proprietorship or the death of a general partner if the Customer is a partnership), the sale of substantially all of the Customer's assets, or the sale or pledge of the controlling interest in the Customer;

d) the Customer's insolvency, the appointment of a receiver for any property of the Customer, assignment by the Customer for the benefit of creditors, admission by the Customer in writing of his inability to pay his debts as they become due, or the commencement of a proceeding under any bankruptcy, reorganization or similar laws by or against the Customer or any property it possesses, or if the Customer enters into an agreement of composition with its creditors; or

e) the attempted sale by the Customer of a System or any part thereof, or the issuance of any levy, seizure or attachment thereon or pertaining thereto.

17) Remedies of the County. At any time after the occurrence of an Event of Default, the County may exercise any one or more of the following remedies:

a) The County may, upon seven (7) days written notice, terminate this Agreement with respect to any System, or portion thereof, or all of the Systems.

b) The County may demand and recover from the Customer all System Rent and other amounts then due;

c) The County or its agents may take possession of any portion or all of the Systems, wherever the same be located, on reasonable notice, without any court order or other process of law and without liability to the Customer for any damages occasioned by such taking or possession, and any such taking or possession shall constitute a termination of this Agreement, and whereupon all rights and interest of the Customer to possess and use the Systems shall absolutely cease, but the Customer shall remain liable as provided herein;

d) The County may demand the Customer return any System or portion thereof, or all of the Systems to the County in accordance with this Section 17 herein; and

e) The County may pursue any other remedy available at law or in equity, including, without limitation, seeking damages, specific performance, and/or an injunction. None of the remedies under this Agreement is intended to be exclusive but shall be cumulative and in addition to any other remedy referred to herein or otherwise available to the County in law or in equity. Any repossession or subsequent sale or lease by the County of any portion of the System shall not bar any action for a deficiency as herein provided, and the bringing of any action or the entry of a judgment against the Customer shall not bar the County's right to repossess any System or portion thereof, or all of the Systems.

18) County Event of Default and Customer Remedy. The Customer may terminate this Agreement upon thirty (30) days written notice in the event of the County's material breach of this Agreement. Such written notice shall identify the material breach(es) and provide a reasonable time to cure in the notification to remedy the cause(s). The County has fifteen (15) days to cure the cause of the termination (the "Cure Period"). Such Cure Period commences the day after the thirty (30) day written notice period runs. The Customer may extend the Cure Period. This shall be the Customer's exclusive remedy.

19) Insurance. In addition to such insurance as may be required by law, the Customer shall maintain during the term of this Agreement the following insurance:

a) Public Liability Insurance on a comprehensive basis, including contractual liability, products and completed operations, in an amount not less than $1,000,000 combined single limit, per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.

b) Automobile Liability Insurance coverage for all owned, non-owned and hired vehicles used in connection with this agreement in amounts not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

c) Property Damage. The Customer will bear the risk of loss or damage to the leased equipment for the replacement cost and will reimburse the County for any damages to the equipment.

The insurance coverage required shall include those classifications as listed in the standard liability manuals which most nearly reflect the operations of the Customer in this Agreement. All insurance policies required herein shall be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B" as to management, and no less than "V" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc., or its equivalent as approved by the Miami-Dade County Risk Management Division.

Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division, which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classifications as required for strict compliance with this Section 19; (2) any material change or cancellation of the insurance shall not be effective without thirty (30) days prior written notice to the County; and (3) that Miami-Dade County is named as an Additional Insured with respect to the Public Liability coverage.

The County reserves the right to require the Customer to provide such reasonably adjusted insurance coverages as it deems necessary or desirable upon issuance of written notice to the Customer, which notice shall automatically amend this agreement effective thirty (30) days after such notice. Compliance with the foregoing insurance shall not relieve the Customer of its liability under any other portion of this Agreement.

20) Further Assurances. The Customer will execute and deliver to the County such additional instruments as the County deems necessary hereunder.

Additional Terms and Conditions

21) County's Performance of the Customer's Obligations. If the Customer fails to perform any of its obligations under this Agreement, the County may perform any [illegible] make any payment which the County deems necessary for the maintenance and preservation of the Systems and the County's title thereto. All sums so paid by the [illegible] (together with all related "Late Payment Charges", as hereinafter defined) and reasonable attorney's fees incurred by the County in connection therewith shall be added to System Rent immediately due and payable by the Customer to the County. The performance of any act or payment by the County shall not be deemed a waiver or release of any obligation or default on the part of the Customer.

22. Severability. Any provision of this Agreement prohibited by the laws of a state shall as to such state be ineffective to the extent of such prohibition, but shall not affect the other provisions of this Agreement.

23. Amendments and Waivers. This Agreement and the Schedules constitute the entire agreement between the County and the Customer with respect to the rental of the Systems, and supersede all previous communications, understandings, and agreements whether oral or written, between the parties with respect to such subject matter. Any representations, warranties or statements made by an employee, salesperson, agent, or authorized representative of the County and not expressed in this Agreement are not binding upon the County. No provision of this Agreement may be changed, waived or amended except by written agreement signed by both the County and the Customer, except that the County may insert the serial number of any portion of a System on the applicable Schedule after delivery of such portion of the System and the County may insert the Commencement Date for this Agreement after receiving the Acknowledgment and Certificate of Acceptance.

24. Late Payment Charge. In the event the Customer fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) calendar days of the due date, interest at the rate established from time to time by the Miami-Dade Board of County Commissioners and/or Florida Statutes (currently set at one and one-half percent (1 1/2%) per month) shall accrue against all such delinquent payment(s) from the original date due until the Department actually receives payment. The right of the County to require payment of such interest and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's rights to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.

25. Assignment. The Customer shall not assign this Agreement without the County's written consent. No assignment or transfer of any sort shall relieve the Customer of its obligations hereunder. The County may assign any rights under this Agreement to an Affiliate or any other assignee, and the Customer agrees to execute any documents that such assignee may reasonably require. The Customer acknowledges that if this Agreement is assigned to a governmental entity, the indemnity obligations under Section 14 herein may not apply in full to such assignee.

26. Applicable Law. This Agreement shall be governed by, construed and enforced in accordance with the applicable laws of the County, including (a) the rules and regulations of the Department, (b) Chapter 25, Code of Miami-Dade County, Florida and (c) operational directives issued thereunder, in addition to all additional laws, ordinances, administrative orders, regulations, and rules of the federal, state, and local governments, and any and all plans and programs developed in compliance therewith, which may be applicable to the operations of this Agreement.

27) Customer's Representations. The Customer represents that this Agreement is a lawful, binding and valid obligation of the Customer enforceable in accordance with its terms and has been duly authorized, executed and delivered by the Customer, and that all information concerning the Customer's financial condition which has been or will be supplied to the County is and will be true and correct.

28) Notices. All notices, demands and other communications shall be transmitted in writing by hand delivery or by United States Mail, addressed to such party set forth below or at such other address as may be subsequently submitted by written notice of either party. Notice given pursuant to this Section 28 shall be deemed effective four (4) days after the date it is mailed or upon receipt, whichever is earlier.

For the Department:

Manager, Information Services Division
Miami-Dade Aviation Department
PO Box 592075
Miami, Florida 33159-2075

For the Customer:

[Billing Customer Name] _____
[Customer Address] _____
[City, State & Zip Code] _____
[Billing Contact] _____
[Telephone Number] _____

29) Miscellaneous.

a) If the Customer uses a purchase order or similar document to order a System or addition thereto, the Customer acknowledges that the terms and conditions of such purchase order or document shall not apply and that the terms and conditions of this Agreement shall exclusively apply thereto.

b) The waiver by either party of any default will not operate as a waiver of any subsequent default.

c) The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.

d) Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.

e) This Agreement shall be binding upon and inure to the benefit of the County and the Customer and their respective successors and assigns.

f) Rights to be Exercised by Department. Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

Additional Terms and Conditions

Terms and Execution.

a) This Agreement binds the Customer when it is executed by the Customer and binds the County when executed by the County and delivered to the Customer.

b) This Agreement allocates the risks of the System's delivery, installation, operation and maintenance between the County and the Customer. The County has provided the Customer a favorable rent in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized by both parties and is reflected in the System Rent. The Customer acknowledges that it has read this Agreement, understands it and is bound by its terms.

c) The Customer agrees that the County shall not be obligated under this Rental Agreement if the federal, state, or county statutory or regulatory authority permitting the County's performance hereunder is withdrawn, abridged, or amended so as to preclude the effective delivery by the County of services hereunder. In such event, the County shall notify the Customer in writing and the Customer's sole obligation thereafter shall be to compensate the County for the equipment and services rendered by the County to date.

Miami-Dade Aviation Department	Customer
By:	By:
Title:	Title:
Date:	Date:

MIAMI-DADE AVIATION DEPARTMENT — Equipment and Services Schedule I

Date: _____

With respect to the certain Airport Rental Agreement dated _____ ____, 20___ (the "Agreement") between the County and _____ (the "Customer"), the County and the Customer agree to incorporate the following additional terms and conditions into said Agreement:

1) Location: Miami International Airport

2) Rental Term: _____ (___) months

3) Payment: The Customer shall pay to the County the total rental (which includes maintenance) for the Rental Term of the Agreement which shall be the total amount of the rental payments set forth on this Schedule, plus any such additional amounts as may arise hereunder or pursuant to any additions hereto as described in Paragraphs 11 and 12 of this Schedule. Except as otherwise specified in this Schedule, rental payments pursuant to this Schedule (each monthly payment of System Rent) shall be made and shall be due and payable in advance on the first day of each calendar month during the Rental Term, provided, however, that the Customer shall pay to the County the first monthly System Rent payment with respect to the System when the Customer delivers to the County the Schedule I and Schedule II executed by the Customer. In the event the Customer does not accept the System for any reason, the County shall be entitled to retain such payment in addition to its other rights hereunder unless the parties agree in writing to the contrary. All amounts due hereunder from the Customer shall be paid to the County by check, in immediately available funds, at the address of the County as set forth in the Agreement or at such other place as the County shall designate in writing. Whenever any payment (of System Rent or otherwise) is not made within ten (10) days of the date when due hereunder, the Customer shall pay the "Late Payment Charge" (as defined in Section 24 of the Agreement), calculated from the eleventh (11th) day after the due date to the date of actual receipt of payment.

4) System Rent: _____ Dollars ($_____) (Monthly System Rent during Rental Term: $_____ per month during the term of this Agreement, except as it may be increased or decreased by amendment or by an inflation and/or utility company adjustment, plus applicable taxes. Unless otherwise specified, telephone numbers, directory listings, and all other charges of the local exchange company or any interexchange carrier are not included in the rental price unless indicated on a schedule. No cabling, wiring, or other items are included unless specifically stated in this Agreement and indicated on this Schedule.

5) Security Deposit: The Customer shall pay two (2) months rent as a security deposit, that shall be held as long as the Customer is current on its System Rent and applicable taxes, and that shall be returned without interest to the Customer at termination of this Agreement. If not current on either System Rent or applicable taxes, the County may deduct from the Security Deposit any and all amounts due from the Customer under the Agreement. The Customer must maintain the two (2) month rent security deposit amount balance, and must tender to the County the amount needed to maintain this threshold if a deduction or deductions are made by the County.

6) Estimated Commencement Date: _____ ____, 20__

7) Attachments: The following Schedules are attached to and made a part of this Agreement: Schedules I, II & III

8) Installation: The total amount due for installation of the System is _____ Dollars ($_____) plus applicable taxes. This amount is due and payable on the Agreement execution date and is non-refundable.

9) Maintenance Hours: The County will respond to System failures during the hours specified by the maintenance plan chosen by the Customer (see Schedule III).

10) Equipment and Features: The equipment and features subject to the Agreement are set forth below:

1)	Switch Access	$	/month
2)	Network Access	$	/month
3)	System - Terminal Equipment	$	/month
4)	System - Other	$	/month
	Monthly Rent	$ See Attached Quote # _____	

(A continuation sheet may be added if more room is needed)

11) Pre-Customer Changes: In the event that additions and/or deletions to the equipment and/or features described in Section 10 above are made in accordance with the Agreement before the Commencement Date, the monthly Rental shall be adjusted by the charge caused by applicable Installation Change Notices ("ICNs"). The County and the Customer hereby agree that any ICN executed by the Customer and delivered to the County in accordance with this Section 11 shall constitute an amendment to the Agreement and this Schedule, thereby adding to each such document the description and rental information with respect to the equipment and the software included in such ICN.

12) Post-Customer Changes: If the Customer wishes to add additional County equipment and/or features to the System (excluding however, minor equipment and/or features with maintenance related thereto which the Customer purchases from the County for cash) during the Rental Term of the Agreement, the Customer shall add additional equipment and/or features to the Agreement on such terms as the County and the Customer may agree in a Customer Service Order ("CSO") executed by the County and the Customer, and such equipment and/or features shall become, upon amendment of the Agreement and acceptance by the Customer pursuant to the Agreement, subject to the terms of the Agreement, provided the Customer is not in default under the Agreement and has not suffered a material adverse change in its financial condition since the execution of the Agreement. Pricing for additions may be adjusted for changes in tax laws and regulations.

The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operated as part of the System and shall have a term of sixty (60) months unless stated otherwise on this Schedule.

13) Renewal: If the Customer is not in default under this Agreement, the Customer can either (a) renew this Agreement on its termination at the then current market monthly rate or (b) return the System to the County. Negotiation of any such renewal can be initiated by the Customer's written notice of its willingness to negotiate a renewal not earlier than one hundred twenty (120) days but not later than sixty (60) days prior to the end of the Rental Term. The Agreement can be automatically renewed at the County's discretion for a minimum period of one (1) year if a renewal is not finalized. Renewals will be at the price and on the terms and conditions of the County in effect at the time of renewal unless otherwise agreed to in writing by the parties.

14) Miscellaneous: All terms defined in the Agreement shall have the same meaning herein.

IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorized representatives and this Schedule shall be incorporated into and made a part of the Agreement.

Miami Dade Aviation Department	Customer
By:	By:
Title:	Title:
Date:	Date:

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M AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule 11

To: Aviation Department

The _____ acknowledges, represents and warrants to the Co equipment subject to the Rental Agreement dated _____ _____, 20__ by and the undersigned (a) has been delivered, installed and subjected to all necessary pre op ; (b) has been inspected; (c) is operating in accordance with the manufacturer's specifications (d) used or made available to be placed in service for its specifically assigned function for the first time the date indicated below as the "Commencement Date"; and (e) was first connected to a public in a manner permitting calls to be made through the equipment to and from the facility in which located on such Commencement Date.

Commencement Date: _____

Customer: _____

By: _____

Title: _____

Dated: _____

The maintenance plan features the following services:

1. Types of Failures:

The ...ies reported by the Customers will fall into two categories: a) Major Failures, and b) Minor Failures

a Major Failures are those that severely impede the ability for a Customer to conduct business at the Airport and shall be defined as an occurrence of any of the following:

1. A failure of the telephone switch, its common equipment or power supplies which renders it or them incapable of performing normal functions for five percent (5%) or more of the stations or trunks.
2. A failure of network components that will render over five percent (5%) of work stations inoperable

b Minor Failures are any other failures including a failure of any ancillary equipment such as intercom circuits, paging input arrangement, or any other telecommunications equipment or component

2. Response and Repair Time:

Based on the trouble classification, the response will be in the following manner:

a Major Failure- Immediate response during business hours (Monday-Friday, 7 A.M. – 11 P.M., Eastern Time) and within two (2) hours for off hours (Monday-Friday, 11 P.M. – 7 A.M., Eastern Time, and twenty-four (24) hours a day Saturday, Sunday, and holidays).

Remedial maintenance will begin immediately for a major malfunction, which may consist of remote diagnostics during the first fifteen (15) to thirty (30) minutes, after the repair notification time by the Customer, via the service provider tracking processes with the appropriate service ticket number, however if not corrected, the service provider's personnel must be on-site no less than forty-five (45) minutes during business hours and no less than two (2) hours during off hours from the repair notification time. Repair work shall start immediately and continue until the problem is resolved. All commercially reasonable efforts will be made to complete repairs within eight (8) hours from the time the Customer reported the incident.

b Minor Failure - Response within eight (8) business hours.

Repairs not defined as a major failure will begin as expeditiously as possible, and all commercially reasonable efforts shall be made to complete repairs within one (1) business day from the time the Customer reported the incident. Repairs may be made by a certified technical personnel either through a premise visit or via electronic access through the use of a remote maintenance terminal. However, in all cases, the repair must be confirmed and the status updated by the next business day by notification to the service provider. Response to minor service interruptions will take place within eight (8) business hours.

"Respond" is equated to having technical support and/or troubleshooting the problem within aforementioned times. Note that during the troubleshooting process, the service provider is coordinating directly with the Customer until the problem is resolved.

3. Miscellaneous:

- All parts and labor are included, unless the failure is due to abuse or misuse of the equipment or facilities
- Preventive maintenance routines are included.
- Utility coordination with the local telephone company and other common carriers are provided
- Consultation services on the Customer's system are included
- User training (beyond that provided in Section 8 of the Agreement) is optional, and at an additional cost
- Traffic studies to determine adequate system utilization (not to exceed two (2) annual Customer request studies) are included.

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(A)(1)(D)
1-29-02

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY FLORIDA

RESOLUTION NO. R-31-02

RESOLUTION RELATING TO TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES AT MIAMI-DADE COUNTY AIRPORT SYSTEM FACILITIES; AUTHORIZING PURCHASE OF LEASED EQUIPMENT; AUTHORIZING APPROVAL AND EXECUTION OF NON-EXCLUSIVE MANAGEMENT AGREEMENT WITH NEXTIRAONE, LLC FOR INTERIM TWO-YEAR PERIOD; AND WAIVING COMPETITIVE BID PROCEDURES AND PROVISIONS

WHEREAS, Miami-Dade County, Florida (the "County") and Centel Communications Company ("Centel") entered into an Equipment Lease and Maintenance Agreement, as of July 24, 1990, and retroactive to February 7, 1988 (the "ELM Agreement") which ELM Agreement terminates on February 6, 2002; and

WHEREAS, the County and Centel also entered into a Shared Airport Tenant Service Agreement (the "SATS Agreement") which SATS Agreement terminates on February 6, 2002; and

WHEREAS, NextiraOne, LLC ("Nextira") is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC)[1] under both the ELM Agreement and the SATS Agreement; and

WHEREAS, it is in the best interest of the County to acquire title to all telecommunications, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as detailed on Schedule A of the ELM Agreement and Schedule E of the SATS Agreement, as of February 6, 2002 (the "Assets"); and

1 In 1991, Centel Communications Company ("Centel") was acquired by WilTel Communications System ("WilTel"), and in 1997, Williams Communications Solutions, LLC was created from the merger of WilTel and Nortel Communications Systems.

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WHEREAS, an interim manager is necessary to operate, maintain, and manage the Assets, until a telecommunications and data network request for proposal ("RFP") is circulated and a new manager is selected; and

WHEREAS, Nextira, as the owner and operator of the Assets, has the personnel, technical and product knowledge, expertise, and market recognition to manage the Assets,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board:

Section 1. Authorizes the payment of $6,450,000 to Nextira, for the purchase of the Assets, to be used and operated by or for the Miami-Dade County Aviation Department.

Section 2. Authorizes the approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with Nextira for an interim two (2) year period, and delegates to the County Manager the authority to negotiate all terms and conditions necessary to consummate the Agreement. The Agreement shall contain a random audit provision to be conducted by the Office of the Inspector General, pursuant to § 2-1076(c)(6), Code of Miami-Dade County Florida (the "Code"). The Agreement shall also contain a provision for the County to retain the services of an independent private sector Inspector General ("IPSIG"), pursuant to Administrative Order No. 3-20.

Section 3. Waives competitive bid provisions of Administrative Order Nos. 3-4 and 3-16 related to the procurement of professional services.

Section 4. Waives competitive bid provisions of Section 4.03(D) of the Home Rule Charter and the requirements of Administrative Order No. 3-2 in connection with the purchase by the County for (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications

equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport system facilities. Such waiver is by a two-thirds (⅔) vote of the Board members present.

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Katy Sorenson and upon being put to a vote, the vote was as follows:

Dr. Miriam Alonso	absent	Bruno A. Barreiro	aye
Dr. Barbara Carey-Shuler	aye	Betty T. Ferguson	absent
Gwen Margolis	absent	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
	Javier D. Souto aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 29th day of January, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK
By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency.

dsh

David Stephen Hope

MEMORANDUM

TO:	Honorable Chairperson and Member Board of County Commissioners	DATE:	January 29, 2002
FROM:	Steve Shiver County Manager	SUBJECT:	Telecommunications Services at the Aviation Department

RECOMMENDATION

It is recommended that the Board of County Commissioners (the "Board") approve the attached resolution waiving the competitive bid requirements of Administrative Order No. 3-2 related to the procurement of commodities and services and approve in principle the non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement ("Agreement") between Miami-Dade County, (the "County") and NextiraOne, LLC[1] ("Nextira"), substantially in the form attached hereto, which provides for: 1) the acquisition of, in accordance with the principles delineated in the Agreement, title to all telecommunications network, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as described in Schedule A to the Equipment Lease and Maintenance agreement ("ELM Agreement") and Schedule E to the Shared Airport Tenant Services agreement ("SATS Agreement"), as of February 6, 2002 for the acquisition price of $6,450,000 which will be amortized at five (5) percent over five (5) years; 2) resolution of various claims arising out of the ELM Agreement and SATS Agreement; 3) assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at Miami International Airport ("MIA") or the County's other owned or operated general aviation airports; and, 4) Nextira to become the interim telecommunications infrastructure manager, to provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD") and shared airport tenant services customers at MIA and the General Aviation Airports ("GAAs") until a new provider is selected, but for no longer than a period of twenty-four (24) months.

In addition, it is recommended that the Board approve the attached resolution authorizing the County to make direct purchases of the following equipment: (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport systems facilities. Under this system the County will purchase directly, certain commodities as indicated by Nextira and be exempt from paying state sales taxes and mark-up

[1] NextiraOne, LLC is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.

costs on these purchases. It is also recommended that the Board authorize, in accordance with Ordinance No. 99-63, the inclusion of a random audit provision, including the one quarter (1/4) of one percent assessment, in the Agreement. It is further recommended that the County Manager be authorized to execute the Agreement.

BACKGROUND

The County is currently under contract with Nextira. Nextira leases to the County, and manages, operates and maintains all the telecommunications infrastructure and services serving MIA and the GAAs at an approximate annual cost of $7,300,000. MDAD's agreement with Nextira expires on February 6, 2002.

NEGOTIATIONS

In July 2001, the Board approved Resolution No. R-852-01, approving a professional services agreement between the County and ResAvia. ResAvia is providing specialized technical and negotiation services to resolve the various claims arising out of the ELM Agreement and SATS Agreement entered into between the County and Nextira, and to negotiate a buy-out and new agreement with Nextira to allow MDAD an opportunity to finalize its long term voice and data telecommunications strategy.

INTERIM MANAGER FOR TELECOMMUNICATIONS INFRASTRUCTURE

MDAD is simultaneously working to develop a request for proposal ("RFP") to award a contract to a service provider to serve as the manager of the telecommunications infrastructure. Due to time constraints, the County will not be able to award this contract before February 6, 2002, when the Nextira contract expires. To assure the uninterrupted operation of the County airports, ResAvia, MDAD and the County Attorney's Office negotiated a proposed management agreement type contract (the "Agreement") with Nextira, to retain it as manager of the installed telecommunications infrastructure based upon County ownership of the equipment as further described below:

PROJECT LOCATION:	Miami International Airport and General Aviation Airports
PROJECT DESCRIPTION:	Provides for the operations, management, maintenance, service, support and equipment and supplies of the telecommunications and data, infrastructure, hardware and software systems for the MDAD and the shared airport tenant services customers at Miami International Airport and the General Aviation Airports. The scope of services includes the management of the shared airport tenant services for the County, including CUTE, to tenants and users at the Airport. In addition, Nextira will be

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required to implement a transition program, one hundred and twenty (120) days prior to the expiration of the term of this Agreement, to ensure that either the new vendor selected as a result of the RFP process or MDAD's operating and maintenance personnel are trained in all aspects of the telecommunications and data infrastructure.

FIRM: NextiraOne, LLC

LOCATION OF FIRM: Houston, Texas

TERM OF AGREEMENT: The Agreement shall be for a duration of twenty-four (24) months. The County may terminate the Agreement with or without cause on thirty (30) days written notice to Nextira, provided however, the Agreement shall have a minimum term of eighteen (18) months unless terminated earlier for cause.

AMOUNT OF AGREEMENT:

Compensation to the Contractor

One-Time Acquisition Price:

Acquisition of the telecommunications, data network, and CUTE infrastructure, software licenses, permits, and other assets in Schedule A to the ELM Agreement and Schedule E to the SATS Agreement of $6,450,000 which will be amortized at five (5) percent over five (5) years.

Fixed Management Fee:

This Agreement provides for a fixed management fee of $6,144,067 for the first year, which includes overhead and profit, staff transition costs, vendor agreements and spare parts carrying charge.

The compensation for the second year is based on this Management Fee as adjusted by the budgeting process that incorporates the requirements of the Capital Improvement Program (CIP) and the change in the Consumer Price Index (CPI) for the salaries of the personnel.

Variable Costs:

The Agreement also provides for the variable costs, when authorized by the Department, and includes: 1) the procurement of parts, materials and software ($2,680,000), 2) On-call after hour services ($273,000), and 3) subcontractor services for wiring installation and maintenance, as necessary ($899,415).

SATS Revenue:

Per the SATS Agreement, last year MDAD received $267,000 which was based on ten (10) percent of gross revenues. Under this new Agreement, MDAD will receive all SATS gross revenues which last year was $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

Compensation to the County

The Contractor will pay to the County the sum of $110,000, on February 6, 2002, on account of excess space occupied without lease by the Contractor in Building 3030 at MIA for the period from November 1, 1997 to and including February 6, 2002.

RECOMMENDED CONTRACT MEASURES:	No measure
USING AGENCY:	Miami-Dade Aviation Department
FUNDING SOURCE:	Miami-Dade Aviation Department Operating Budget for Consulting Services and Aviation Revenue Bonds.
APPROVED FOR LEGAL SUFFICIENCY:	Yes

CONTINGENCY PLAN

As reported to the Board at its December 18, 2001 meeting, in the event that the negotiations with Nextira fail and no agreement is reached by the contract expiration date, the Department has a contingency plan to assure continuity in the provision of telecommunication services.

SUMMARY

In summary, our preferred outcome is a negotiated buyout of the telecommunications equipment and infrastructure, retaining Nextira for a limited time to act as manager of the telecommunications infrastructure, and obtaining a long-term contract for telecommunications infrastructure management through a competitive request for proposal. In addition, the above recommendation begins the implementation of MDAD's long-term, cost-effective strategy to enable better management and control of our telecommunications infrastructure. In the alternative, MDAD has a plan to continue services without Nextira while procurement processes and legal remedies are undertaken.

Attachment

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MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: January 29, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(A)(1)(D)

Please note any items checked.

_____ "4-Day Rule" (Applicable if raised)

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Statement of private business sector impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ "Sunset" provision required

_____ Legislative findings necessary

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28 During 2001, the year prior to the County's acquisition and operation of the telephone utility at the airports, the gross revenues for the provision of telecommunications services to airport tenants totaled approximately $2,670,024.

29 On September 24, 2002, the Board adopted Resolution No. R-1091-02 (collectively, R-1091-02 and R-31-02 are referenced hereinafter as the "Resolutions") authorizing the County Manager or his/her designee to negotiate and execute new Airport Rental Agreements between the County and customers at the airports to govern the County's provision of telecommunications services to these tenants, including hotels, restaurants, retail shops and other commercial entities ('Commercial Tenants"). See Resolution R-1091-02, County Manager's Memorandum and Miami-Dade Aviation Department Airport Rental Agreement attached as Composite Exhibit B.

30 Prior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company because it did not offer two-way telecommunications services to the public for hire by use of a telecommunications facility at MIA or the Other Airports.

31 Nextira and, upon information and belief, its predecessor private entities offered the two-way telecommunications services to the airport tenants for hire using telecommunications facilities owned by these private entities prior to the passage of the Resolutions.

32. Thus, by passing the Resolutions, and, based solely on the Resolutions, the County now owns and operates a telephone utility by offering two-way telecommunications

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services to the public for hire, including to Commercial Tenants, at MIA and the Other Airports using telecommunications facilities.

33 As testified to by Pedro Garcia, MDAD's Chief of Telecommunications, the County, through its legal counsel and management, and with the participation of the management of the airport, determined that the County had the authority to authorize MDAD and the County Manager to operate the telephone utility/telecommunications company at the airports without seeking prior approval from the FPSC.

34 Thus, the County never submitted an application to the FPSC to obtain a certificate of public convenience and necessity.

35 The Commercial Tenants to which the County currently offers and provides two-way telecommunications services for hire at the airports include at least one hotel, several restaurants, retail shops and other commercial entities. A list of the County's customers, as of the date of that list, is attached hereto as Exhibit "C," and Pedro Garcia's deposition testimony confirming that MDAD provides STS to a hotel tenant at MIA is attached hereto as Exhibit "D."

36. By offering telecommunications services to Commercial Tenants, the County is in direct competition with other telecommunications companies operating at the airports, including BellSouth

37. Indeed, the County's professed goal, as testified to by Pedro Garcia, in offering telecommunications services to Commercial Tenants is to make money and to compete with BellSouth and other telecommunications companies operating at the airports

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data network infrastructure for MDAD, its users and tenants; and (ii) the management of SATS for the County to tenants users at MIA.

Management duties for the new manager of the Assets include, but are not limited to: (a) the provisioning of voice and data network services; (b) maintaining existing and future voice and data networks infrastructure equipment including operation, maintenance, repair, monitoring and support of network devices such as routers, switches, and servers; (c) supporting of circuits, including vendor resolutions and support of environmentals including UPS devices for all switches and routers at all sites; (d) daily analysis of network performance to research trending and troubleshooting from end point to end point to enable quick resolution of system degradation; (e) providing capacity planning for all network links, PBX switches and trunk groups; (f) providing an on-site Help Desk and Network Operation Center dedicated to providing uninterrupted service to Airport operations; (g) managing the existing voice and data network infrastructures; (h) maintaining records as required by MDAD, including but not limited to, equipment and cable plant, record keeping of work order activity, equipment inventory, telephone number inventory, number dialing plan, key sheets, and cable management to the Intermediate Distribution Frame level and jack level for existing and new structure; (i) managing the turn-key installation of new voice, data and network services such as user training on equipment, project scheduling, appropriate billing to MDAD and SATS customers; (j) billing user customers for services, and also for the specified equipment, including when specifically requested by appropriate work order; (k) needs assessment; (l) system design; (m) procurement of equipment and parts; (n) documentation; (o) record keeping and inventory; and (p) any other functions related to the provisioning of these services.

The new manager shall also be responsible for providing, installing and maintaining technical systems hardware and software associated with the management of all telecommunications ATM Gigabit Ethernet & ATM infrastructure. In addition, the new manager shall be responsible for maintaining computer hardware and software and the database associated with the cable record systems, the New Security System Cable Management System (after the initial contract expires with that system's provider), and any billing system the new manager chooses to employ subject to MDAD approval. Back-ups are required to be performed and maintained off-site by the new manager for all key technical systems to ensure date integrity and disaster recovery. Pursuant to the terms of the RFP, the County received sealed proposals from qualified, interested parties based upon the covenants and provisions of the RFP. After advertisement of the RFP to the general public, on April 17, 2003 the County received four (4) bids in response. BellSouth was a subcontractor under one of the bids received by primary contractor SITA, who has put together a team of seven (7) companies, SITA included, to offer managed shared airport tenant services ("MSATS") to MIA. In SITA's proposal, BellSouth would have only managed the voice communications activities component of the MSATS.

Second, "Home Rule" confers to the Board the full power and authority to enact legislation relating to the affairs and property of the County. Said power and authority is liberally construed to conduct a central metropolitan government. The Board is empowered to provide and operate the Airport. The Board determined ownership of the information technology and telecommunications infrastructure and systems was of paramount importance to the County. It was important that MIA take control of its information technology and telecommunications infrastructure Essentially, this

refers to the transmission pathways that characterize both wired and wireless communication. Relative to wired communication, this includes copper cabling for telephone transmission and both copper and fiber optic cable for data transmission. It also includes conduits, distribution rooms and the duct banks and tunnels between buildings. The wireless infrastructure includes the cable that runs between the transmitters and the antennas, the antennas themselves, and any superstructures that support the antennas. MIA's ownership and control of the infrastructure was needed since it is the foundation for every major telecommunication and technology initiative that occurs.

Third, the County purchased the leased assets used since 1982 to provide the information technology and telecommunications services necessary for the safe and efficient operation of MIA The Assets were purchased from a private owner. The Services are provided to MDAD and MIA tenants only, and not to the public generally and indiscriminately. The FPSC is a State of Florida regulatory agency.

Last, this answer has also been provided in Interrogatory Nos. 3 and 5.

7. Regarding Interrogatory No. 7 –

BellSouth, is a foreign corporation and not a Miami-Dade County "citizen" or "resident". Given, MDAD pays BellSouth for (i) local dial tone, (ii) long distance services, (iii) network connectivity to the switched public network (local dial tone), (iv) dedicated network connectivity, (v) Smart Ring (redundant) switched public network access, (vi) wide-area network connectivity, (vii) BellSouth telephone directory listings, (viii) terminal construction work, and (ix) the performance of other telecommunications work for MIA tenants, BellSouth has no special injury and therefore no standing to bring this action.

In addition, this answer has been provided in Interrogatory No. 3.

8. Regarding Interrogatory No. 8, this answer has been provided in Interrogatory Nos. 6 and 7.

9. Regarding Interrogatory No. 9, this answer has been provided in Interrogatory Nos. 3, 5, 6, and 7.

10. Regarding Interrogatory No. 10, this answer has been provided in Interrogatory No. 7.

11. Regarding Interrogatory No. 11, this answer has been provided in Interrogatory No. 6.

12. Regarding Interrogatory No. 12, this answer has been provided in Interrogatory Nos. 7 and 8.

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ., of the firm of ADORNO & YOSS, P.A. on behalf of the Plaintiff

DAVID STEPHEN HOPE, and CYNJI A. LEE, Assistant Miami-Dade County Attorneys on behalf of the Defendant

Also present
Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS EXAMINATION PAGE
PEDRO J. GARCIA
BY MR. BLOOMBERG 4

EXHIBITS

EXHIBITS	FOR IDENT
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(All exhibits are attached hereto.)

(Ms. Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q. Would you tell me your name, please, sir.

A. Pedro J. Garcia.

Q. What is your occupation?

A. Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years.

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

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Q. What do you mean by the term infrastructure?
A. Infrastructure is all -- basically the wires that are behind the walls that are running through the airport providing where the information flows to provide the services.
Q. Let's go to the 2002 agreement. Had the County been involved in the telecommunications business, so to speak, at the airport prior to that?
MR. HOPE: Objection to form.
A. The County was basically a customer of NextiraOne prior to that. We were their customers as far as they were providing us the services along with the services they were providing to other tenants of the airport.
Q. Before February of 2002 was the County providing in any way telecommunications services to other tenants at the airport?
MR. HOPE: Objection to form.
A. No.
Q. Strike that.
A. Nextira was providing the services. We were getting -- I believe it was a 10 percent commission on the services provided to other

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tenants of the airport other than the aviation department
Q. Was that just for allowing Nextira to provide it?
A. Yes.
Q. Did Nextira provide those services pursuant to an RFP, or how did Nextira get to the airport to provide those services? What was the arrangement?
A. This was a contract that existed, I think, prior to -- ten years prior to me starting there. I'm not sure how it was awarded. I presume it was a process of an RFP at the time. It wasn't even Nextira. It was Williams. It changed names a few times after that. So in any event, this has been going on for over ten years they've been there providing the services, as far as I know.
Q. Let me make sure I understand this. Up until 2002 or February 2002, Nextira or its predecessor, whoever it may have been, provided telecommunications services to tenants of the airport?
MR. HOPE: Objection to form.
A. To some of the tenants.
Q. Some?

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A. Including the Miami-Dade Aviation Department.
Q. Did Miami-Dade County receive some sort of commission or payment from Nextira or its predecessor prior to February 2002?
A. We received, I believe, 10 percent of the gross for allowing them to provide the service.
Q. Did Miami-Dade County pay Nextira to provide services to the County, or did the County get those services for free?
A. We paid them through the nose for the services that they provided us.
Q. So on one hand the County was getting 10 percent or roughly 10 percent of what Nextira got from other tenants but also the County was paying?
A. We were paying and we were paying a lot more than what we were getting for the services.
Q. All right. And in February 2002, pursuant to this agreement with NextiraOne, the County became the provider and Nextira became, if you will, a subcontractor; is that a fair characterization?
A. That's correct.
Q. So there are Nextira employees now who

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still work at the airport --
A. Yes.
Q. -- and who, in essence, report to MDAD?
A. Do not report to MDAD -- well, they have their own organization. The manager is Pedro De Camillo and they in turn are basically -- we have a subcontractor relationship.
Q. Okay.
A. We don't report, you know, in the sense of -- in an organization chart to us, but they basically are accountable to us for what they do. If they do what we tell them, we pay them.
Q. And they get paid for the services that they provide?
A. That's right.
Q. What, if you know, was the genesis that led up to this February 2002 agreement? How did it come about? Where did it start? Where did it come from?
A. I don't know who started it. That was done before I came to work at the airport. But it was a business decision, basically. It was -- we been -- they were charging the airport a lot of money for the services that we were getting, and it was decided that -- by analyzing the situation that

if you recall?
A I'm not seeing any.
Q Yes. It's the second number. It says resolution of various claims arising out of ELM Agreement and SATS Agreement.
A I can't -- I don't recall exactly particulars of that, but it's all related to the -- again to some issues of charging and we did not agree with the way it was done.
Q And three is the assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at the airport That was --
A The company's changed the name through the years from Williams to Centel to Nextira to NextiraOne, but it was an internal thing with them, a spin-off for the main company or so forth
Q So pursuant to the agreement you were entering into with Nextira, all of the Nextira customers at the airports were going to become customers of the County?
A Yes, sir
MR. HOPE Objection to form.
Q How many customers were there back in January of 2002, Nextira customers?

A. I don't recall the number but it's -- it was probably a little more than the list that you saw because since then the economy went down a little and people went out of business and so forth.
Q. So it might have been slightly hire than the 2003 list as far as the numbers?
A. It's slightly higher than what we had.
Q. And then No. 4 in this next paragraph is Nextira to become the interim telecommunications and infrastructure manager.
So Nextira's role post agreement was to be what?
A. Nextira's role was to become basically the provider on our name. They would manage, they will go and fix things. They would market, they would install and they would bill on behalf of the aviation department for these services.
Q So in other words, was Nextira now to be paid by you, the County, for work it was going to do --
A That's right.
Q -- as opposed to being the actual provider?
A That's right

Q. So the County was going to be the provider to the post 2002 agreement, the County was going to provide the services to the tenants at the airport; is that correct?
A. Yes.
Q. And that was a change from prior to the 2002 agreement?
A. That's correct.
Q. In which Nextira provided services and the County just got a commission for allowing them to do it?
A Right.
Q The next paragraph talks about recommending the board approve the resolution authorizing the purchase of various equipment, and there's seven little Roman numerals.
Is that the equipment also referred to in Paragraph 1 or is that additional equipment?
A This basically is supposed to encompass all the equipment that was owned by NextiraOne at the airport needed to provide the services outlined, the telephone, network, CUTE, and whatever else it would provide.
Q And the County needed that equipment because, in essence, it was going into the

telecommunications business at the airport?
MR. HOPE: Objection to form.
A. The County needed equipment in order to continue to provide the services that Nextira was providing.
Q. Because Nextira, it was no longer providing the services, the County was providing the services?
A. Right
Q. Is it correct that prior to the February agreement, February 2002 agreement, you, the County, was paying Nextira approximately $7,300,000 a year, is that an accurate statement?
A. It sounds right, yes
Q. What was the County, if you recall, because you mentioned the County was getting a 10 percent commission, what was the gross amount of that commission, roughly? Do you recall?
A. It was about $200,000 a year. The gross was -- I think it was estimated during the negotiations at 2 3 million a year that they received gross. So we were getting 10 percent of that, approximately $200,000 plus.
Q. Right
But the money that the County was

year?
A. It cost us 2 million seven.
Q. Does that include the amortization for the equipment?
A. No, no -- no, the equipment was bought out by a price of $6 million. This was just operating expenses.
Q. All right.
A. And the operating expenses, basically we came out short on the -- just for the STS -- the SATS part which included CUTE or STS. I believe we came out short about $300,000 less the first year.
Q. How is the second year going?
A. We just finished the first year as of February, so we don't have the numbers yet for March and April.
Q. All right. But obviously the loss of $300,000 was a lot better than paying $7 million?
A. Yes, it was definitely.
Q. Definitely an improvement?
A. Yes.
MR. BLOOMBERG: Okay. Just so we can keep the record separate, let me mark this as the next exhibit.
(Plaintiff's Exhibit 12 was marked for

identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 12 which purports to be a copy of the Resolution 31.02 which as I understand it is the resolution -- it may not be a complete copy, but it looks like the resolution -- and I'm not trying to trick you. It looks like the resolution that approved the February agreement.
Do you have a Page 9 there, a handwritten Page 9?
MR. HOPE: Right.
Q. We'll just add that to Page 9. I believe that's the agreement. Yes, the copy didn't come out good for some reason.
A. Okay.
Q. Does that appear to be the resolution that approved the agreement?
A. Yes.
(Plaintiff's Exhibit 13 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked Exhibit 13 for purposes of the deposition, ask you to take a look at that and tell me if you recognize

it.
A. Yes.
Q. And is that what we've referred to as the Nextira Agreement or a copy of the Nextira Agreement?
A. It seems to be, yes. It's supposed to be. If there's something missing, it's certainly unintentional.
Q. And are you familiar with that agreement?
A. Yes, sir.
Q. Were you involved in the preparation or the drafting of the agreement?
A. Yes, I was.
Q. And to your knowledge, was that the agreement that was approved by the Board of County Commissioners?
A. Yes, it was.
Q. And is that your agreement, to your knowledge, that the County and Nextira had been operating under on or about February 2002?
A. Yes, it is.
Q. And is that the agreement that you understand that basically put the County in the telephone business?

MR. HOPE: Objection to form.
A. This is the agreement that provides for the MDAD providing telecommunications services to tenants of the airport.
Q. Okay. Both voice and network?
A. Both voice and network and other things, CUTE and --
Q. Just for my information, CUTE, would you refer to CUTE as a network?
A. No. CUTE is really not considered telecommunications or network. CUTE uses a network but CUTE also has lots of equipment outside the network, and it's a service that uses a network just like even the public address system and everything else that uses a network.
Q. All right. And as of now, as we speak today, the County and NextiraOne are still operating under this agreement?
A. Yes.
Q. And will do so until the agreement expires, which I believe is sometime next year?
A. February of next year.
Q. Bottom of the first page there's a description of a project, and what's your understanding of what that means? What are we

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

VIDEOTAPED DEPOSITION

OF

PEDRO GARCIA

Suite 1200
100 Southeast 2nd Street
Miami, Florida

Thursday, October 28, 2004
11:15 a.m.

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utilization of the existing infrastructure that we have. In other words, we have all the wires, all the common equipment, all the people that work there. Those costs are pretty much fixed to an extent. So the more -- if we can get some other tenants to utilize those services and pay us for it, obviously it would be better for the County.

Q. Would you agree that the use of the discount is done by the County to increase its customer base?

MR. HOPE: Object to the form.

THE WITNESS: Yes.

Q. And by increasing your customer base, aren't you, by definition, desiring or taking away customers from other providers at the airport?

MR. HOPE: Objection to form.

THE WITNESS: From anybody maybe that sells equipment, yes.

Q. Do you have any customers that you sell equipment to, but you don't provide telephone voice access for?

A. Yes.

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Q. Do you sell equipment to BellSouth's customers at the airport? Could you give me a specific customer or instance that the County has provided equipment to or sold equipment to or leased, as you call it, equipment to a BellSouth customer at the airport?

MR. HOPE: Objection to form.

THE WITNESS: I really don't know. I would assume that it is possible for a particular customer to have, let's say, the rent space at the airport and they want BellSouth to provide them access to the public network, but inside the -- no, that would not be the case because the equipment that we buy is proprietary and it comes from our PBX.

Unless they want analog lines and they just want to buy new phones and connect to the BellSouth line, that would be the only case where that would happen. Other than voice. We do sell equipment for other than voice.

Q. If it relates to voice, are you aware of any instance, factual instance, not possibility or what have you, where you have sold voice equipment

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to a BellSouth customer? Yes or no?

A. I am not aware of it. That doesn't mean there could not be some, but I am not aware of it.

Q. Is it your testimony that a discount is offered only to expand your customer base via the sale of equipment, but not the sale of access to the telecommunications network for voice?

MR. HOPE: Objection to form.

Q. Is that your testimony here today? Yes or no?

MR. HOPE: Objection to form.

THE WITNESS: The way the people access the public network is through our equipment. So if we have them purchase our equipment, we will increase the utilization of our equipment, and, at the same time, with that equipment they can access the public network.

Q. As you have testified before, you would agree that the purpose of this discount is to increase your customer base at the airport?

A. Yes.

Q. What is the charge for $18 here or $72 as shown for single line local network access?

A. That is the charge for connecting from the

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PBX out to the world, the network access charge. That is the charge that now we have consolidated into five for $49. It used to be $18 per --

Q. But that access allows customers to complete a local call, correct? Your customers complete a local call, correct?

A. Yes.

Q. So MDAD is charging for the completion of the local call, correct?

A. For the ability to complete the local call. We don't charge by the call.

Q. But for the ability to complete local calls.

A. Yes.

Q. You would agree with that?

A. Yes.

Q. Is there a reason for a customer to lease this equipment from you, as exemplified on the second page of MJ-29, that being Meridian One Port or Advanced Features, or single line local network access if they didn't want to complete either internal calls at the airport or local calls?

MR. HOPE: Objection to form.

THE WITNESS: No. That is the purpose of all that equipment.

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documents or the time period As we sit here today, I want to just confirm that the methodology is, as used by MDAD, that the network access cost is figured as exemplified in MJ-23, and then factored into the charges that are ultimately sent to the customer, via proposal like this under MJ-24 Is that correct?

MR. HOPE: Objection to form.

THE WITNESS: Yes. It is trying to establish some kind of relation between the two.

Q. And the network access, as defined in MJ-23, correlates to network access that goes out on the proposal as identified in MJ-24?

A. Yes

MR. GOLDBERG Let me just take a two-minute break, and we might be nearing the end. Thank you

THE VIDEOGRAPHER: We are off.

(Recess in proceedings.)

THE VIDEOGRAPHER: We are back on.

Q (By Mr. Goldberg) Mr Garcia, we are going to continue and hopefully complete your deposition.

I am going to show you what has been

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marked as -- I will switch with you so you can use the marked one -- PG-32 This is an e-mail that you or your counsel brought with you to today's deposition. Is that correct?

A Yes.

Q And you wrote this e-mail to Mr. Jenkins on Tuesday, August 3rd, 2004?

A Yes.

Q Did you actually -- are these your words, from your own mind?

A I wrote the e-mail, yes.

Q What caused you to write the e-mail?

A I can't recall exactly. It has to be a question that Mr. Jenkins posed to me that he wanted some information on this.

Q Do you recall the question that Mr. Jenkins asked you?

A No, I don't.

Q Did Mr. Hope request in any way that you prepare this e-mail, or you just answer yes or no to that?

A I'm sorry. Repeat the question.

Q Did Mr. David Hope, your counsel here today, request in any way that you write this e-mail to Mr. Jenkins? And I would just like you to answer

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yes or no to that, without providing any more detail.

A. No

Q. And you don't recall the conversation that you had with Mr Jenkins that led to you writing this e-mail?

A. I don't, but I can tell you that from the first line it probably had to do with he wanted to know what we charge for for STS.

Q. The first line says, "For the provisioning local service to STS customers." So you are saying that you provide -- the County provides local service to STS customers correct?

MR. HOPE: Objection to form.

THE WITNESS That is what it says here

Q. And this is your writing, correct?

A. Yes.

Q. Then it goes on to say, "MDAD charges for," and the first dot is, "the port in the PBX to connect the STS customer." Did I read that correctly?

A. Yes.

Q. Now, does that correlate to a charge that we see outlined on MJ-24, the form proposal that

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goes to the County's --

A. No. Actually, this answer is incomplete. I made it -- for reasons that I don't remember, I made it -- unless it was a mistake, I made it the network access charge.

As we have seen before, the cord is the connection to the phone. The second line in this e-mail is the phone and the cable, and the third charge would be the network access.

Q. So there should be three items there.

A. Yes.

Q. Can you explain to me the next line. Why you wrote that and what that means, and if that is correct, in your view.

A. Well, it says, "there is no additional charge for dial tone or for a local call completion." That is what it is. We charge for those two things, plus the one I omitted. There is no additional charges for anything else, per call or per dial tone or for anything else.

Q So I understand you, you said there is no additional charge. But given your prior testimony here today, haven't you testified that since the County charges for the PBX, and the PBX is the piece of equipment that provides the dial tone, that the

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County is charging for dial tone.
MR. HOPE: Objection to form
THE WITNESS: The County is charging for the equipment that allows you to get the dial tone and complete the call.
Q So you would agree, it is just common sense, that the County is charging for, in part, the dial tone that it provides.
MR. HOPE: Objection to form
Q Through its own PBX.
A Yes.
Q And then the next part of the sentence is, what you are saying is there is no additional charge for local call completion. Given everything that you have testified to here today, isn't local call completion a function of the network access component that the County charges for?
MR. HOPE: Objection to form
THE WITNESS: Yes.
Q So there --
A Like I said, that third item is omitted. If you put it there, then that sentence would make sense. But right now it is not correct.
Q Fair enough. So with all due respect, respectfully, the way this sentence is written now,

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it is incorrect. The third line, "there is no additional charge for a local call completion," forgetting the dial tone issue. But it is not correct if you read it, "there is no additional charge for local call completion."
MR. HOPE: Object to the form.
THE WITNESS: The local call completion is done through the network access charge, which is not in this memo.
Q. Fair enough.
Just for record purposes, let's go down the line. "The PBX access to the public network is through BellSouth trunk lines." Is that an accurate statement?
A. Yes.
Q. Next. "Long distance charges are passed through without any surcharges." Is that accurate?
A. Yes.
Q. "At this time, there are no STS voice service customers in any of the GA airports." Is that an accurate statement?
A. Yes.
Q. What is GA?
A GA is general aviation airports. We also -- the County also owns the Homestead and

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Opa-Locka airports and Tamiami. So those three airports are also the property of the County.
Q. And I notice in this document that was sent to your boss, Mr. Jenkins, three times, at least, you use the word "customer" or "customers," correct?
A. Yes.
Q. Is there anywhere in that e-mail that you use the word "tenant" or "tenants?"
A. No.
MR. GOLDBERG: I think that's all the questions I have.
MR. HOPE: I have no questions.
THE COURT REPORTER: Would you like to read?
MR. HOPE: Yes.
THE VIDEOGRAPHER: Stand by to go off the video record. We are off.

(Thereupon, the deposition was concluded.)

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PEDRO GARCIA

Sworn to and subscribed before me this _____ day of _____, 2004

Notary Public in and for the State of Florida at Large.

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

VIDEOTAPE DEPOSITION

OF

MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004
10:15 a.m. - 5:00 p.m.

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Whatever else is out there, Opa Locka Any other facility. I think there is a jump school at Homestead General. You have those things that are sitting out there.

Q. Why doesn't the county or MDAD provide telecommunication service to those commercial tenants at the other county owned airports?

A. Don't know I guess we haven't gotten around to either discussing or asking

Q. Are you aware of any plans to do that?

A. I haven't had any discussions with my guys about it yet.

Q. When you say your guys, have you had any discussions with anybody who you report to about that?

A. Oh, no, sir.

Q. Who does Angela Giddens report to?

A. County manager

Q. Who is who right now?

A. Mr. George Burgess

Q. How long has he been the county manager?

A. He just came back. I'm not sure.

Q. Recently?

A. Yes.

Q. Are you aware of any discussions with the

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current county manager with respect to this lawsuit?

A. No, sir.

Q. Are you aware of any discussions with the prior county manager with respect to this lawsuit?

A. No, sir.

Q. Are you aware of any meetings that have taken place regarding this lawsuit that you have not been in attendance at?

A. No, sir.

Q. Would you expect to be at any meeting where this lawsuit was discussed?

A I guess it depends. I'm not sure if I need to attend I don't know.

Q. Why did the county enter into the transaction it did in January of 2002 to purchase the assets of Nextera?

A. It was, if I recall properly, based upon an audit and a review by county auditors, as well as there was an individual that came from the police department that was there temporarily, I believe it was Tom Arnold, that looked at processes from law enforcement and looked at processes and looked at the agreement and other things and said it would be in the county's best interest to buy out and own and operate rather than the existing way we were doing

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business at that time.

Q. What was the existing way that you were doing business at that time?

A. It was a managed services agreement in which Nextera provided the service, did the billing and operated, supported the MDAD voice network or voice system, voice network as it stood and they managed and operated, and there's a management fee.

There was I think a percentage of the share tenant revenue that came back. Whatever was generated came back to the department.

Q So before January 2002, Nextera owned and operated the telecommunications facility, correct?

MR. HOPE: Objection to form.

A. They owned it They operated it under a management agreement with the department, yes, sir

Q. And then after January of 2002 the county owned and operated the facility, correct?

A. The county owned the facility and we contracted to have someone operate it for us

Q. But aren't we saying the same thing. If the county is operating the facility after 2002, albeit through a management agreement, the county is still operating the facility? You are operating it, correct?

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A. We are still operating it, yes.

Q. There is no dispute about the fact that you are operating it, correct?

A. All right

Q. And you weren't operating it before January 2002 because Nextera was?

A. Yes, sir.

Q. There's no dispute about that, correct?

A Yes, sir.

Q. Meaning there's no dispute, you agree with me, right? Sorry You do agree with me, there is to dispute, right?

A. I concur with your last statement.

Q. Thank you. I appreciate that.

MR. GOLDBERG: No further questions.

Mr Hope.

MR. HOPE: None

MR. GOLDBERG You have a right after every deposition once the court reporter prepares a transcript, it is your right to elect to either read the transcript to make sure that it's accurate or to waive reading of the transcript. I'm sure Mr Hope --

MR HOPE: We want to read

MR. GOLDBERG He has said you are going to

MIAMI-DADE AVIATION DEPARTMENT — Airport Rental Agreement

This Agreement is made as of _____, 20__, between Miami-Dade County (the "County"), a political subdivision of the State of Florida, and _____, a _____ corporation/partnership/sole proprietorship (the "Customer") conducting business at Miami International Airport (MIA or the "Airport").

1) Agreement. The County agrees to deliver, install, rent, and maintain telecommunications systems and services consisting of (1) switch access to its common carriers' communications switching equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" or the "Department") and its tenants at the Airport ("Switch Access"), (2) network access to the local telephone exchange's carrier ("Network Access") and (3) telecommunication terminal equipment and cabling, when itemized and executed on Schedule I. Such equipment and services are described in the Equipment and Services Schedule I and Maintenance Schedule III attached hereto, including optional services and features and made a part hereof (collectively, the "System") and the Customer agrees to rent the System (the "Rental") subject to the terms and conditions of this Agreement.

This Agreement is subject to credit approval by the County. The Customer agrees to cooperate with the County by providing all credit and financial information that may be required by the County. Upon the County's approval of the Customer's rental application, the Customer agrees to execute all documents relating to the Rental and promptly return them to the County. In the event all required and properly executed documents and advance payments are not provided to the County, the County may, in addition to other delineated rights and remedies, delay cutover until such executed documents and advance payments are received and approved by the County.

2) Schedules. The attached schedules (the "Schedules") are part of this Agreement:

Schedule I	Equipment and Services Schedule
Schedule II	Acknowledgment and Certificate of Acceptance
Schedule III	Maintenance Schedule

3) Installation.

a) The Customer will be responsible for, and provide or arrange for at its own expense (in a timely manner as required or directed by the County): (1) necessary floor plans and accessible System locations free from environmental hazards; (2) reasonable access for the County; (3) completed copies of database feature forms; (4) necessary conduit, holes and wireways where not otherwise provided herein; and (5) easements and microwave licenses.

b) The System will meet Federal Communications Commission Part 68 regulations regarding connection to the public telephone network. The County will install the System in a workmanlike manner without damage to the Customer's premises and will obtain necessary work permits to install the System. The County will not be responsible for removing any cabling or equipment of the Customer's old telephone system.

4) Force Majeure. The County's performance under this Agreement shall be excused to the extent and for the time compliance is beyond the County's reasonable control by reasons that include but are not limited to: strikes, work stoppage, fire, weather, wind, acts of God, corruption in service for any cause, storms, lightning, delays by suppliers and subcontractors, delays of power company, delays of the local exchange company, interexchange carrier, or any other carrier, governmental action, or any Customer nonperformance such as (i) non-payment, or (ii) failure to execute an acceptance certificate or rental document.

5) Term and Acceptance. This Agreement shall be effective upon execution by the Customer and the County, but the term of this Agreement (the "Rental Term") shall commence on the "Commencement Date" (as hereinafter defined) and shall terminate on the last day of the Rental Term stated in Schedule I, provided, however, the Customer's indemnities, assumption of liabilities, and other duties and all of the County's disclaimers herein shall survive the termination of this Agreement. The Customer shall be deemed to have accepted the System for all purposes of this Agreement, including the payment of rent hereunder, with the Customer's execution of the "Acknowledgment and Certificate of Acceptance" contained in Schedule II, attached hereto and made a part hereof. The date of execution of the Acknowledgment and Certificate of Acceptance shall be the Commencement Date under this Agreement. The Customer shall execute the Acknowledgment and Certificate of Acceptance upon the County's completion of installation and pre-operational testing and first connection of the equipment to the public telephone network in a manner permitting calls to be made through the System (the "Cutover").

6) Payment of Rent. The rent for the System (the "System Rent") shall be as listed in Schedule I and shall be payable, without notice or demand, pursuant to said Schedule.

7) Cancellation. After paying the first twelve (12) monthly payments under this Agreement including twelve (12) months of payments for any additions, the Customer may cancel this Agreement by giving sixty (60) days written notice to the County and by paying a cancellation fee equal to: (a) seventy percent (70%) of the unpaid System Rent, AND (b) three (3) monthly payments for Switch Access and Network Access. With the County's prior written approval, the cancellation fees will be waived if this Agreement is assigned to a MIA tenant who assumes all the obligations of this Agreement.

8) Training. The County will provide instruction and training in the use of the System, to employees of the Customer for a reasonable time (not to exceed thirty (30) days) after the Cutover.

9) Maintenance. The County will maintain the System in good repair and will provide the necessary parts and labor to maintain the System as provided in Schedule III, provided the Customer is current on its payments hereunder and is otherwise in compliance with terms and conditions of this Agreement. The Customer's SOLE AND EXCLUSIVE REMEDY for the County to correct a defect in the System is limited to the County's performance under this Section 9.

The County's duty to maintain the System:

a) Excludes any service in connection with maintenance or repair of the equipment caused by negligence, theft or unexplained loss, abuse, connection to foreign power, fire, water, wind, storms, lightning, acts of God, acts of public enemies, improper wiring, installation of equipment, items, material or software by the Customer or third parties, failures or changes resulting from local exchange company, failures or changes resulting from local power company, failures or changes resulting from other transmission providers, or repair or alteration of the equipment or software by anyone other than the County; and

b) requires that Customer maintain a suitable operating environment for the System.

BY CUSTOMER REQUEST, REPAIRS NECESSITATED BY ANY OF THE EXCEPTED CAUSES IN SECTION 9(a) ABOVE, SHALL BE PERFORMED BY THE COUNTY AT ITS THEN PREVAILING RATES. THIS MAINTENANCE AGREEMENT IS IN LIEU OF ANY WARRANTY OR OTHER OBLIGATION EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY AGREEMENT OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COUNTY DISCLAIMS ANY WARRANTY TO PREVENT UNAUTHORIZED USE OF THE SYSTEM, INCLUDING TOLL FRAUD.

10) LIMITATION OF LIABILITY. THE COUNTY WILL BE LIABLE FOR PHYSICAL INJURIES TO INDIVIDUALS AND DAMAGES TO TANGIBLE PHYSICAL PROPERTY (OTHER THAN THE SYSTEM WHICH IS COVERED BY THE MAINTENANCE PROVISIONS OF THIS AGREEMENT) CAUSED BY THE COUNTY'S NEGLIGENCE. IN NO EVENT HOWEVER WILL THE COUNTY AND ITS CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR: (A) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, (B) COMMERCIAL LOSS OF ANY KIND (INCLUDING LOSS OF BUSINESS OR PROFITS), OR (C) ANY DAMAGE OF ANY KIND RESULTING FROM UNAUTHORIZED USE OF THE SYSTEM INCLUDING TOLL FRAUD. THIS LIMITATION SHALL APPLY TO ANY CLAIM OF THE CUSTOMER WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OF THE COUNTY, ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS, STRICT TORT OR ANY OTHER LEGAL THEORY WHETHER OR NOT THE COUNTY OR ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

11) Title. The County shall retain title to the System and the Customer shall have no interest in the System other than the rights acquired as a customer hereunder. The Customer acknowledges the County may affix to and maintain on such System identifying labels indicating the County's ownership. The System shall remain County personal property and not become a fixture or part of any Customer real estate regardless of the manner in which it may be installed or attached. If requested by the County, the Customer will, at the Customer's expense, furnish a landlord and/or mortgagee waiver with respect to the System. The Customer shall protect and defend the County's title and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those which arise through the County, and shall not permit the County's rights or interest hereunder to be subject to any lien, charge or encumbrance, including but not limited to: (a) any lien of the owner of real property upon which the System is installed; or (b) of any purchaser of or future creditor obtaining a lien on, said real property. The Customer shall give the County immediate notice of any attachment or judicial process affecting any item of the System.

12) Use of the System(s), Inspections and Reports. The Customer shall use the System(s) solely for business and not for personal, family or household purposes. The Customer may only use the System at the location set forth in Schedule I. The Customer's use of the System shall conform with all applicable federal, state and local laws and rules. The County shall have the right to inspect the System at all reasonable times during the Customer's normal business hours.

PLAINTIFF'S EXHIBIT tabbies MJ- 8

Additional Terms and Conditions

13) Alterations and Attachments. The Customer shall not permit any equipment or other items or material (the "Other Equipment") or software (the "Other Software") to be used on or in connection with the System which does not meet the specifications of the manufacturer of the equipment in the System. All Other Equipment and Other Software which may be used on or in connection with the System shall be acquired and installed by the Customer at Customer's own expense and risk. The County makes no representation concerning the compatibility of any such Other Equipment and/or Other Software for use with the System.

Without the prior written approval of the County, at the end of the Rental Term the Customer must remove any additions to the System not otherwise subject to this Agreement (the "Additions") made by Customer during the Rental Term and restore the System, at the Customer's expense to its original condition, reasonable wear and tear only excepted. In the event the Customer fails to remove an Addition, it shall become the property of the County.

14) Indemnification. The County will be responsible only for physical injury to persons (including death) and damage to tangible physical property to the extent caused by the negligence during delivery, installation or maintenance of the System and which is reported to the County in writing within sixty (60) calendar days of the incident.

The Customer shall indemnify and hold harmless the County and its officers, employees, agents and authorized representatives and instrumentalities from any and all claims, liabilities, losses, damages, and causes of action, including attorney's fees and costs of defense, which may arise or be incurred as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Customer or its employees, agents, servants, partners, principals or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay all claims and losses of any nature whatsoever in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorney's fees which may be issued thereon. The Customer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Customer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and authorized representatives and instrumentalities as herein provided. Nothing contained in this Section 14 shall be construed so as to require the Customer to indemnify the County's employees, agents and authorized representatives for their own negligence.

15) Return of System. Upon termination of this Agreement, excepting equipment covered under a renewal agreement, the Customer will make the System available for removal, which shall be accomplished in a careful and reasonable fashion by the County. The System will be returned to the County in the same condition as originally installed, ordinary wear and tear excepted, or the Customer will pay for the restoration of the System to such condition. The County shall not be compelled to restore the premises to its original condition. If the Customer does not return the System or make it available for removal by the County, then in addition to all other remedies in this Agreement, the County has available all other remedies available at law or equity. All obligations of the Customer under this Agreement shall remain in force and effect until the System is returned to the County.

16) Events of Default by the Customer. The occurrence of any one or more of the following events (an "Event of Default") shall constitute a default under this Agreement:

a) Failure by the Customer to pay any installment of System Rent or any other amount payable hereunder as and when the same becomes due and payable and the continuation of such failure for a period of ten (10) calendar days thereafter.

b) Failure by the Customer to perform or observe any other term, covenant or condition of this Agreement or any Schedule, or the inaccuracy in any material respect of any representation, warranty or statement made by the Customer in this Agreement, any Schedule or any document or certificate furnished to the County at any time, which such failure or inaccuracy shall continue for a period of ten (10) calendar days after notice from the County.

c) Dissolution, termination, or discontinuance of the Customer's business (including, without limitation, the death of the proprietor if the Customer is a sole proprietorship or the death of a general partner if the Customer is a partnership), the sale of substantially all of the Customer's assets, or the sale or pledge of the controlling interest in the Customer.

d) the Customer's insolvency, the appointment of a receiver for any property of the Customer, assignment by the Customer for the benefit of creditors, admission by the Customer in writing of his inability to pay its debts as they become due, or the commencement of a proceeding under any bankruptcy, reorganization or similar laws by or against the Customer or any property in possession, or if the Customer enters into an agreement of composition with its creditors; or

e) the attempted sale by the Customer of a System or any part thereof, or the issuance of any levy, seizure or attachment thereon or pertaining thereto.

17) Remedies of the County. At any time after the occurrence of an Event of Default, the County may exercise any one or more of the following remedies:

a) The County may, upon seven (7) days written notice, terminate this Agreement with respect to any System or portion thereof, or all of the Systems.

b) The County may demand and recover from the Customer all System Rent and other amounts then due.

c) The County or its agents may take possession of any portion or all of the Systems, wherever the same be located, on reasonable notice without any court order or other process of law and without liability to the Customer for any damages occasioned by such taking or possession, and any such taking or possession shall constitute a termination of this Agreement, and whereupon all rights and interest of the Customer to possess and use the Systems shall absolutely cease, but the Customer shall remain liable as provided herein.

d) The County may demand the Customer return any System or portion thereof, or all of the Systems to the County in accordance with this Section 17 hereof; and

e) The County may pursue any other remedy available at law or in equity, including, without limitation, seeking damages, specific performance, and/or an injunction. None of the remedies under this Agreement is intended to be exclusive but shall be cumulative and in addition to any other remedy referred to herein or otherwise available to the County in law or in equity. Any repossession or subsequent sale or lease by the County of any portion of the System shall not bar any action for a deficiency as herein provided, and the bringing of any action or the entry of a judgment against the Customer shall not bar the County's right to repossess any System or portion thereof, or all of the Systems.

18) County Event of Default and Customer Remedy. The Customer may terminate this Agreement upon thirty (30) days written notice in the event of the County's material breach of this Agreement. Such written notice shall identify the material breach(es) and provide a reasonable time to cure in the notification to remedy the cause(s). The County has fifteen (15) days to cure the cause of the termination (the "Cure Period"). Such Cure Period commences the day after the thirty (30) day written notice period runs. The Customer may extend the Cure Period. This shall be the Customer's exclusive remedy.

19) Insurance. In addition to such insurance as may be required by law, the Customer shall maintain during the term of this Agreement the following insurance:

a) Public Liability Insurance on a comprehensive basis, including contractual liability, products and completed operations. In an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.

b) Automobile Liability Insurance coverage for all owned, non-owned and hired vehicles used in connection with this agreement in amounts not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

c) Property Damage. The Customer will bear the risk of loss or damage to the leased equipment for the replacement cost and will reimburse the County for any damages to the equipment.

The insurance coverage required shall include those classifications as listed in the standard liability manuals, which most nearly reflect the operations of the Customer on this Agreement. All insurance policies required herein shall be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B" as to management and no less than "V" as to strength in accordance with the latest edition of "Best's Insurance Guide" published by A.M. Best Company, Inc., or its equivalent as approved by the Miami-Dade County Risk Management Division.

Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division, which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classifications as required for strict compliance with this Section 19; (2) any material change or cancellation of the insurance shall not be effective without thirty (30) days prior written notice to the County; and (3) that Miami-Dade County is named as an Additional Insured with respect to the Public Liability coverage.

The County reserves the right to require the Customer to provide such reasonably amended insurance coverages as it deems necessary or desirable upon issuance of notice in writing to the Customer, which notice shall automatically amend this Agreement effective thirty (30) days after such notice. Compliance with the foregoing requirements shall not relieve the Customer of its liability under any other portion of this Agreement.

20) Further Assurances. The Customer will execute and deliver to the County such additional instruments as the County deems necessary hereunder.

Additional Terms and Conditions

21) County's Performance of the Customer's Obligations. If the Customer fails to perform any of its obligations under this Agreement, the County may perform any or make any payment which the County deems necessary for the maintenance and preservation of the Systems and the County's title thereto. All sums so paid by the County (together with all related "Late Payment Charges" as hereinafter defined) and reasonable attorney's fees incurred by the County in connection therewith shall be added to System Rent immediately due and payable by the Customer to the County. The performance of any act or payment by the County shall not be deemed a waiver or release of any obligation or default on the part of the Customer.

22. Severability. Any provision of this Agreement prohibited by the laws of a state shall, as to such state, be ineffective to the extent of such prohibition, but shall not affect the other provisions of this Agreement.

23. Amendments and Waivers. This Agreement and the Schedules constitute the entire agreement between the County and the Customer with respect to the rental of the Systems, and supersede all previous communications, understandings and agreements, whether oral or written, between the parties with respect to such subject matter. Any representations, warranties or statements made by an employee, salesperson, agent, or authorized representative of the County and not expressed in this Agreement are not binding upon the County. No provision of this Agreement may be changed, waived or amended except by written agreement signed by both the County and the Customer, except that the County may insert the serial number of any portion of a System on the applicable Schedule after delivery of such portion of the System and the County may insert the Commencement Date for this Agreement after receiving the Acknowledgment and Certificate of Acceptance.

24. Late Payment Charge. In the event the Customer fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) calendar days of the due date, interest at the rate established from time to time by the Miami-Dade Board of County Commissioners and/or Florida Statutes (currently set at one and one-half percent (1 1/2%) per month) shall accrue against all such delinquent payment(s) from the original date due until the Department actually receives payment. The right of the County to require payment of such interest and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's rights to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.

25. Assignment. The Customer shall not assign this Agreement without the County's written consent. No assignment or transfer of any sort shall relieve the Customer of its obligations hereunder. The County may assign any rights under this Agreement to an affiliate or any other assignee, and the Customer agrees to execute any documents that such assignee may reasonably require. The Customer acknowledges that if this Agreement is assigned to a governmental entity, the indemnity obligations under Section 14 herein may not apply in full to such assignee.

26) Applicable Law. This Agreement shall be governed by, construed and enforced in accordance with the applicable laws of the County, including (a) the rules and regulations of the Department, (b) Chapter 25, Code of Miami-Dade County, Florida, and (c) operational directives issued thereunder, in addition to all additional laws, ordinances, administrative orders, regulations, and rules of the federal, state and local governments, and any and all plans and programs developed in compliance therewith, which may be applicable to the operations of this Agreement.

27) Customer's Representations. The Customer represents that this Agreement is a lawful, binding and valid obligation of the Customer enforceable in accordance with its terms and has been duly authorized, executed and delivered by the Customer, and that all information concerning the Customer's financial condition which has been or will be supplied to the County is and will be true and correct.

28) Notices. All notices, demands and other communications shall be transmitted in writing by hand delivery or by United States Mail, addressed to such party at the address below or at such other address as may be subsequently submitted by written notice of either party. Notice given pursuant to this Section 28 shall be deemed effective four (4) days after the date it is mailed or upon receipt, whichever is earlier.

For the Department:

Manager, Information Services Division
Miami-Dade Aviation Department
P.O. Box 592075
Miami, Florida 33159-2075

For the Customer:
[Billing Customer Name] _____
[Customer Address] _____
[City, State & Zip Code] _____
[Billing Contact] _____
[Telephone Number] _____

29) Miscellaneous.

a) If the Customer uses a purchase order or similar document to order a System or add-on thereto, the Customer acknowledges that the terms and conditions of such purchase order or document shall not apply and that the terms and conditions of this Agreement shall exclusively apply thereto.

b) The waiver by either party of any default will not operate as a waiver of any subsequent default.

c) The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.

d) Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.

e) This Agreement shall be binding upon and inure to the benefit of the County and the Customer and their respective successors and assigns.

f) Rights to be Exercised by Department. Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

Additional Terms and Conditions

30) Terms and Execution.

a) This Agreement binds the Customer when it is executed by the Customer and binds the County when executed by the County and delivered to the Customer.

b) This Agreement allocates the risks of the System's delivery, installation, operation and maintenance between the County and the Customer. The County has provided the Customer a favorable rent in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized by both parties and is reflected in the System Rent. The Customer acknowledges that it has read this Agreement, understands it and is bound by its terms.

c) The Customer agrees that the County shall not be obligated under this Rental Agreement if the federal, state or county statutory or regulatory authority permitting the County's performance hereunder is withdrawn, abridged, or amended so as to preclude the effective delivery by the County of services hereunder. In such event, the County shall notify the Customer in writing and the Customer's sole obligation thereafter shall be to compensate the County for the equipment and services rendered by the County to date.

Miami-Dade Aviation Department	Customer
By:	By:
Title:	Title:
Date:	Date:

MIAMI-DADE AVIATION DEPARTMENT — Equipment and Services Schedule I

Rental # _____ Date _____

With reference to the certain Airport Rental Agreement dated _____ _____ 20___ (the "Agreement") between the County and _____ (the "Customer"), the County and the Customer agree to incorporate the following additional terms and conditions into said Agreement:

1) Locations: Miami International Airport

2) Rental Term: _____ ( ) months

3) Payment: The Customer shall pay to the County the total rental (which includes maintenance) for the Rental Term of the Agreement, which shall be the total amount of the rental payments set forth on this Schedule, plus any such additional amounts as may arise hereunder or pursuant to any additions hereto as described in Paragraphs 11 and 12 of this Schedule. Except as otherwise specified in this Schedule, rental payments pursuant to this Schedule (each monthly payment of System Rent) shall be made and shall be due and payable in advance on the first day of each calendar month during the Rental Term, provided however that the Customer shall pay to the County the first monthly System Rent payment with respect to the System when the Customer delivers to the County the Schedule I and Schedule II executed by the Customer. In the event the Customer does not accept the System for any reason, the County shall be entitled to retain such payment in addition to its other rights hereunder unless the parties agree in writing to the contrary. All amounts due hereunder from the Customer shall be paid to the County by check, in immediately available funds at the address of the County as set forth in the Agreement or at such other place as the County shall designate in writing. Whenever any payment (of System Rent or otherwise) is not made within ten (10) days of the date when due hereunder, the Customer shall pay the "Late Payment Charge" (as defined in Section 24 of the Agreement) calculated from the eleventh (11th) day after the due date to the date of actual receipt of payment.

4) System Rent: _____ Dollars ($_____) (Monthly System Rent during Rental Term: $_____ per month during the term of this Agreement), except as it may be increased or decreased by amendment or by an inflation and/or utility-company adjustment, plus applicable taxes. Unless otherwise specified, telephone numbers, directory listings, and all other charges of the local exchange company of any interexchange carrier are not included in the rental price unless indicated on a schedule. No cabling, wiring, or other items are included unless specifically stated in this Agreement and indicated on this Schedule.

5) Security Deposit: The Customer shall pay two (2) months rent as a security deposit that shall be held as long as the Customer is current on its System Rent and applicable taxes and that shall be returned without interest to the Customer at termination of this Agreement. If not current on either System Rent or applicable taxes, the County may deduct from the Security Deposit any and all amounts due from the Customer under the Agreement. The Customer must maintain the two (2) month rent security deposit amount balance, and must tender to the County the amount needed to maintain this threshold, if a deduction or deductions are made by the County.

6) Estimated Commencement Date: _____ _____ 20

7) Attachments: The following Schedules are attached to and made a part of this Agreement: Schedules I, II, & III

8) Installation: The total amount due for installation of the System is _____ Dollars ($_____) plus applicable taxes. This amount is due and payable on the Agreement execution date and is non-refundable.

9) Maintenance Hours: The County will respond to System failures during the hours specified by the maintenance plan chosen by the Customer (see Schedule III).

10) Equipment and Features: The equipment and features subject to the Agreement are set forth below:

1)	Switch Access	$	/month
2)	Network Access	$	/month
3)	System - Terminal Equipment	$	/month
4)	System - Other	$	/month
	Monthly Rent	$ (See Attached Quote #_____)	

(A continuation sheet may be added if more room is needed)

11) Pre-Turnover Changes: In the event that additions and/or deletions to the equipment and/or features described in Section 10 above are made in accordance with the Agreement before the Commencement Date, the monthly Rental shall be adjusted by the charge caused by applicable Installation Change Notices ("ICNs"). The County and the Customer hereby agree that any ICN executed by the Customer and delivered to the County in accordance with this Section 11 shall constitute an amendment to the Agreement and this Schedule, thereby adding to such such document the descriptions and rental information with respect to the equipment and the software included in such ICN.

12) Post-Turnover Changes: If the Customer wishes to add additional County equipment and/or features to the System (excluding however, minor equipment and/or features with maintenance related thereto which the Customer purchases from the County for cash) during the Rental Term of the Agreement, the Customer shall add additional equipment and/or features to the Agreement on such terms as the County and the Customer may agree in a Customer Service Order ("CSO") executed by the County and the Customer, and such equipment and/or features shall become, upon amendment of the Agreement and acceptance by the Customer pursuant to the Agreement, subject to the terms of the Agreement, provided the Customer is not in default under the Agreement and has not suffered a material adverse change in its financial condition since the execution of the Agreement. Pricing for additions may be adjusted for changes in tax laws and regulations.

The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operated as part of the System and shall have a term of sixty (60) months unless stated otherwise on this Schedule.

13) Renewal: If the Customer is not in default under this Agreement, the Customer can either (a) renew this Agreement on its termination at the then current market monthly rate or (b) return the System to the County. Negotiation of any such renewal can be initiated by the Customer's written notice of its willingness to negotiate a renewal not earlier than one hundred twenty (120) days but not later than sixty (60) days prior to the end of the Rental Term. The Agreement can be automatically renewed at the County's discretion for a minimum period of one (1) year if a renewal is not finalized. Renewals will be at the price and on the terms and conditions of the County in effect at the time of renewal unless otherwise agreed to in writing by the parties.

14) Miscellaneous: All terms defined in the Agreement shall have the same meaning herein.

IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorized representative and this Schedule shall be incorporated into and made a part of the Agreement.

Miami Dade Aviation Department	Customer
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

M AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule II

To: Aviation Department

The _____ acknowledges, represents and warrants to the Co equipment subject to the Rental Agreement dated _____ _____, 20__ by and the undersigned: (a) has been delivered, installed and subjected to all necessary pre operating, (b) has been inspected, (c) is operating in accordance with the manufacturer's specifications (d) used or made available to be placed in service for its specifically assigned function for the first time on the date indicated below as the "Commencement Date"; and (e) was first connected to a public in a manner permitting calls to be made through the equipment to and from the facility in which located on such Commencement Date.

Commencement Date: _____

Customer: _____

By: _____

Title: _____

Date: _____

The maintenance plan features the following services:

1. Types of Failures:

Troubles reported by the Customers will fall into two categories: a) Major Failures, and b) Minor Failures

a Major Failures are those that severely impede the ability for a Customer to conduct business at the Airport and shall be defined as an occurrence of any of the following

1 A failure of the telephone switch, its common equipment or power supplies which renders it or them incapable of performing normal functions for five percent (5%) or more of the stations or trunks.

2 A failure of network components that will render over five percent (5%) of work stations inoperable

b Minor Failures are any other failures including a failure of any ancillary equipment such as intercom circuits, paging input arrangement, or any other telecommunications equipment or component

2. Response and Repair Time:

Based on the trouble classification, the response will be in the following manner:

a Major Failure- Immediate response during business hours (Monday-Friday, 7 A.M. – 11 P.M., Eastern Time) and within two (2) hours for off hours (Monday-Friday, 11 P.M. – 7 A.M., Eastern Time, and twenty-four (24) hours a day Saturday, Sunday, and holidays)

Remedial maintenance will begin immediately for a major malfunction, which may consist of remote diagnostics during the first fifteen (15) to thirty (30) minutes, after the repair notification time by the Customer, via the service provider tracking processes with the appropriate service ticket number, however if not corrected, the service provider's personnel must be on-site no less than forty-five (45) minutes during business hours and no less than two (2) hours during off hours from the repair notification time. Repair work shall start immediately and continue until the problem is resolved. All commercially reasonable efforts will be made to complete repairs within eight (8) hours from the time the Customer reported the incident.

b. Minor Failure - Response within eight (8) business hours.

Repairs not defined as a major failure will begin as expeditiously as possible, and all commercially reasonable efforts shall be made to complete repairs within one (1) business day from the time the Customer reported the incident. Repairs may be made by a certified technical personnel either through a premise visit or via electronic access through the use of a remote maintenance terminal. However, in all cases, the repair must be confirmed and the status updated by the next business day by notification to the service provider. Response to minor service interruptions will take place within eight (8) business hours.

"Respond" is equated to having technical support and/or troubleshooting the problem within aforementioned times. Note that during the troubleshooting process, the service provider is coordinating directly with the Customer until the problem is resolved.

3. Miscellaneous:

- All parts and labor are included, unless the failure is due to abuse or misuse of the equipment or facilities
- Preventive maintenance routines are included
- Utility coordination with the local telephone company and other common carriers are provided
- Consultation services on the Customer's system are included.
- User training (beyond that provided in Section 8 of the Agreement) is optional, and at an additional cost
- Traffic studies to determine adequate system utilization (not to exceed two (2) annual Customer requested studies) are included

38. BellSouth, the incumbent local exchange telecommunications company in Miami-Dade County, provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, subject to the regulation of the FPSC.

39. In fact, by offering shared tenant services to Commercial Tenants at the airports, the County is necessarily offering similar services to those already offered at the airports by BellSouth because shared tenant services, by definition, are services which duplicate or compete with local service provided by an existing local exchange telecommunications company.

40. The provision of shared tenant services to these Commercial Tenants at the airports is not necessary to ensure the safe and efficient transportation of passengers and freight through the airports' facilities.

41. The Commercial Tenants at the airports to which the County offers shared tenant services are facilities, such as hotels, shopping malls and industrial parks.

42. Accordingly, the County's provision of shared tenant services to these Commercial tenants is not exempt from the certification requirements and other regulations enacted by the FPSC and as provided in Chapter 364 of the Florida Statutes.

43. Thus, by passing the Resolutions, the Board purported to authorize the County, based on its own authority and without prior approval of the FPSC, to offer shared tenant services to the Commercial Tenants at MIA and the Other Airports.

44. Moreover, whether or not the County, pursuant to the "Airport Exemption," is entitled to a limited exemption from "other STS rules" governing the provision of shared

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SUITE 1000
100 SOUTHEAST 2ND STREET
MIAMI, FLORIDA 33131-2113

LASH & GOLDBERG LLP

WESTON CORPORATE CENTER
SUITE 500
2500 WESTON ROAD
FT. LAUDERDALE, FLORIDA 33331

13. Regarding Interrogatory No. 13, these documents are entitled: (i) "Contract Documents for DCAD Telecommunications, DCAD Contract No. 6-T-600"; (ii) "Resolution No. R-361-82" and supporting documentation, (iii) "Resolution No. R-788-90" and supporting documentation; (iv) "Status Report: Telecommunications at the Aviation Department", dated December 18, 2001; (iv) "Resolution No. R-31-02" and supporting documentation; (vi) "Resolution No. R-1091-02" and supporting documentation; (vii) "Proposal to MIA, Non-Exclusive Telecommunications and Network Management Services Agreement" dated April 17, 2003, from SITA and BellSouth; and (vii) "Resolution No. R-33-04" and supporting documentation.

14. Regarding Interrogatory No. 14 –

BellSouth provides only a fraction of the telecommunications, data network, and SATS services offered by MDAD. RFP No. MDAD-04-01 was advertised on March 6, 2003, for a successor telecommunications, data network, and shared airport services manager, who would *inter alia* (i) provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for MDAD, and (ii) manage the shared airport tenant services customers at MIA. After advertisement of the RFP to the general public, on April 17, 2003 the County received four (4) bids in response. BellSouth was a subcontractor under one of the bids received by primary contractor SITA, who has put together a team of seven (7) companies, SITA included, to offer managed shared airport tenant services ("MSATS") to MIA. In SITA's proposal, BellSouth would have only managed the voice communications activities component of the MSATS. In addition, BellSouth does not provide CUTE which is the primary STS service provided by MDAD. A subset of the Services is not similar services.

In addition, this answer has been provided in Interrogatory No. 6.

15. Regarding Interrogatory No. 15 –

WorldCom/MCI, SunCom, BellSouth, and AT&T are the authorized long distance providers for MIA. MDAD pays BellSouth and the other long distance providers, for all long distance service, and then MDAD bills MDAD's tenants for the actual cost of the service, without any mark-up WorldCom/MCI is the local and short-long distance provider (from Miami to West Palm Beach) for the County pursuant to a County contract.

In addition, this answer has been provided in Interrogatory No. 14.

16 Regarding Interrogatory No. 16 –

Failure to State a Claim - BellSouth's Amended Complaint for Declaratory and Injunctive Relief contains only speculative allegations and provides no factual evidence of a special injury. BellSouth fails to demonstrate: (i) the County is operating a light, power, or telephone utility, (ii) the utility is

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9 03 a.m

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ and NATALIE CARLOS, ESQ.,
of the firm of ADORNO & YOSS, P.A
on behalf of the Plaintiff

DAVID STEPHEN HOPE, and
CYNJI A. LEE,
Assistant Miami-Dade County Attorneys
on behalf of the Defendant

Also present:
Sharon R. Liebman, Esq , BellSouth
Jennifer Sasha Kay, Esq , BellSouth

WITNESS EXAMINATION PAGE
PEDRO J. GARCIA
BY MR. BLOOMBERG 4

EXHIBITS

EXHIBITS	FOR IDENT.
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(All exhibits are attached hereto)

(Ms Carlos and Ms. Lee were not present)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q Would you tell me your name, please, sir.

A. Pedro J. Garcia.

Q. What is your occupation?

A. Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years.

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

knowledge, who made the ultimate decision that said we are not filing this application? And if it was, who was it?

A. The decision was made not to file it? I don't know exactly who -- whose decision was it. It was communicated to me that we're not filing it or the airport wasn't filing it, and that was the extent of that.

Q Who communicated that to you?

A I don't recall who communicated it to me.

Q During the process in which there were discussions about whether or not to file the application, who did you talk to about that subject matter?

A I talked to my boss Maurice Jenkins, I talked to counsel, I talked to -- you mean as far as within the airport department?

Q Right, within the decision-making group.

A I think that's basically it, as far as me up. From me down it's -- you know, I discussed it with the person that filled out the draft. But basically it was just a discussion with my boss and counsel.

Q. But you don't know who actually made the

ultimate decision?

A. No, sir. For what it's worth, I do recall that the opinions of the process that Orlando Airport went through has some weight that I communicated to -- with people involved in the discussion at MDAD as far as not requiring a license.

Q Right.

You were sort of the investigator --

A. Right.

Q -- and found out information --

A I was putting together the information --

Q. -- and passed that on?

A. Passed it to the higher authority to make a decision one way or the other.

Q. Do you know of any airports within the state that have actually made application?

A I believe I spoke to the folks at the Tampa Airport, and they told me that they had applied but they were not providing the services. So they really didn't know -- they didn't seem to be very knowledgeable about the whole thing

Q Any other airports, to your knowledge?

A Those are the only two that I really had

contact with. As I said, the Orlando folks seemed to be very knowledgeable about the process. They had been in it for a while and they were deep into --

Q. Have you had any communications with the Public Service Commission since your e-mail to Mr. Moses back in March?

A. No, sir

Q. Verbal? Any verbal communications?

A. None that I recall, no.

Q. Do you know if Mr. Jenkins has had any contact or discussions with the Public Service Commission since mid-March of 2003?

A. I'm not aware of any, but then he doesn't tell me everything.

Q. Nobody's told you that?

A. Right.

Q. You can put that packet away, fold it up.

Are there any other entities, to your knowledge, individuals or entities that provide telecommunications services to tenants at the airports within the County?

A. Define entities. You mean other companies?

Q. Other companies, yes, businesses.

A. Sure. There are many.

Q. Who?

A. BellSouth, MCI, there's -- we're not -- the tenants do not let us know who do they do business with as far as provisioning their telecommunication services. So they could be almost anybody providing services.

Q. The ones you provide services you know you provide service to?

A. Right.

Q. But you don't know who provide services to the other --

A. Yes.

Q. But you do know there are other entities out there that provide services?

A. Yes. Within their leasehold, they can get services from anybody they want to. They don't even have to tell us who

Q. Would you classify those services as services similar to those that the County provides?

MR. HOPE: Objection to form.

A. I cannot really tell whether the services are -- you can say similar. They may or may not -- they may be more or less what we

provided but they're of the same nature.
Q. Right, voice and voice network.
A. Voice and network, right.
Q. Does the County compete with these other entities for the business out there?
A Yes, sir.
Q. Are you aware of situations where a potential customer of the County chose to go with BellSouth or MCI or some other entity?
A. Yes, sir.
Q. And they've told the County we're going elsewhere?
A. They don't tell us. They just do it. Most of the time before they even come to the airport they've already made plans to go with somebody else.
(Plaintiff's Exhibit 6 was marked for identification.)
BY MR. BLOOMBERG
Q. Let me show you what's been marked as Exhibit 6 for the purposes of the deposition and ask you first if you can tell me what it is.
A. It looks like a work order cover sheet -- a work order, work description, the work order.

Q. I mean it's a form that's used by the County?
A. Yeah, it's used by NexiraOne basically to transmit the work order information to perform work for the tenants or communicate with us for that.
Q. Up at the top it says work order processor-TSR remarks. Do you know what TSR means?
A. TSR number, I don't really know what that stands for, but it's just a number of the work order. It could be just the name of the system that produces this.
Q. It's an identifying number of some sort?
A. An identifying number for the work order.
Q. Down in the remarks it says cancel as per Holly. Do you know somebody by the name of Holly out there?
A. Holly is the person who works for NextiraOne and she's the one -- the person that does the marketing to get customers to come to our -- to provide -- to let us provide the services.
Q. This one says cancel as per Holly, customer opted to use BellSouth?

A. Right.
Q Which would indicate to you that this particular customer, and we don't know who it is, it's been redacted, but has chose to use BellSouth as its provider as opposed to the County?
A That's right.
Q. Below that it says provide quote, install one analog line in room -- whatever the room number is. Analog line is a voice line?
A. What happens is everything that NextiraOne does for us, they require permission, which is a work order to do whatever.
Q Permission from whom?
A From MDAD, from the aviation department. They work for us. We pay them for this.
Q Okay.
A So this was a work order that was issued, seems like, for them to provide -- to go out to the customer and provide a quote. Sometimes you need to install a wire or do some work to provide the service.
So she went ahead and tried to give this customer a quote, whoever the customer was, and when she got there the customer had already made arrangements for BellSouth to provide the service.

So this is just basically cancelling the work order
Q. So in this case BellSouth was apparently providing a similar service?
A. The customer picked BellSouth as a service provider which is the same service we could have provided.
MR HOPE: Objection to form
(Plaintiff's Exhibit 7 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 7 for the purposes of deposition and ask if you recognize that document.
A. Okay.
Q. Have you seen it before?
A. I'm sure I have.
Q. What is it?
A. It seems to be telling the customer -- the tenants of the airport about services that would be provided in addition to the ones that were provided before.
Q. Now, is there a change in services -- I know there was a change with Nextira in February 2002 Was there a change in services

provided after the 2002 agreement?
A. Not really. All we did was take over their operations. Whatever services they were provided before, we were going to provide. However, STS, as we see it, is not only services that Nextira provides. We're calling basically STS anything that the airport can provide, even outside the telecommunications arena.
They may need what they call a FIDS monitor to provide flight information and things like that in their back office and we -- the airport -- to provide service to all the airlines and everybody, unless there -- we can provide anything they want at a price.
Q. Okay.
A. I think it's our responsibility and also the way to --
Q. Make money?
A. -- get some money for the airport.
Q. Right.
The MDAD is in the telecommunications business?
MR. HOPE: Objection to form.
A. MDAD is in the business of lowering the landing fees to the airlines as much as possible by

producing revenue in any way we can.
Q. To the County?
A. To the County.
Q. Making money without taxing people?
A. Yes, that's right.
(Plaintiff's Exhibit 8 was marked for identification.)
BY MR. BLOOMBERG:
Q. Did the County or MDAD or anybody prepare a marketing plan?
A. Yes. We requested from NextiraOne after we purchased their infrastructure that they would prepare a marketing plan on our behalf
Q. To go out and market to tenants of the airport --
A. Yes.
Q. -- airports?
A. Um-hum.
Q. Let me show you what's been marked as Plaintiff's Exhibit No. 8 and ask you if that is a copy of the marketing plan
A. Yes.
Q. And the first page there's handwriting on it. Do you recognize the handwriting?
A. This is my boss' handwriting.

Q. Both of them? Both the page to Simone --
A. Yeah, Simone is his secretary and Pedro is me, so he was writing notes to discuss this with me. He wasn't happy with it.
Q. If you sort of skim the pages, you'll see some handwritten notes or some handwritten comments. Is all of that handwriting Mr. Jenkins' handwriting, to your knowledge?
A. It looks like it is, yes.
Q. If you go to Page 7 of the report which bears the number 000165 on the bottom, Section 2.2.1 Strengths, it says knowledge. Our competitors are Reeboks, and then the handwritten note, Regional Bell Operating Company --
A. RBOX.
Q. RBOX, Reeboks --
A. That's an industry thing.
Q. You're right. Regional Bell Operating Companies, whose handwriting is that? Is that Mr. Jenkins', to your knowledge?
A. That could have been me just to clarify what the name meant.
Q. And BellSouth is one of those RBOX; correct?

A. Yes, sir.
Q. So then this marketing plan acknowledges, does it not, that BellSouth and MDAD are competitors in this venture or in this business?
A. Correct. Actually, this term is out of date. The person that wrote this is talking like some many years back.
Q. Right.
A. The correct term is --
Q. Right.
A. But it means that.
Q. BellSouth?
A. BellSouth or any other service provider
Q. Are you familiar with it as it relates to what's going on at the airport? Are you familiar with the Miami-Dade County, Florida Home Amendment Charter as it relates to the operation of this kind of this business? Have you ever looked at it?
A. As it refers to the operation of the airport?
Q. The telecommunications business at the airport
A. No, I can't say that I'm --

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of Florida or at least within this region because it is --
A. There's 29, I believe.
Q. 29 what?
A. Utilities in the state of Florida as far as BellSouth.
Q. Because of the scope of regulation?
A. Because they're the carrier of last resort in the area in which they serve.
Q. Do you have any idea why the charter uses the phrase the County shall not operate a telephone utility? I realize you didn't draft the charter provision, but have you ever had a discussion with anybody as to why that phrase is there?
MR. HOPE. Objection to form.
A. I have no idea why that's there.
Q. Correct me if I'm wrong, we've already gone through the fact that apparently it may not be the exact same service, but BellSouth, for example, offers similar services to tenants at the airport?
MR. HOPE: Objection to form.
A. We provide services to the tenants of the airport which is a County-owned facility.
Q. I'm just asking if BellSouth offers

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similar service to those tenants.
A. Yes, they do.
Q. And is the airport a territory in the County?
A. The airport is a County-owned facility. That's a legal interpretation I don't believe we consider the airport to be a territory It's a County-owned building or facility I'm not an attorney Again, my opinion But if you ask my opinion, I would consider territory a neighborhood, West Miami, Coral Gables; those are territories.
A County-owned facility, I don't consider that to be a territory, but that's my interpretation.
Q Why not?
A Why not? It's just the definition that -- the meaning that I attach to the word.
Q What meaning do you attach to the word territory?
A A territory is a more -- it's not something that you own. It's something that is owned collectively by other folks, collectively or independently, and there are certain amounts of legal control over that territory but that's -- the Miami International Airport is an owned facility by

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the County. We don't own Coral Gables, the County doesn't own West Miami, but they own the Miami International Airport.
And if I could go further, I would probably say the intent of this was basically to reassure the utilities that we would not complete, we meaning by Miami-Dade County will not compete with them to provide services to neighborhoods and other neighborhoods that would be competing with them
Q. Miami International Airport is within the physical geographic boundaries of Miami-Dade County, is that a fair statement?
A. Yes, sir.
Q. As are the two other airports, Tamiami and Opa-Locka, to which the County provides similar services?
A. Yes
Q. Does the County provide telephone services at other locations, to your knowledge, within the geographical boundaries of Miami-Dade County?
A. Miami-Dade County has telephone equipment and network equipment similar to what's in at the Miami International Airport only in

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County-owned facilities.
The County does not provide services to buildings and -- or -- that have nothing to do -- or tenants that have nothing to do with the government operation.
Q. Correct me if I'm wrong, are those facilities serving the County itself?
A. It's serving the County employees.
Q. The County employees?
A. And by the way -- and then we'll connect to BellSouth for the outside --
Q. I understand that. But what I'm asking you is other than at the airports, does the County provide telephone service, for example, to people or entities other than County employees anyplace else within the County?
A. Not to my knowledge It's no different than the owner of this building having their own telephone switch and providing dial tone to people that live in the building.
Q. I'm just saying --
A. That's the extent, as far as I know
Q. I'm just trying to understand
Let's do it this way. We've agreed earlier in the deposition that MDAD is engaged in

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Q Well, this agreement only refers to Miami Dade County, doesn't it?
A Well, I'm trying to be accurate.
Q I understand. I understand I mean the agreement itself is only operating in Miami-Dade County; correct? Your agreement with Nextira is to cover airports in Miami-Dade County, not anything else?
A. Actually the way -- it's anybody that can provide dial tone to -- to access to a public network. That's what it refers to the local exchange -- local exchange -- an existing local exchange telecommunications company. So you can get dial tone from MCI or anybody else. So that's what it's --
Q. And clearly shared airport tenant services contemplates the competition between various telecommunications providers, is that a fair statement?
MR. HOPE Objection to form.
A. I'm sorry. Can you --
Q. Let me rephrase it.
This paragraph makes reference to the fact that the services that MDAD is going to provide compete with other providers?

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A. Yes
Q. Okay Because they're providing similar services?
A. Yes.
Q. MDAD is providing services similar to other providers?
MR. HOPE: Objection to form.
A Yes. I'm assuming in all of this, you're keying on telecommunication services and the airport provides not only those but a lot of other services to them from the airport. But your question was specifically directed towards the telecommunications --
Q. Yes. The fact that the airport provides in-flight communications to people --
A. No. I'm saying monitors for flights and additional microphones, others -- we provide everything that we can provide to tenants of the airport, and telecommunication is just one of those things
Q. Right.
We're talking about telecommunications here.
A. Okay.
Q. Now, if you turn to Article 4 which

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begins on Page 10 of the agreement, it talks about what contractor is required to provide. Do you see that just starting off above the letter A? And the contractor is NextiraOne?
A Um-hum
Q And there's a list of what NextiraOne is going to be doing; is that correct?
A Yes.
Q. And those are all operations that NextiraOne is going to be providing under the supervision and control of MDAD?
A Yes.
Q Was MDAD the final authority, in other words, MDAD had to approve things?
A. Yes, MDAD is the final authority and the County as far as --
Q. Well, the County --
A. Right.
Q. And all of these things that Nextira is supposed to do pursuant to this agreement are things that a telecommunications company, telephone utility would also do --
MR. HOPE: Object to form.
Q. -- is that a fair statement?
A. No. Like I said, the MDAD provides

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services to the tenants way in addition to whatever the telecommunications companies do.
Q. Okay.
A. And I'm not talking about in-flight services. We don't provide that.
Q. Let me rephrase the question
MDAD is providing a greater amount of services than a telecommunications company would do?
A. Yes
Q. Some of the services that MDAD provides through NextiraOne are the same services that a telecommunications company would provide?
A. That's correct.
Q. For example, manage the existing voice and data is something that a telecommunications company would do?
A. If we engage them to.
Q. Could do?
A. Yes, could.
Q. Routine installations of telephone lines are something that a telecommunications company would do?
A. Yes.
Q And I understand that MDAD does more

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DADE COUNTY, FLORIDA

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1-24-02
R-31-02

NON-EXCLUSIVE TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES MANAGEMENT AGREEMENT



Comp 13
5-21-03

made as of the 1ST day of February in the year Two Thousand and Two

Between the County: **Miami-Dade County Florida**, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns

AND THE CONTRACTOR: **NEXTIRAONE, LLC**
2800 Post Oak Boulevard
Suite 200
MD 25-12
Houston, Texas 77056

Which term shall include its officers, partners, employees, successors, legal representatives and assigns.

Description of the Project: Provides for the operations, management, maintenance, service; support and equipment and supplies of certain telecommunications and data network, infrastructure, hardware and software systems for Miami-Dade Aviation Department as more specifically herein.

1.28 **Project Manager:** The chief of the MDAD Telecommunications Section, or his or her designee. The primary responsibilities of the Project Manager are to coordinate and communicate with the Contractor and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement All parties may rely on the instructions or determinations made by the Project Manager, provided, however, that such instructions and determinations do not change the Scope of Services or modify the terms and conditions of this Agreement The County shall from time to time provide written notice to the Contractor designating the assigned Project Manager.

1.29 **Reimbursable Expenses:** Those expenses delineated in the Payments and Costs Reimbursable article, of this Agreement which are separately approved by the County that are incurred by the Contractor in fulfillment of this Agreement.

1.30 **Risk Management Division:** A division of Miami-Dade County, with offices in the Stephen P. Clark Center, 111 N.W. 1st Street, Miami, FL 33128.

1.31 **Services:** All services, work and actions by the Contractor performed pursuant to or undertaken under this Agreement.

1.32 **Shared A irport T enant Service ("SATS"):** The provision of service which duplicates or competes with local service provided by an existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

1.33 **Software:** Is defined as any set of one or more computer or telephone system programs which is composed of routines, subroutines, c oncepts, p rocesses, algorithms, formulas, ideas, or know-how severally owned by or licensed by the County and/or any one of its suppliers, regardless of the particular delivery media in or on which such intangible assets may be embodied. Software shall also include any corrections, patches, updates, or revisions to Software originally provided.

1.34 **Sub-System:** The integrated systems; including voice mail, automated attendants, automatic call distributors, customized control routing, power supplies, remote access devices, battery back-up units, integrated voice response, uninterruptible power supplies, and any related and embedded Software reporting products so designated by the County.

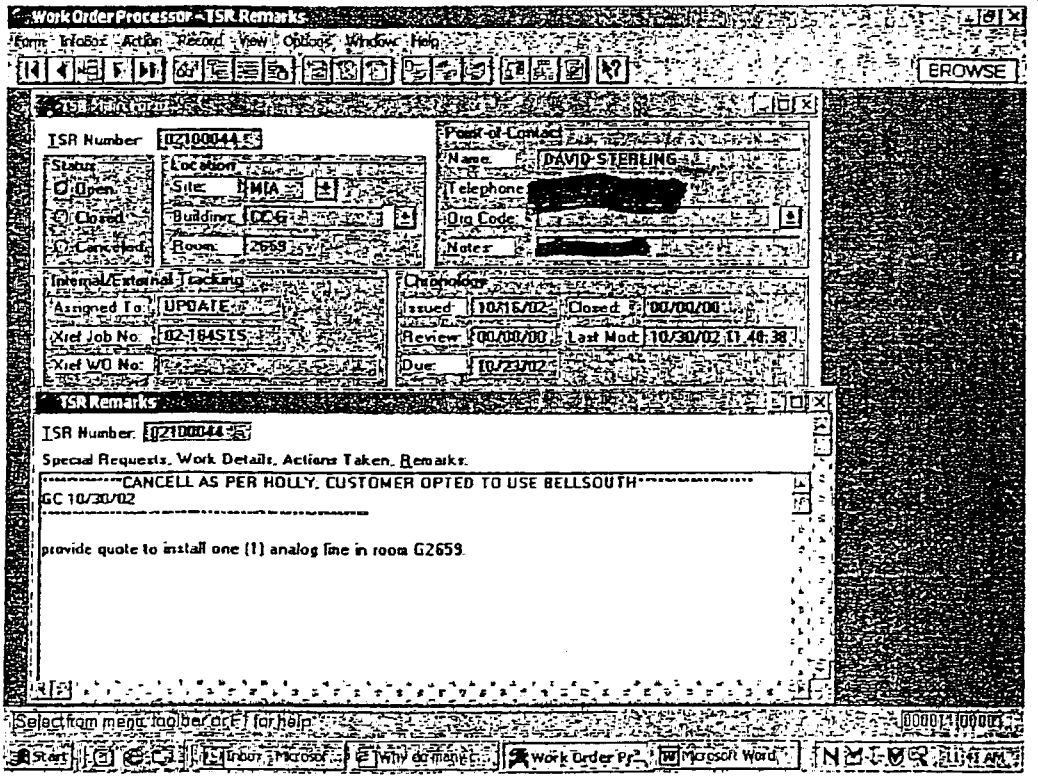
1.35 **System:** The telecommunications system, which may include Equipment, switches, Sub-Systems, related Software, and peripheral equipment. As u sed in t his Agreement, the terms System and switch have equal meaning.

1.36 **Tenant:** Shall mean any individual, company, or business located at any of the

PLAINTIFF'S EXHIBIT

6

5-21-03 LWS



BS V. MDC(1) 005375

PLAINTIFF'S EXHIBIT
7
5-21-03 LWS

MEMORANDUM

TO: Miami International Airport Tenants & Business Partners

DATE: 09/17/01

SUBJECT: Operational Directive No. 01-01 MDAD Provided Shared Tenant Services - Communication Systems and Infrastructure

FROM: Carol Ann Klein
Manager, Aviation Properties/ Commercial Operations

Attached for your information please find Operational Directive No. 01-01 which became effective on August 28, 2001. This document provides policies and procedures for the development, establishment, modification, and maintenance of the Miami-Dade Aviation Department provided Shared Tenant Services (STS) for communication systems and infrastructure.

CAK/sacm

METROPOLITAN DADE COUNTY, FLORIDA

METRO-DADE

AVIATION DEPARTMENT
PO BOX 592075
MIAMI, FLORIDA 33159-2075
(305) 876-7000

OPERATIONAL DIRECTIVE NO. 01-01

Effective date: August 28, 2001

SUBJECT: Miami-Dade Aviation Department Provided Shared Tenant Services – Communication Systems and Infrastructure

PURPOSE: To establish policies and procedures for the development, establishment, modification, and maintenance of the Miami-Dade Aviation Department (MDAD) provided Shared Tenant Services (STS) for communication systems and infrastructure.

I. BACKGROUND:

A. The existing Miami International Airport (MIA) Network, Telephone, and STS contracts expire on February 6, 2002. Several STS presently provided to airport tenants through these and other contracts will become the responsibility of MDAD. These services include:

1. Voice telephone service,
2. Common Use Terminal Equipment (CUTE),
3. Network Data Services, and
4. Commercial Service Providers access to tenants on airport property using MDAD provided cable plant infrastructure.

B. In the future, other STS may be provided including but not limited to:

1. Security CCTV,
2. Internet Access,
3. Network Server Storage,
4. E-mail,
5. Wireless connectivity (voice and data), and
6. Other information technology services.

C. The MDAD management goal is to provide better service at lower rates than the existing provider or any other commercial service provider.

BS V. MDC(1) 000006

PSC 6520

II. **AUTHORITY:**

All commercial telecommunications carriers doing business at the airports shall provide services to MDAD and airport tenants in accordance with the Florida Public Service Commission Rules for Shared Tenant Service which state in part:

> *"Rules For Shared Tenant Service 25-24.575 Shared Tenant Service Operations Page 7 of 8 section (5) (d.) 3. (7)*
>
> *The carrier of last resort of local exchange telecommunication services shall use the STS provider's or the STS building owner's cable, if made available, to gain access to the tenant. The carrier of last resort of local exchange telecommunication services shall be required to provide reasonable compensation. Such compensation shall not exceed the amount it would have cost the carrier ... to serve the tenant through installation of its own cable."*
>
> *Source:* http://www.psc.state.fl.us/industry/telecomm/sts/stsrules.pdf

III. **DEFINITIONS:** None.

IV. **POLICY**: Tenants may elect to use MDAD services provided at below comparable service commercial rates. A published rate schedule fees and charges shall be established in accordance with the provisions of subsection 25-1.2 (a) hereof (Ord. No. 88-37, § 2, *5-3-88;* Ord No. 95-41, §§ *36,* 37, *3-7-95).*

V. **GUIDELINES:**

A. **Rate Setting**

Final setting of telephone and other STS rates will be done after the existing STS and MIA Network contract buyout negotiations have been completed Fees for STS will be calculated based on installed costs amortized over an appropriate number of years for the various devices life cycle, plus actual annual administrative, operating and maintenance costs. When finalized, schedules, rates and method of calculation will be published.

Business Management will annually develop or update the rates as part of the budget cycle, and notify affected parties of their specific rate changes including MDAD Divisions, tenants, and commercial telecommunications service providers.

B. **Public Dissemination**

Business Management will make proper distribution of the official document and will also provide an electronic file copy to the Information Systems Division to be posted in an application providing public dissemination of the OD.

C. **Effective Date**

The effective date of this OD will be 15 days after being recorded with the Clerk of the Circuit Court as Clerk of the County Commission. Unless otherwise stated in this document, these procedures will remain in effect until revoked or modified.

D. **Amendments**

The Department reserves the right to amend ODs at any time and from time to time and copies of such amendments will be mailed to all affected parties who register with the Aviation Department.

VI. **SUNSET PROVISIONS:**

None.

VII. **SEVERABILITY:**

If any court of competent jurisdiction determines that any provision in this OD is illegal or void, the remainder of the OD shall continue in full force and effect.

VIII. **REVOCATION:** None.

IX. **CROSS REFERENCE:** None.

Angela Gittens, Aviation Director

Date 8/10/01

Westlaw.

West's F.S.A. § 364.339

C
West's Florida Statutes Annotated Currentness
Title XXVII Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I General Provisions

→364.339. Shared tenant service; regulation by commission, certification; limitation as to designated carriers

(1) The commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which

(a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and

(b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company

(2) No person shall provide shared tenant service without first obtaining from the commission a certificate of public convenience and necessity to provide such service. The commission shall grant certificates to telecommunications companies upon showings that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services. The commission may require such service to be offered and priced differently to residential and commercial tenants if deemed to be in the public interest.

(3)(a) Shared tenant services provided to government entities pursuant to this section are exempt from paragraph (1)(b), and the commission may exempt such entities from any certification requirements imposed by this chapter.

(b) As provided in subsection (4), the commission may authorize such service notwithstanding the provisions of s. 364.335. The commission may prescribe the type, extent, and conditions under which such service may be provided and may exempt such service, except appropriate certification, from commission regulation.

(4) In determining whether the actions authorized by subsections (1) and (2) are consistent with the public interest, the commission shall consider the following:

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EXHIBIT
tabbies
PSC-9

West's F.S.A. § 364.339

(a) The number of firms providing the service.

(b) The availability of the service from other firms or the local exchange telecommunications company

(c) The quality of service available from alternative suppliers.

(d) The effect on telecommunications service rates charged to customers of the local telecommunications company.

(e) The geographic extent of the service to be provided.

(f) Any other factors which the commission deems relevant.

(5) The offering of shared tenant service shall not interfere with or preclude a residential or commercial tenant's right to obtain direct access to the lines and services of the telecommunications company or the right of the telecommunications company to serve the residential or commercial tenant directly under the terms and conditions of the commission-approved tariffs.

CREDIT(S)

Added by Laws 1986, c. 86-270, § 1, eff. July 9, 1986. Amended by Laws 1990, c. 90-244, § 40, eff Oct. 1, 1990, Laws 1995, c. 95-403, § 27, eff. July 1, 1995; Laws 1998, c. 98-277, § 15, eff. May 28, 1998.

HISTORICAL AND STATUTORY NOTES

Prior Provisions for Legislative Review of Regulatory Statutes:

Laws 1986, c. 86-270, § 2, provided for repeal of this section October 1, 1989, and review pursuant to § 11 61, the Regulatory Sunset Act

LIBRARY REFERENCES

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tenant services, the County is still operating a telecommunications company, and thus a telephone utility, in violation of the Charter, and the County is still subject to FPSC jurisdiction by virtue of its operation as a telecommunications company.

45. MIA and the Other Airports are territories in Miami-Dade County.

46. BellSouth has standing to bring this action because it has a special injury resulting from the County's violation of Section 1.01(A)(14)(B) of the Charter, as it relates to the operation of a telephone utility by the County.

47. Specifically, BellSouth's injuries are different in kind from that of the general public. The County's operation of a telephone utility in violation of the Charter affects BellSouth's business opportunities with, and potential income from, customers at MIA and the Other Airports.

48. BellSouth also has standing to compel the County to comply with its statutory and regulatory obligations under Chapter 364, Florida Statutes, because those statutes and related rules expressly govern all telecommunications companies and the provision of telecommunications services.

49 The statutory scheme explicitly promotes and seeks to ensure fair and effective competition amongst telecommunications companies, including BellSouth and the County.

50. Finally, BellSouth has standing to bring this action because it is challenging the constitutionality of the County's Resolutions purporting to authorize the County to operate a telecommunications company independently, and in direct conflict with, general

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FT. LAUDERDALE, FLORIDA 33331

legislative authority may not impose such a burden. *See Gulf & Eastern Dev. Corp. v. City of Fort Lauderdale*, 354 So. 2d 57, 61 (Fla. 1978) Accordingly, general legislative authority allowing the County to operate a telephone utility does not excuse the County from complying with the procedural requirements in its Charter before it exercises that power.

2. **BellSouth has standing to bring this action as a corporate citizen that has been "affected" by the County's *ultra virus* acts.**

Notwithstanding that the Court already ruled against the County in its attempt to dismiss this action on the ground that BellSouth lacked standing, the County reargues the issue by claiming that (1) BellSouth is a foreign corporation and not a "citizen" or "resident" of Miami-Dade County, and (2) BellSouth has no special injury (Motion at 9-13). First, nothing in the Charter or Florida law limits the definition of "citizen" to only natural persons residing in the County. Indeed, courts have historically afforded corporate entities standing as "citizens" to attack regulations that affect corporations. *See Kathleen Citrus Land Co. v. City of Lakeland*, 169 So. 356, 357 (Fla. 1936) ("[A] corporation . . . is a person in law and a resident and citizen of the city . . . within the meaning of laws defining the jurisdiction of courts or otherwise relating to citizens if the purpose of the law renders it applicable"); *Florida Wildlife Fed'n v. State Dept. of Envtl. Regulation*, 390 So 2d 64, 68 (Fla 1980) ("[M]ost courts . . . have concluded that corporations are citizens for the purpose of pursuing rights granted to citizens"); *Save Brickell Ave., Inc. v. City of Miami*, 393 So. 2d 1197, 1198 (Fla 3d DCA 1981) (holding that the corporate plaintiff "has standing to attack the enactment in question on the ground . . . that it is void or invalid because 'the required notice was not given'")

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The County's assertions are a red herring at best. Although BellSouth may be a foreign corporation organized under the laws of the State of Georgia, it is registered with the Florida Department of State to do business in Florida, including Miami-Dade County. A copy of the Certificate of Authority from the Florida Department of State evidencing BellSouth's authority to do business in Florida is attached as Exhibit A. Accordingly, BellSouth has the same rights, privileges and liabilities as a domestic corporation of like character. *See* § 607.1505(2), Fla Stat. (2003).[2]

Second, BellSouth does not have to prove a special injury different in kind from the general public. Where a local government is alleged to have violated procedural requirements imposed by its charter, a plaintiff need only show that it is "affected" by the void act to establish standing. *See Renard v. Dade County*, 261 So. 2d 832, 838 (Fla 1972) (holding that "any *affected* resident, citizen or property owner of the governmental unit in question has standing" to "attack a zoning ordinance which is void because not properly enacted, as where required notice was not given") (emphasis added); *Rhodes v. City of Homestead*, 248 So. 2d 674, 674-75 (Fla. 3d DCA 1971) (holding that requirement of special injury "has no application where a person affected seeks to challenge such action of the city on the ground that the action was illegal, or that the proceedings before the city council which resulted in such action were conducted *contrary to the provisions of the charter* . . "); *Kelner v. City of Miami Beach*, 252 So 2d 870, 871 (Fla 3d DCA 1971) (holding that no special injury is required when challenging municipal action that was conducted *contrary to the provisions of the charter*), *aff'd sub nom* , *S. P. J. Corp. v Kelner*, 268 So. 2d 373 (Fla.

[2] BellSouth also pays substantial taxes to the County for conducting business here. If necessary, BellSouth will produce copies of its tax bills *in camera* to the Court.

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1972); *Save Brickell Ave.*, 393 So. 2d at 1198 (holding that corporate plaintiff has standing to attack resolution that is void or invalid because the required notice was not given); *City of Miami v. Save Brickell Ave., Inc.*, 426 So. 2d 1100, 1102-03 (Fla. 3d DCA 1983) (holding that corporate plaintiff has standing to attack how ordinance was enacted without first showing special injury). There is no dispute that BellSouth, as a provider of telecommunications services at MIA, is affected by the County's actions. Accordingly, it has standing to challenge the County's actions as not complying with the procedural requirements imposed by the Charter.

The cases the County cites to support that a special injury is required (Motion at 11, n.11) are inapposite. Those cases do not involve allegations that the local government violated *procedural* requirements imposed by its charter resulting in a void act. Rather, they each involved allegations that the local government failed to comply with *substantive* requirements by either violating a zoning ordinance, *see Boucher v. Novotny*, 102 So. 2d 132 (Fla. 1958), *Jack Eckerd Corp. v. Michels Island Village Pharmacy, Inc.*, 322 So. 2d 57 (Fla. 2d DCA 1975);[3] failing to abate a public nuisance, *see Brown v. Florida Chautauqua Ass'n*, 52 So. 802 (Fla. 1910), or violating a statute, *see City of Sarasota v. Windom*, 736 So. 2d 741 (Fla. 2d DCA 1999).[4] Indeed, as the Second District noted in *Windom*, a showing of special

[3] As the Florida Supreme Court clarified, "the *Boucher* rule" that special injury is required was intended only to apply to zoning violations by the city, not to challenges of alleged void acts *See Renard*, 261 So. 2d at 835. Indeed, *Boucher* has been subject to much criticism even in zoning violation cases. *Id.* at 835, n.6.

[4] The County also cites to *Renard*, 261 So. 2d 832, as support, but that case clearly holds that no special injury is required where a citizen attacks an ordinance as void where the city did not follow the proper procedural requirements in enacting that ordinance. *See id* at 838; *Kelner*, 268 So. 2d at 374.

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injury was required only because no allegations of "procedural irregularities" to the local government's legislation were raised. 736 So. 2d at 743.

Even if special injury is required, the County's own evidence establishes that the County competes with BellSouth and other providers (Garcia depo. at 28); that its marketing plan is to target BellSouth as its competitor (Garcia depo. Ex. 8, p. 7, 9, 15); that one of its "financial objectives" is to increase its customer base by 45% over a 5-year period (Garcia depo. Ex. 8, p. 12); that the County's "goal is to provide better service at lower rates than the existing provider or any other commercial provider" (Garcia depo. Ex. 7, p. 2); that the marketing strategy is to differentiate [them]selves from the competition" (Garcia depo. Ex. 8, p. 12); and that presently tenant/customers at MIA can either opt to use telecommunications services supplied by the County or by other providers, including Bellsouth (Garcia depo Ex. 5).

Accordingly, the fact that BellSouth is prevented from receiving the potential economic benefits of providing telecommunications services to the County's customers, and that the County's marketing goal is to lure customers away from BellSouth, is sufficient to establish injury. *See, e.g., City of Lynn Haven v. Bay County Council of Registered Architects, Inc.*, 528 So. 2d 1244, 1246 (Fla. 1st DCA 1988) (holding that professional architect organization has standing where its members were unable to receive "the potential professional and economic benefits which would have resulted from selection as the project architect."); *Harbour Beach Surf Club, Inc. v. Water Taxi of Fort Lauderdale, Inc.*, 711 So. 2d 1230, 1232-1233 (Fla. 4th DCA 1998) (holding that private water taxi company that sued city to remove footbridge as public nuisance established a special injury where footbridge adversely affected its "business of accommodating the traveling public on the water")

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Despite the uncontradicted evidence that the County is competing with BellSouth, the County contends that BellSouth is not injured because (1) the County pays BellSouth for certain telecommunications services, and (2) other companies, such as WorldCom and AT&T, are also long distance providers at MIA (Motion at 10-11, 12-13). That BellSouth is paid for its telecommunications services provided to the County in no way negates BellSouth's injury arising from the County's actions. Contrary to the County's assertion, BellSouth does not have to show it is not profitable at all at MIA because of the County's actions, only that it is suffering potential economic loss from the County's action. *See City of Lynn Haven*, 528 So. 2d at 1246. Accordingly, BellSouth has a clear legal right as a corporate citizen to bring this action against the County to enjoin it from violating its own Charter.

3. A "telephone utility" is not a "public utility" and does not have to offer services to the public at large.

The County next argues that its provision of expansive telecommunications services at MIA does not constitute operations as a "telephone utility" under the Charter because the services are not offered to the general public indiscriminately, as required for a service to be a "public utility" (Motion at 15-17). Once again, the County misses the point.

The relevant inquiry is not whether the County operates a "*public* utility," but a "*telephone* utility." The Florida statutory definition of a "public utility" does not include the provision of telephone service. *See* § 366.02, Fla. Stat. (defining "public utility" as an entity

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IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ., of the firm of ADORNO & YOSS, P.A. on behalf of the Plaintiff

DAVID STEPHEN HOPE, and CYNJI A. LEE, Assistant Miami-Dade County Attorneys on behalf of the Defendant

Also present:
Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS EXAMINATION PAGE
PEDRO J. GARCIA
BY MR. BLOOMBERG 4

EXHIBITS

EXHIBITS	FOR IDENT.
1	8
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(All exhibits are attached hereto.)

(Ms. Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG

Q. Would you tell me your name, please, sir.

A. Pedro J. Garcia

Q. What is your occupation?

A. Chief of telecommunications of the Miami-Dade Aviation Department

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

provided but they're of the same nature.
Q. Right, voice and voice network.
A Voice and network, right.
Q. Does the County compete with these other entities for the business out there?
A Yes, sir.
Q Are you aware of situations where a potential customer of the County chose to go with BellSouth or MCI or some other entity?
A Yes, sir.
Q And they've told the County we're going elsewhere?
A. They don't tell us. They just do it. Most of the time before they even come to the airport they've already made plans to go with somebody else.
(Plaintiff's Exhibit 6 was marked for identification.)
BY MR BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 6 for the purposes of the deposition and ask you first if you can tell me what it is.
A. It looks like a work order cover sheet -- a work order, work description, the work order.

Q. I mean it's a form that's used by the County?
A. Yeah, it's used by NextiraOne basically to transmit the work order information to perform work for the tenants or communicate with us for that
Q. Up at the top it says work order processor-TSR remarks. Do you know what TSR means?
A. TSR number, I don't really know what that stands for, but it's just a number of the work order. It could be just the name of the system that produces this.
Q. It's an identifying number of some sort?
A. An identifying number for the work order.
Q. Down in the remarks it says cancel as per Holly. Do you know somebody by the name of Holly out there?
A. Holly is the person who works for NextiraOne and she's the one -- the person that does the marketing to get customers to come to our -- to provide -- to let us provide the services.
Q. This one says cancel as per Holly, customer opted to use BellSouth?

A Right.
Q Which would indicate to you that this particular customer, and we don't know who it is, it's been redacted, but has chose to use BellSouth as its provider as opposed to the County?
A. That's right
Q. Below that it says provide quote, install one analog line in room -- whatever the room number is. Analog line is a voice line?
A. What happens is everything that NextiraOne does for us, they require permission, which is a work order to do whatever
Q. Permission from whom?
A. From MDAD, from the aviation department. They work for us. We pay them for this.
Q. Okay
A. So this was a work order that was issued, seems like, for them to provide -- to go out to the customer and provide a quote. Sometimes you need to install a wire or do some work to provide the service.
So she went ahead and tried to give this customer a quote, whoever the customer was, and when she got there the customer had already made arrangements for BellSouth to provide the service.

So this is just basically cancelling the work order.
Q. So in this case BellSouth was apparently providing a similar service?
A. The customer picked BellSouth as a service provider which is the same service we could have provided.
MR. HOPE: Objection to form.
(Plaintiff's Exhibit 7 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 7 for the purposes of deposition and ask if you recognize that document.
A. Okay.
Q. Have you seen it before?
A. I'm sure I have
Q. What is it?
A. It seems to be telling the customer -- the tenants of the airport about services that would be provided in addition to the ones that were provided before.
Q Now, is there a change in services -- I know there was a change with Nextira in February 2002. Was there a change in services

provided after the 2002 agreement?
A. Not really. All we did was take over their operations. Whatever services they were provided before, we were going to provide. However, STS, as we see it, is not only services that Nextira provides. We're calling basically STS anything that the airport can provide, even outside the telecommunications arena.
They may need what they call a FIDS monitor to provide flight information and things like that in their back office and we -- the airport -- to provide service to all the airlines and everybody, unless there -- we can provide anything they want at a price.
Q. Okay.
A. I think it's our responsibility and also the way to --
Q. Make money?
A. -- get some money for the airport.
Q. Right.
The MDAD is in the telecommunications business?
MR. HOPE: Objection to form.
A. MDAD is in the business of lowering the landing fees to the airlines as much as possible by

producing revenue in any way we can.
Q To the County?
A. To the County.
Q Making money without taxing people?
A Yes, that's right.
(Plaintiff's Exhibit 8 was marked for identification.)
BY MR. BLOOMBERG:
Q Did the County or MDAD or anybody prepare a marketing plan?
A Yes. We requested from NextiraOne after we purchased their infrastructure that they would prepare a marketing plan on our behalf.
Q To go out and market to tenants of the airport --
A. Yes.
Q -- airports?
A Um-hum.
Q. Let me show you what's been marked as Plaintiff's Exhibit No. 8 and ask you if that is a copy of the marketing plan.
A. Yes
Q And the first page there's handwriting on it. Do you recognize the handwriting?
A. This is my boss' handwriting.

Q. Both of them? Both the page to Simone --
A. Yeah, Simone is his secretary and Pedro is me, so he was writing notes to discuss this with me. He wasn't happy with it.
Q. If you sort of skim the pages, you'll see some handwritten notes or some handwritten comments. Is all of that handwriting Mr. Jenkins' handwriting, to your knowledge?
A. It looks like it is, yes.
Q. If you go to Page 7 of the report which bears the number 000165 on the bottom, Section 2.2.1 Strengths, it says knowledge. Our competitors are Reeboks, and then the handwritten note, Regional Bell Operating Company --
A. RBOX.
Q. RBOX. Reeboks --
A. That's an industry thing.
Q. You're right. Regional Bell Operating Companies, whose handwriting is that? Is that Mr. Jenkins', to your knowledge?
A. That could have been me just to clarify what the name meant
Q. And BellSouth is one of those RBOX; correct?

A. Yes, sir.
Q. So then this marketing plan acknowledges, does it not, that BellSouth and MDAD are competitors in this venture or in this business?
A Correct Actually, this term is out of date The person that wrote this is talking like some many years back
Q Right.
A The correct term is --
Q Right.
A But it means that.
Q BellSouth?
A BellSouth or any other service provider.
Q Are you familiar with it as it relates to what's going on at the airport? Are you familiar with the Miami-Dade County, Florida Home Amendment Charter as it relates to the operation of this kind of this business? Have you ever looked at it?
A As it refers to the operation of the airport?
Q. The telecommunications business at the airport
A. No, I can't say that I'm --

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION
CASE NO: 02-23658 CA 03

BellSouth Telecommunications, Inc.

Plaintiff(s),

vs.

Miami Dade County

Defendant(s).

ORDER
GRANTING/DENYING
PLAINTIFF'S/DEFENDANT'S
Motion for Summary Judgment
on Standing Issue

THIS CAUSE having come on to be heard on October 22, 2003
on Plaintiff's/Defendant's Motion
Motion for Summary Judgment on the standing issue
and the Court having heard argument of counsel, and being otherwise advised in the premises, it is hereupon

ORDERED AND ADJUDGED that said Motion be, and the same is hereby
Denied

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this 22nd day of
October, 2003

OCT 22 2003

Judge Stuart M. Simons
CIRCUIT COURT JUDGE

Copies furnished to: Counsel of Record

117.01-554 1/03

tenant services, the County is still operating a telecommunications company, and thus a telephone utility, in violation of the Charter, and the County is still subject to FPSC jurisdiction by virtue of its operation as a telecommunications company.

45. MIA and the Other Airports are territories in Miami-Dade County.

46. BellSouth has standing to bring this action because it has a special injury resulting from the County's violation of Section 1.01(A)(14)(B) of the Charter, as it relates to the operation of a telephone utility by the County.

47. Specifically, BellSouth's injuries are different in kind from that of the general public. The County's operation of a telephone utility in violation of the Charter affects BellSouth's business opportunities with, and potential income from, customers at MIA and the Other Airports.

48. BellSouth also has standing to compel the County to comply with its statutory and regulatory obligations under Chapter 364, Florida Statutes, because those statutes and related rules expressly govern all telecommunications companies and the provision of telecommunications services.

49 The statutory scheme explicitly promotes and seeks to ensure fair and effective competition amongst telecommunications companies, including BellSouth and the County.

50 Finally, BellSouth has standing to bring this action because it is challenging the constitutionality of the County's Resolutions purporting to authorize the County to operate a telecommunications company independently, and in direct conflict with, general

Bank of America Tower
Suite 1100
100 Southeast 2nd Street
Miami, Florida 33131

LASH&GOLDBERG

Weston Corporate Centre
Suite 400
2500 Weston Road
Ft. Lauderdale, Florida 33331

IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

2601 South Bayshore Drive
Miami, Florida
May 21, 2003
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition in the above cause.

APPEARANCES:
MITCHELL R. BLOOMBERG, ESQ. and NATALIE CARLOS, ESQ., of the firm of ADORNO & YOSS, P.A. on behalf of the Plaintiff

DAVID STEPHEN HOPE, and CYNJI A. LEE, Assistant Miami-Dade County Attorneys on behalf of the Defendant

Also present:
Sharon R. Liebman, Esq., BellSouth
Jennifer Sasha Kay, Esq., BellSouth

WITNESS	EXAMINATION	PAGE
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	BY MR. BLOOMBERG	4

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(All exhibits are attached hereto.)

(Ms. Carlos and Ms. Lee were not present.)

Thereupon--

PEDRO J. GARCIA

was called as a witness and, after having been first duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

BY MR. BLOOMBERG:

Q. Would you tell me your name, please, sir.

A. Pedro J. Garcia.

Q. What is your occupation?

A. Chief of telecommunications of the Miami-Dade Aviation Department.

Q. How long have you held that position?

A. About two years, give or take a couple months.

Q. How long have you been with the County?

A. About 15 years.

Q. Take me through your positions with the County.

A. I started as a Telecommunications Engineer III which is a senior position. The

certificate?
A. We were not providing the services.
Q. Now the County is providing the services; is that correct?
A. Now the County, yes, is providing the equipment. We own the equipment.
Q. You own the equipment and Nextira is a subcontractor?
A. Is a subcontractor.
Q. Is it still your position now that the County does not need a certificate?
A. It was -- the position of the Miami-Dade Aviation Department at this time is that the airport is exempt from obtaining a certificate.
Q. All aspects, regardless of who the end-user is, the airport is exempt from obtaining a certificate, is that correct?
MR. HOPE: Objection to form.
A. It's exempt because the tenants are located in the airport property and the airport belongs to Miami-Dade County. We're not going outside those boundaries.
Q. Now, do the tenants use the phones, for example, to make calls outside?
A. Through BellSouth lines, yes. In other

words, we buy services from BellSouth to go into a public network. The minute the connection goes to outside the airport to the public network, that is services provided by BellSouth and another carrier.
Q. Correct, but the County bills for those services?
MR. HOPE: Objection to form.
A. We get billed by BellSouth and then we in turn bill --
Q. The customer?
A. -- the customer.
Q. Attached to Exhibit -- David has it.
MR. HOPE: 2.
Q. The customer list, Exhibit 2, that's as of February 3rd -- February of 2003?
A. Um-hum.
Q. To your knowledge, is that list accurate today or has it changed?
A. To my knowledge, it was accurate at the time it was published. Since then some people have gone out of business and we may have added a couple more people -- more customers but, you know, it's pretty much --
Q. Would you know, for example, by looking at this list who's out of business or who's been

added?
A. No, not right off the top of --
Q. The list has what I would call four categories, is that airlines, government agencies, concessions/others, management companies.
Is that the way the County maintains a list of its customers, in those categories?
A. This is the list. We don't have any other way to maintain it. This is just for our own differentiation, if you want to call it that, of the different types of people that we serve.
Q. And are the same telecommunications services available to all of the customers; regardless of whether they buy them all, are they all available?
A. Yes, sir.
Q. Are all the services available?
A. Yes, sir, they are all available. Not all of them use the services.
Q. Right. I could pick services 12 and 4 and somebody else could pick 23 and 5?
A. Yes.
Q. But they're all available to everybody?
A. Yes.
(Plaintiff's Composite Exhibit 5 was

marked for identification.)
BY MR. BLOOMBERG:
Q. Are tenants of the airport required to purchase any telecommunications services from the County?
A. No, sir.
Q. They're free to go anywhere they want to?
A. They're free to go anywhere they want to.
Q. And if they go somewhere else, they wouldn't use the County facilities?
A. That's correct.
Q. So would it be fair to say that the County is in competition with other telecommunication providers at the airport?
MR. HOPE: Objection to form.
A. We -- yes, we are basically there to provide them services, if they want us to provide them services. If not, they go to any company they want.
Q. Right. And the County charges for these services?
A. Not if they go to another company.
Q. If they go to the County --

A. If they go to the County, we charge them just like BellSouth would charge them for the services.
Q. The County engages in the business, so to speak --
A. Yes, sir.
Q. -- attempting a profit-making enterprise?
MR. HOPE: Objection to form.
A. Yes, sir.
Q. At least you hope it is?
A. We're losing money right now, but we're hoping to make money.
Q. Like lots of people
Let me show Composite Exhibit 5 for purposes of the deposition which is a series of papers that were produced by the County on a response to a request for production.
Let me first ask you to take a look at the staff and we'll go through them and find out what you know about them.
A. Are we going to take this one by one?
Q. Probably.
A. Okay.
Q. Looking at the first page which bears a

number at the bottom of 000001, can you tell me what that is? Do you recognize that handwriting?
A. It is my handwriting.
Q. Oh, good.
A. I was in contact as part of that process of discovery, if you want to, whether we needed a license or not to be an STS provider, we were in touch with Al Robinson, which is the IT counterpart -- my boss' counterpart -- no, I'm sorry, he's my counterpart at the Orlando Airport and he -- according to his information, he was involved in a lengthy process to determine exactly the same thing, whether Orlando should get a license or not to provide STS services, and he had attended many meetings with the Public Service Commission and other entities, and he was one -- his opinion on the matter when I talked to him was that we did not need a license just as Orlando did not need a license and they're providing services to tenants of the Orlando Airport, including shops and things located within the airport.
Q. All right. So he reached that conclusion?
A. He reached -- I don't know how he -- whether he reached the conclusion or somebody at

the P.S.C. alone reached that conclusion. As I said, he was actually more involved than we were with the P.S.C. in these matters.
Q. But he told you that Orlando --
A. Right.
Q. -- had reached a conclusion --
A. Right, that Orlando was providing services without any licensing requirements.
Q. And at the top of the page is a date 12/10/01, presumably the date you spoke with you him or the --
A. This was, right.
Q. These are your notes from a conversation with Mr. Robinson?
A. I try to date every paper I write on so I know.
Q. It's a good practice.
And 25.4 which is 25.4 public law --
A. It's probably the Florida Statute paragraph I imagine that's what it is. I don't recall it.
Q. The next page which has the number 000003 on the bottom appears to be a fax cover sheet to Myra Bustamonte.
Is that from you?

A. Yes, that's my handwriting.
Q. Do you recall when you sent this?
A. No, I don't recall.
Q. Down the Page 0002, which is the fourth page of the exhibit, do you recognize that handwriting?
A. Yes, that's mine.
Q. And what is that? What are those notes from?
A. This seems to be a part of the process that we were going through when we were trying to purchase the Nextira's equipment and infrastructure in order to also become the owners of all the infrastructure.
Q. Would these notes in point of time be after the notes of your conversation with Mr. Robinson, to the best of your recollection?
A. It's hard to say because this is December '01 and we were involved in this process with NextiraOne probably for a good six months before February of 2002.
Q. All right. Now obviously there are references to the P.S.C. on this particular page?
A. But the reasons I stated before was that Nextira was the provider of the service and now

knowledge, who made the ultimate decision that said we are not filing this application? And if it was, who was it?
A. The decision was made not to file it? I don't know exactly who -- whose decision was it. It was communicated to me that we're not filing it or the airport wasn't filing it, and that was the extent of that.
Q. Who communicated that to you?
A. I don't recall who communicated it to me.
Q. During the process in which there were discussions about whether or not to file the application, who did you talk to about that subject matter?
A. I talked to my boss Maurice Jenkins, I talked to counsel, I talked to -- you mean as far as within the airport department?
Q. Right, within the decision-making group.
A. I think that's basically it, as far as me up From me down it's -- you know, I discussed it with the person that filled out the draft. But basically it was just a discussion with my boss and counsel
Q. But you don't know who actually made the

ultimate decision?
A. No, sir. For what it's worth, I do recall that the opinions of the process that Orlando Airport went through has some weight that I communicated to -- with people involved in the discussion at MDAD as far as not requiring a license.
Q. Right.
You were sort of the investigator --
A. Right.
Q. -- and found out information --
A. I was putting together the information --
Q. -- and passed that on?
A. Passed it to the higher authority to make a decision one way or the other.
Q. Do you know of any airports within the state that have actually made application?
A. I believe I spoke to the folks at the Tampa Airport, and they told me that they had applied but they were not providing the services. So they really didn't know -- they didn't seem to be very knowledgeable about the whole thing.
Q. Any other airports, to your knowledge?
A. Those are the only two that I really had

contact with. As I said, the Orlando folks seemed to be very knowledgeable about the process. They had been in it for a while and they were deep into --
Q. Have you had any communications with the Public Service Commission since your e-mail to Mr. Moses back in March?
A. No, sir.
Q. Verbal? Any verbal communications?
A. None that I recall, no.
Q. Do you know if Mr. Jenkins has had any contact or discussions with the Public Service Commission since mid-March of 2003?
A. I'm not aware of any, but then he doesn't tell me everything
Q. Nobody's told you that?
A. Right.
Q. You can put that packet away, fold it up.
Are there any other entities, to your knowledge, individuals or entities that provide telecommunications services to tenants at the airports within the County?
A. Define entities. You mean other companies?

Q. Other companies, yes, businesses.
A. Sure. There are many.
Q. Who?
A. BellSouth, MCI, there's -- we're not -- the tenants do not let us know who do they do business with as far as provisioning their telecommunication services. So they could be almost anybody providing services.
Q. The ones you provide services you know you provide service to?
A. Right.
Q. But you don't know who provide services to the other --
A. Yes.
Q. But you do know there are other entities out there that provide services?
A. Yes. Within their leasehold, they can get services from anybody they want to. They don't even have to tell us who.
Q. Would you classify those services as services similar to those that the County provides?
MR. HOPE: Objection to form.
A. I cannot really tell whether the services are -- you can say similar. They may or may not -- they may be more or less what we

provided but they're of the same nature.
Q. Right, voice and voice network
A. Voice and network, right.
Q. Does the County compete with these other entities for the business out there?
A. Yes, sir.
Q. Are you aware of situations where a potential customer of the County chose to go with BellSouth or MCI or some other entity?
A. Yes, sir.
Q. And they've told the County we're going elsewhere?
A. They don't tell us. They just do it. Most of the time before they even come to the airport they've already made plans to go with somebody else.
(Plaintiff's Exhibit 6 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 6 for the purposes of the deposition and ask you first if you can tell me what it is.
A It looks like a work order cover sheet -- a work order, work description, the work order.

Q I mean it's a form that's used by the County?
A Yeah, it's used by NexiraOne basically to transmit the work order information to perform work for the tenants or communicate with us for that.
Q. Up at the top it says work order processor-TSR remarks Do you know what TSR means?
A. TSR number, I don't really know what that stands for, but it's just a number of the work order. It could be just the name of the system that produces this.
Q. It's an identifying number of some sort?
A. An identifying number for the work order.
Q. Down in the remarks it says cancel as per Holly. Do you know somebody by the name of Holly out there?
A. Holly is the person who works for NextiraOne and she's the one -- the person that does the marketing to get customers to come to our -- to provide -- to let us provide the services.
Q. This one says cancel as per Holly, customer opted to use BellSouth?

A. Right.
Q. Which would indicate to you that this particular customer, and we don't know who it is, it's been redacted, but has chose to use BellSouth as its provider as opposed to the County?
A. That's right.
Q. Below that it says provide quote, install one analog line in room -- whatever the room number is. Analog line is a voice line?
A. What happens is everything that NextiraOne does for us, they require permission, which is a work order to do whatever
Q. Permission from whom?
A. From MDAD, from the aviation department. They work for us. We pay them for this.
Q. Okay.
A. So this was a work order that was issued, seems like, for them to provide -- to go out to the customer and provide a quote. Sometimes you need to install a wire or do some work to provide the service.
So she went ahead and tried to give this customer a quote, whoever the customer was, and when she got there the customer had already made arrangements for BellSouth to provide the service.

So this is just basically cancelling the work order.
Q. So in this case BellSouth was apparently providing a similar service?
A. The customer picked BellSouth as a service provider which is the same service we could have provided.
MR. HOPE: Objection to form.
(Plaintiff's Exhibit 7 was marked for identification.)
BY MR. BLOOMBERG:
Q. Let me show you what's been marked as Exhibit 7 for the purposes of deposition and ask if you recognize that document.
A Okay.
Q. Have you seen it before?
A. I'm sure I have
Q. What is it?
A. It seems to be telling the customer -- the tenants of the airport about services that would be provided in addition to the ones that were provided before
Q. Now, is there a change in services -- I know there was a change with Nextira in February 2002. Was there a change in services

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

BELLSOUTH TELECOMMUNICATIONS, INC , a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant

CASE NO. 02-28688 CA 03

DEPOSITION OF: RICHARD A MOSES

TAKEN AT THE INSTANCE OF: The Plaintiff

DATE: October 5, 2004

TIME: Commenced at 1:30 p.m.
Concluded at 3 33 p.m.

LOCATION: Gunter Building, Room 282
2540 Shumard Oak Boulevard
Tallahassee, Florida

REPORTED BY: MARY ALLEN NEEL, RPR
Notary Public, State of Florida at Large

ACCURATE STENOTYPE REPORTERS, INC.
2894-A REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
(850) 878-2221

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APPEARANCES:

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REPRESENTING THE DEFENDANT:

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Miami, Florida 33122

REPRESENTING THE WITNESS:

C. LEE FORDHAM, ESQUIRE
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0863

PROCEEDINGS

The following deposition was taken on oral examination, pursuant to notice, for purposes of discovery, for use as evidence, and for such other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing of the deposition transcript by the witness is waived

* * *

Thereupon,

RICHARD A. MOSES

the witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLDBERG:

Q Mr. Moses, let me just introduce myself again on the record. My name is Martin Goldberg. I represent BellSouth Telecommunications in a case that's currently pending in Miami-Dade County, Florida, in the Circuit Court there. It's entitled BellSouth vs. Miami-Dade County. The case number is 02-28688 03.

You are here, and we appreciate your time very much, pursuant to a subpoena that was issued for your deposition; is that correct?

A That's correct.

Q Okay. Let me just show you what I've marked as

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definition of local exchange telecommunications company?
A Yes, it does.
Q And does that help refresh your recollection as to the date you were looking for before?
A Yes, it does.
Q Can you just read that date into the record?
A June 30, 1995.
Q Does that help you out okay?
A Yes, it does. I couldn't remember the correct date to save my life.
Q That's okay. Mr. Hope also asked you in his cross-examination about whether or not the PSC has mechanisms to resolve disputes between parties. Do you remember that series of questions?
A Yes
Q And are you saying in your testimony that a court, a state circuit court in Florida does not have jurisdiction or the ability to resolve a dispute involving certification or PSC statutes or rules?
A I'm sure the courts do. The Supreme Court is what references anything that we have that we make a decision on. If the parties don't care for it, they take it to the Supreme Court.
Q But you are not saying by your testimony, are you, that any dispute that happens to involve PSC rules

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or statutes has to come to the PSC first before a court can address that issue?
MR. HOPE Object to the form of the question.
A No, I'm not saying that.
Q Mr. Hope was asking various questions about local service, and some of the requests had to do with what can overlap, and I think there was one question that dealt with whether local service can overlap with local service. Be that as it may, my question is, can an STS service, a provider of STS service overlap with a provider of local service?
A Yes.
Q And when I use the word "overlap," would you agree that an STS provider can overlap and therefore compete with a local service provider?
MR. HOPE Objection to the form.
A Yes.
Q Would you accommodate me for another three or four minutes so that I can just review my notes and talk to Ms. Liebman and see if we can conclude?
A Certainly.
MR GOLDBERG: I appreciate it. Thank you very much.
(Short recess.)
BY MR. GOLDBERG:

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Q Okay. Mr. Moses, I actually just have one question, and then we're going conclude, so if you'll indulge me for one second.
Earlier in your deposition I asked you whether or not you understood the nature of the lawsuit that brings us here today to take your deposition; correct?
A Correct.
Q And correct me if I'm wrong, but I recall you answering no, you didn't have a great understanding of the lawsuit.
A That's correct.
Q And I think you also testified, and correct me if I'm wrong, that you had not even read the complaint that has been filed in this case by BellSouth.
A That's correct.
Q Let me represent to you that in that complaint, the majority of the complaint concerns whether or not Miami-Dade County has violated its own charter by operating and providing telecommunications services at the Miami-Dade County Airport and other airports, so in essence, it is an issue regarding the Miami-Dade charter and whether or not it has been violated.
Having said that, is it your testimony that that would be a matter -- strike that. Would that be a matter that would be brought before the PSC for

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resolution?
MR. HOPE: Objection to the form.
MR. FORDHAM: Unless he's comfortable answering it, I would object on the basis that that requires a rather sophisticated legal analysis.
MR. GOLDBERG: Okay. Fair enough.
BY MR. GOLDBERG:
Q But would you agree it's not your testimony today that an alleged violation of the Miami-Dade charter needs to be resolved by the PSC and not a court?
MR. HOPE Objection to the form.
A Again, I knew nothing of the charter before you just now spoke about it, so I wouldn't think that would be something that would be addressed with the Commission.
MR. GOLDBERG: Well, that was probably a couple of questions, but that's it. It was one main question.
That concludes the deposition. As I'm sure your lawyer, who is well experienced, more experienced than me, can explain to you, at the end of every deposition, the witness such as yourself gets an option to either read the transcript of your answers to make sure that they're accurate, and once

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

VIDEOTAPED DEPOSITION

OF

PEDRO GARCIA

Suite 1200
100 Southeast 2nd Street
Miami, Florida

Thursday, October 28, 2004
11:15 a.m.

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I have to point out, however, that is not used any more. We have dropped -- no, we have not dropped it for everything. We only kept it there for a connection of modems. Like a one connection only. Like anybody that has a fax machine. What we normally -- well, I will let you ask a question. It is the connection to the outside world to the BellSouth lines from the PBX.

Q. Why is it not used any more?

A. Well, it used to be like let's say you want to connect 25 phones. They used to be charged 25 times 18. Now we modify that charge and we are accessing the network access, which is $49 shown on the third line on a ratio of five to one. In other words, when you connect a phone, you buy five connections, and for $49 you can connect five phones.

Q. If you want ten phones, it is going to be $98?

A. $98.

Q. So you just subsumed the charge that was formerly single line local network access into the third line down, network access?

A. Right. We kept the first one just for anybody that has one connection. If you want -- if

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you have a number of telephones, then you go to the 49, for five.

Q. Why was that change made?

A. It was felt that it probably was too expensive. We couldn't explain to the customers. It was kind of high. It was a marketing decision. Actually, I wasn't part of that decision. I was informed by the folks that run the marketing department of Nextra that it was done to have a better price structure.

Q. Couldn't you explain it to your customers that this is just to make sure that we are covering our costs?

MR. HOPE: Objection to form.

THE WITNESS: No, because they have other choices. I mean, we could charge a thousand dollars for the phone, but that wouldn't be too good for us.

Q. Because why?

A. We wouldn't cover anything because nobody would buy it.

Q. Where are they going to go?

A. They could go to BellSouth, they could go to anybody else. To AT&T, Sprint. You name it.

Q. So to change your pricing structure is to

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be able to better compete with BellSouth and other entities?

MR. HOPE: Objection to form.

THE WITNESS: To have a better price structure, to make it more attractive to the buyers of the service.

Q. So they would choose MDAD, the County, over another competing entity, correct?

MR. HOPE: Objection to form.

THE WITNESS: We don't compete with other entities. Not BellSouth. That is for sure. We can't compete because we don't have access to the public network.

Q. Give me all the reasons, every single reason, in fact, that supports the statement you just made that you don't compete with BellSouth.

A. Well, there are a couple of reasons. We couldn't compete with BellSouth because we don't provide access -- I mean, we don't own facilities to access to the public network. We have to depend on BellSouth to provide us those facilities so we can connect the phones -- I mean, the users to the public network.

Number two: We don't just provide the services of what BellSouth provides. We provide a

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bundle of services that includes other things besides voice, like network connectivity, dark fiber and copper, and the common use terminal equipment that we described before, and so forth, cable TV. So we provide a bundle of services other than what BellSouth provides. Also, the benefits of the passengers of the airport.

In addition to that, we provide a totally different service level to the users, which is an enhanced service that BellSouth doesn't provide; 24/7. You know, within two hours of reporting a trouble with dispatch, things like that.

So it is not even a similar service that BellSouth provides. So because of that we are not considering ourselves in competition with BellSouth.

Q. Any other facts, reasons, whatsoever that you can think of other than the three you just listed, that would support your statement?

A. Well, those are the three major ones.

Q. Let's talk about each of the three. The last one first; you say that you have a 24/7 service capability.

A. Yes.

Q. And you say BellSouth doesn't

A. As far as I know, they don't

Page 114

Q. And wouldn't you also agree, given your prior testimony today under oath, that without the facilities and equipment that you own a customer at the airport would not be able to complete a local call outside the airport
A. Correct
Q. Okay. So wouldn't you agree that the service you are providing is similar to the service BellSouth is providing because without each other a customer at the airport will not be able to complete a local phone call outside the airport.
MR. HOPE Objection to form
THE WITNESS Well again, the similarity is not there because we no longer -- BellSouth only provides telephone service, local service We provide a lot more services than that. And also, we cannot do it without the assistance of BellSouth. BellSouth doesn't need Dade County to provide telephone service to customers at the airport. So I don't see any similarity there.
Q. Well, you are saying that BellSouth -- the County offers more services than BellSouth. Is that

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in part what you are saying?
A Yes
Q. But we would agree that one service that is being offered by both is local telephone service
MR. HOPE Objection to form.
Q One of the County services that competes with BellSouth is local telephone service correct?
MR. HOPE: Objection to form
THE WITNESS. It's the ability to make a local call, yes.
Q So if I understand you correctly, you would agree that the County is competing with BellSouth for that service. yet, your position, as you have stated it here today, is that there are other services the County provides that BellSouth doesn't provide and, therefore, there is no competition
MR. HOPE: Objection to form
Q Is that a fair statement of your testimony?
A I don't believe that we are competing because I don't see how we can possibly compete when without BellSouth we wouldn't be able to do the calls. So how can we be a competitor if we need our competitor to do our business? That makes no sense

Page 116

to me Without BellSouth. we cannot complete any calls. So how can we be competing with BellSouth when we need them to do these calls completion?
Q. And you don't believe -- do you believe BellSouth is competing with you to get customers at the airport?
A BellSouth can have customers at the airport without using anything at all that belongs to the County. They don't need us for anything They can do their business on their own, but we can't
Q But you can compete with them because you have now purchased your own equipment to provide service to your customers. correct?
MR HOPE Objection to form.
THE WITNESS. No We basically lease equipment. That is all we do. We lease equipment to allow the customers to access the BellSouth lines That is what our business is.
Q The County owns the equipment, correct?
A Yes
Q You are talking about when you lease the equipment, you are selling the equipment or leasing it to your own customers?

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A That is right.
Q I want to make that clear You own the equipment
A That's right Yes. we own it
Q What was your second reason?
A It was the -- I forgot what I said. Do you have it there?
(Discussion off the record)
Q From what I have just had my memory refreshed on, it seems like your second reason was that the County provides dark fiber and other services that BellSouth does not provide.
A Right. right Again. going back to the bundle of services that we provide, which is different than the single services that BellSouth provides That was the reason behind it
Q. So if I take your reasoning -- let me -- let me give an example for you. a hypothetical.
You have two fast food restaurants on the same street Okay?
A I got one of those. Starbucks versus McDonald's. And the cup that McDonald's uses has to be provided by Starbucks That is what is going on here You have the coffee inside, however without the cup you cannot do it We both sell coffee, but

Page 118

that is what it is We sell other things like McDonald's. We need the cup that Starbucks gives you to provide the coffee.
Q. It is your testimony there is no competition between McDonald's selling their coffee and Starbucks selling their coffee?
A. You tell me. That is what it is
Q. No, I am asking you the question. You're the one to testify under oath.
A. I don't think they are competing businesses
Q. Well, let's --
A. They are usually side-by-side. They could be side-by-side. I don't see that as competing business
Q. You see four gas stations on the corner. You don't think they are competing?
A. That is different because it depends how you you can turn into one and the other, where you are coming from. That is different
Q. So if you have an intersection, you have four gas stations, according to you, they are not in competition with each other?
A. Yes, I am sure they are Yes. But they offer exactly the same services, and they don't need

Page 119

each other to provide gas
Q. Two restaurants, McDonald's and a Wendy's. McDonald's doesn't sell chicken sandwiches, let's hypothetically say. Wendy's does Are you saying they are not in competition?
A. Yes, those are similar restaurants. But they don't need each other.
Q. But picking up on your testimony, one sells a greater number of products, Wendy's, that has a chicken sandwich and chicken products, than McDonald's who does not. According to you and your reasoning, they would not be in competition.
A. No, that is not true. They are in competition.
Q. Why are they in competition, yet the County and BellSouth are not, when all your testimony is that the County has a greater number of products than BellSouth?
MR. HOPE: Objection to form.
THE WITNESS: For the same reason McDonald's and Starbucks are not in competition. Because Starbucks only sells coffee, just like BellSouth only sells voice connections to the local -- I mean services And McDonald's sells

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other things, except the cup is provided by Starbucks, like I told you before, and the County only sells the coffee inside the cup We need Starbucks to give us the cup to sell the coffee. A big difference
Q. So the mere fact that Starbucks needs a McDonald's cup, according to you --
A. McDonald's needs a Starbucks cup
Q. Because McDonald's needs a Starbucks cup, according to you, that would take them out of competing with each other on the sale of coffee. Is that your testimony?
A. Well, the whole business is not selling coffee. We are talking about the business of competing with each other. As far as the businesses go, they can't compete with each other.
Q. So going back to this document, you previously testified on MJ-24 that you reduced the cost of single line local network access because you were afraid that customers would go to BellSouth or another provider.
MR. HOPE: Objection to form
Q. How do you reconcile that testimony with what you have just said?

Page 121

A. Well, remember I said that we have an infrastructure that is already in place. We pay half a million dollars a month to 50 people to take care of our telecommunications business there So we basically like to have some help by providing additional services to tenants of the airport to be able to pay for some of those costs that we incur by having all that infrastructure in there.
So yes we would like to have more people getting our services So therefore, if we charge them at a thousand dollars apiece, you are not going to get anybody. So all of a sudden we have the burden of paying for all that at our cost.
If we make it to that, it becomes attractive to the users, they will buy it from us, and we will amortize or pay for some of the costs that we have at the airport.
Q. Do you recall testifying in this case previously on May 21, 2003?
A. Maybe I recall testifying I am not sure I recall what I testified about.
Q. I will help you along with that.
A. I am sure you will help me there.
Q. I will You recall at that time being deposed, similar to like you are being deposed now,

Page 126

for the help that you get from BellSouth, but then you alter your price structures, as you have just testified to, to be able to compete with BellSouth for the end user product, that is, customers at the airport. Is that correct?
MR. HOPE: Objection to form.
THE WITNESS: I don't know. I see it that I couldn't possibly compete with someone that I need to provide what I need.
Q. Just to boil it down, your testimony is that because you need BellSouth in some way, shape, or form, for you to conduct your business, that is, to provide telephone service, you cannot, therefore, by definition according to you, compete with BellSouth.
MR. HOPE: Objection to form.
THE WITNESS: That is correct. It involves the kind of service and in the business side of service, you don't give us any break -- BellSouth doesn't give the County any breaks on the costs. So by definition, BellSouth is already making a profit when they sell us that connection.

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How can we possibly compete with BellSouth when we have to take that cost and then, as you suggest, maybe enhance that cost and sell it to somebody else? That would not be any kind of competition.
Q. So if BellSouth were to reduce its cost to you so that they weren't making any profit on the service they are providing to you, then would that be sufficient to allow you to conclude that your compete then would be able to compete with BellSouth?
MR. HOPE: Objection to form.
THE WITNESS: No. That is only 50 percent of the problem. The other problem is, again, that we need BellSouth for the providing of the service. And BellSouth doesn't need the County. So it is not apples and apples.
Q. You are familiar with competitive local exchange carriers, correct?
A. Competitive local exchange carriers. Well, I guess they are companies that provide local service.
Q. Yes.

Page 128

A. Yes.
Q. They use BellSouth to complete local calls, just like the County is using BellSouth to complete local calls, correct?
A. In some cases.
Q. Okay. And in those cases, wouldn't you agree that they are competing with BellSouth?
A. If they provide the same services that BellSouth provides, yes. I would imagine so.
Q. Is there any other reason you can think of as to why another competitive local exchange carrier that uses BellSouth to complete their local phone call would not be in competition with BellSouth?
MR. HOPE: Objection to form.
THE WITNESS: Would not be in competition with BellSouth?
Q. Actually, let me withdraw that. Let me ask you this. Can you name for me a competitive local exchange carrier that is not in competition with BellSouth?
A. Well, I imagine if they sell local service and BellSouth sells local service, they are competing with each other.
Q. The County is selling local service, correct?

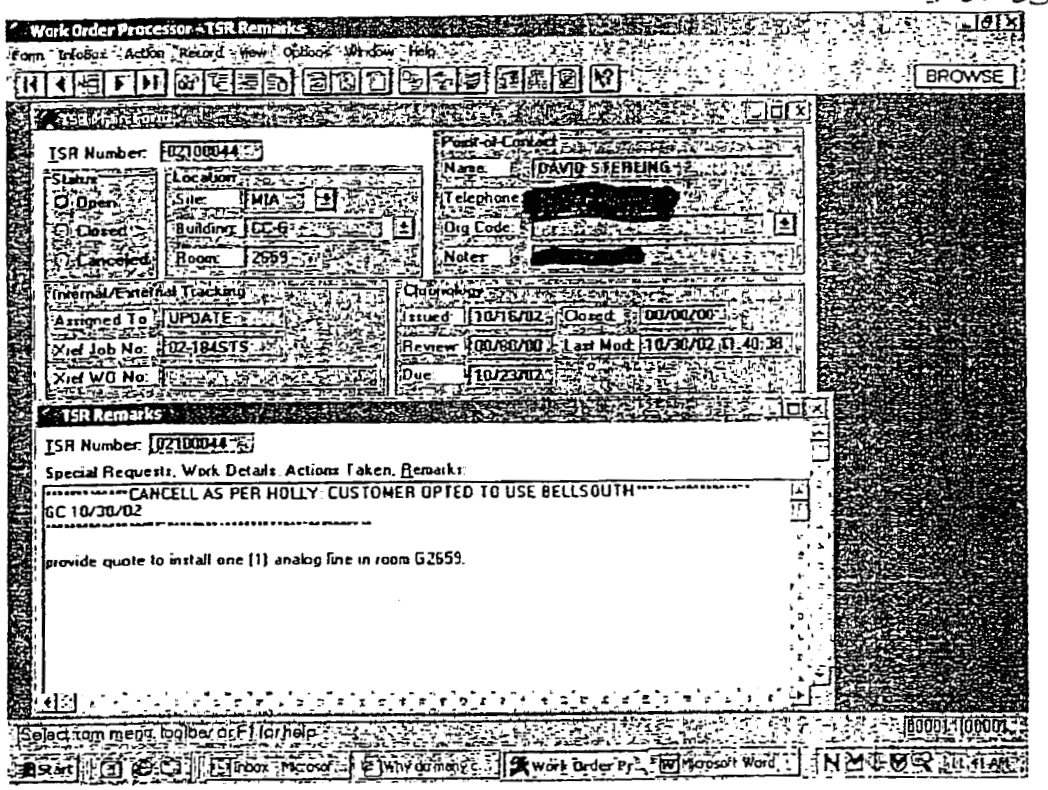
Page 129

MR. HOPE: Objection to form.
THE WITNESS: No. The County is selling equipment to access the local service.
Q. Isn't that what a competitive local exchange carrier does as well?
MR. HOPE: Objection to form.
THE WITNESS: I believe they sell the access to the local network.
Q. Isn't that what you are doing as well?
A. We lease to the customers the equipment that they need to access the BellSouth facilities to complete a local call.
Q. Why is it hard for you to testify here today that you are selling access to local network just like any other local exchange competing carrier?
MR. HOPE: Objection to form.
THE WITNESS: Selling access to the local -- to the BellSouth facilities that access the local network. The public network. It is not hard to testify. I am just telling it the way I see it. Very easy for me to testify to this.
Q. So every other local exchange carrier

PLAINTIFF'S EXHIBIT

6

5-21-03 LWS



BS V. MDC(1) 005375

PSC 6548

Miami Airport Communication Services

MACS

PLAINTIFF'S EXHIBIT
6
5-31-02 LW

5 Year Marketing Plan

February 6, 2002

MAY 2, 2002
→ Pedro Did you read this?
We are spending $. Million
for 3 bullet items?

5/2/02
- Simone: set up a meeting w/ me & Pedro to discuss.
→ S Return to him for I made notes on almost every page.!

Bill McGlashan

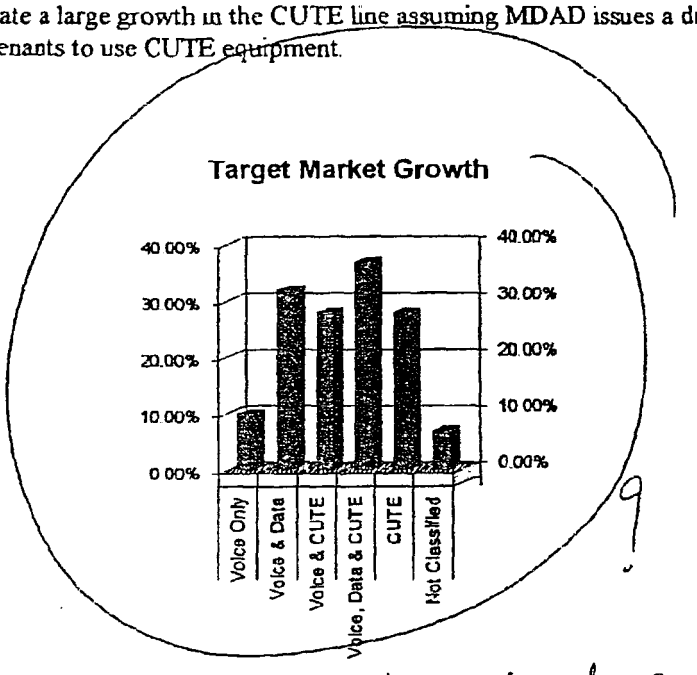
NextiraOne Account Manager

1.0 Executive Summary

Overall we see the number of potential customers in our markets growing at about 8-9% per year, over the next few years However, short term there is flat to negative growth while the industry is recovering from both the 9/11/02 disaster and the general economic downturn. We see our potential at MIA to grow the customer base over the next few years to double the number of customer served in some capacity.

The next big wave is high speed connectivity to the WAN and Internet, and wireless connectivity. The growth figures in these areas are spectacular. According to Harper's Internet Index, there are now 57 million Internet users in the United States, and that number has doubled in two years. The growth in high speed cable modems and DSL connections is 10 to 20 percent a year over the past few years Wireless access in still in its infancy, but is expected to double in three years.

We anticipate a large growth in the CUTE line assuming MDAD issues a directive requesting all airline tenants to use CUTE equipment.



Is this projected based on existing #'s & Harper's prediction.

2.0 Situation Analysis

Before we talk about strategy for future development, we have to understand where we are, and where we've been. Strategy is about playing towards strengths and away from weaknesses. Marketing is about understanding our target markets and target market needs.

Therefore, we begin this section with our market analysis, looking in detail at our target market and market needs Then we develop our SWOT analysis, looking at strengths, weaknesses, opportunities, and threats. Afterwards we finish up with a look at some other key factors of the present situation.

BS V. MDC(1) 000160

PSC 6551

2.1 Market Summary

MACS focuses on SATS tenants in Miami-Dade Airport, with special focus on the airlines and the CUTE (Common Use Terminal Equipment) customers

We have broken our markets into groups according to standard classifications used by the former company, SATS (Shared Airline Tenant Services) and CUTE.

Exact definitions of these market segments are not necessary for our marketing planning purposes here; general definitions will suffice. We know SATS customers are users of ~~our~~ your voice and/or data networks, wanting high-end systems options; people who rely on mission critical networks. We also know that ~~our~~ CUTE customers tend to be smaller airlines with no permanent gate locations, are more likely to need and want hand-holding, and more likely to pay for it

Target Markets

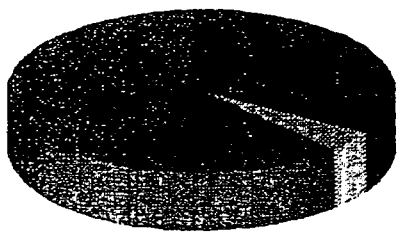


Table 2.1: Target Market Forecast

Target Market Forecast Potential Customers	Growth	2002	2003	2004	2005	2006	CAGR
Voice Only	10%	13	14	15	17	19	9.95%
Voice & Data	10%	1	3	3	3	3	31.61%
Voice & CUTE	20%	3	5	6	7	8	27.79%
Voice, Data & CUTE	15%	2	4	5	6	7	36.78%
CUTE	20%	9	14	17	20	24	27.79%
Not Classified	10%	22	22	24	26	29	7.15%
Total	15.83%	50	62	70	79	90	15.83%

what is not classified

How did you find this #

BS V. MDC(1) 000161

PSC 6552

2.1.1 Market Demographics

The CUTE Services opportunity at MIA are an important market segment. Our estimate in this plan for the CUTE Services in our market service area is based on an analysis of the total airlines at MIA verses the total number of airlines and the multiple construction projects. It is also assuming MDAD backs the wholesale usage of CUTE in place of the existing dedicated airlines terminal equipment.

CUTE Services include several options, some of which we do not offer today. For our plan, all options will need to be explored to fully expand the service within MIA including but not limited to the billing method.

SATS in our market includes virtually any business with a retail, office, airline or professional location inside MIA that requires voice and data services.. We estimate ?? such businesses in our market area.

Pedro we need to Discuss.
What will happen w/ Cute Bid hits the street.
Will nextira play a role..

BS V. MDC(1) 000162

PSC 6553

2.1.2 Market Needs

Our target customers are on average more dependent on reliable information technology than any other business. They care more about reliable service and confidence than about the rock-bottom lowest price. They don't want to rely solely on their own expertise, so they choose to deal with us instead, with our promise of service and support when needed

Our standard customers will be voice and data installations, with networks needs, and will generally be smaller systems than the average large business. Telephone, fax modems, voicemail, and data network connections are likely system component additions they will desire. They will run their own applications.

explain

It's important that we realize we won't be selling to the price-oriented buyers. We'll be able to offer an attractive proposition to the service-oriented and security-oriented buyers only. Our customers prefer to focus on what they do best - run airlines, and are looking to outsource their communications requirements.

Our target SATs are very dependent on reliable information technology They use their computers for a complete range of communications within the business and outside of the business, and for personal productivity and as such need reliable networks on both LANS and WANS. Most are not, however, large enough to have dedicated computer personnel such as the MIS departments in large businesses to deal with network issues. They also require voice capabilities. Ideally, they come to us for a long-term alliance, looking to us for reliable service and support to substitute for their in-house people These are not businesses that want to shop for rock-bottom prices through the bid process. They want to be sure they have reliable providers of expertise. We will need to offer more options to these customers rather than just a rental agreement.

Our standard CUTE will be 1-5 unit installations, critically dependent on LANs, WANs, and the terminal equipment itself. Back-up, training, installation, and ongoing support are very important. They require immediate repair for problems. However, there does exist a desire by the larger airlines to pursue the CUTE environment which allows flexibilty in their operations

Pedro see me

2.2 SWOT Analysis

As we look at our SWOT analysis to follow, we are in a sustainable overall position. We have strengths to balance our weaknesses, particularly our knowledge of what our customers need in terms of connectivity, the Internet, LANs, voice products, and CUTE services. We also have some attractive opportunities in these same areas of maintenance service. However, we have an inherent weakness in competing against price-oriented competition from the major vendors.

2.2.1 Strengths

1. Knowledge: Our competitors are RBOCS and interconnects, pushing boxes and base telco services. We know systems, networks, connectivity, infrastructure, all the MIA and county issues
2. Relationship selling: We get to know our customers, one by one. Our on site sales/marketing force maintains this relationship. The MDAD relationship can only assist in these relationships.
3. History: We've been at MIA forever. We have loyal customers. We are local.
4. Service: We are a proven vendor, and well respected at MIA.

2.2.2 Weaknesses

1. Costs: The competition has better economics for both boxes and telco services. Their per-unit costs of selling are quite low as compared to MDAD. They aren't offering what we offer in terms of knowledgeable selling, but their cost per dollar of sales are much lower
2. Price and volume: The other players pushing boxes can afford to sell for less. Their base line costs are less and they have volume buying with the main vendors.
3. Brand power: Take one look at their full-page advertising in most local publications, their name recognition through television advertising, and their local sponsorship of events. We can't match that. We don't have the name that flows into big time advertising.

2.2.3 Opportunities

1. Temporary Service: With the vast amount of construction going on, it may be beneficial for organizations to rent equipment on a short term basis.
2. CUTE: More airlines are recognizing the value of CUTE services at other airports. They are additional services from SITA that we need to pursue for MIA to increase our sales position with the larger airlines
3. Equipment Sales Some tenants will never rent equipment, they will only purchase capital items either with cash or through leasing. The opportunity exists for MACS to sell equipment to tenants. We may decide to accomodate them.
4. Service: As our target market installs equipment purchased from us or other vendors, we are in a great postion to service the equipment with very little incremental costs Our business model focuses on service.
5. Network Access Service: MACS should explore selling T-1, PRI and DSL type services to airport tenants. The issue should not just be pricing, but the opportunity to sell the service as a fully redundant network. That is something other providers can not offer at a reasonable price.

2.2.4 Threats

1. Economic Conditions: The economic conditions bought about with the recession and the September 11th attack has generated an overall downturn in the travel industry.
2. The lower price competitors: Most competitors will be in the position to offer both equipment and services at a lower price.
3. Rental Customer Defections: As rental contracts expires, some customers will not want to renew the rentals at the current rate. They feel they have paid enough to purchase the equipment, and the additional concept of continuing to pay for cable is not appealing

How do we propose fixing this!

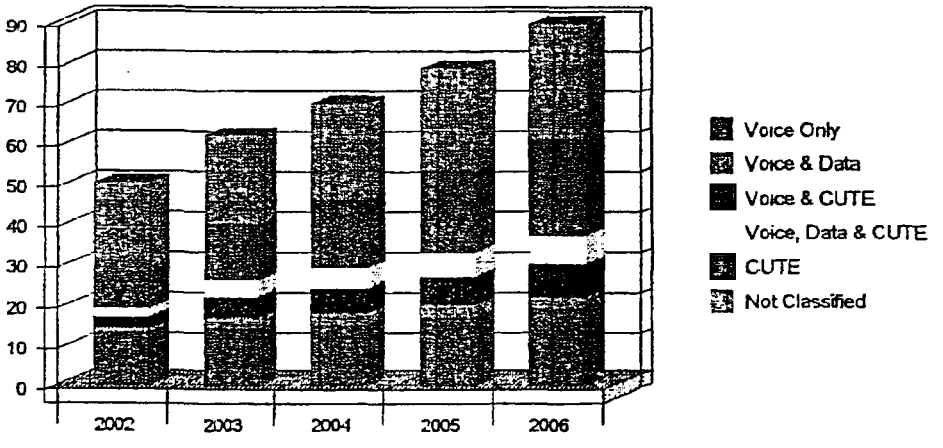
2.1.3 Market Trends

The SATS customers are accustomed to buying equipment directly from vendors who visit their offices They expect the copy machine vendor, office products vendors, and office furniture vendors, as well as the local graphic artist, freelance writer, or whoever, to come visit the office to make their sales. They understand leasing of equipment, and maintenance contracts for service. They do not seem well versed in the needs to rent equipment, advantages, etc.

CUTE customers are used to paying license fees for the software used in terminals. They are not used to rental equipment.

All MIA customers are faced with the same problem: a reduction in revenue and a needed reduction in expenses. The current trend in marketing to any airline customer or related business to to assist them through this slow down period in reducing expenses without jeopardizing service and reliability

Market Forecast



2.5 Keys to Success

The main key to success with SATS and CUTE customers is positioning the service clearly. Many potential buyers would prefer our offering to the competition if only they possessed adequate information to conduct a value-added cost/benefit analysis placing a high value on service and redundancy.

Word of mouth is critical in this segment. We will have to make sure that once we gain a customer, we never lose them. To help accomplish this, we must work to reinvigorate relationships through successful contact marketing, among other means. We must always remember to sell the MACS services, not the final product They have to understand they are taking on a relationship with MACS, not just buying boxes.

2.6 Critical Issues

1. The most obvious critical issue is whether we can get over the price-oriented competition and sell our customers the idea of comparing us for the security and reliability we offer. Will our customers be willing to pay for what they need, or will they be led astray by the price-oriented positioning?
2. The second critical issue is whether or not we can redefine our business to emphasize the service and support our customers ultimately need. Can we stop focusing on price and selling equipment as a "me too"? We need to make that happen.
3. Issue number three is fulfilling the promise None of what we're saying is any good unless we can deliver on it. Do we provide excellence in training, fulfillment, installation, and customization? We're promising to be a superior service provider. Are we?
4. Flexibility. In the past, we have not been flexible with our offerings or our pricing. We must, to a certain extend, view customers on one by one basis and assist them in solving there business problems.

BS V. MDC(1) 000168

PSC 6558

2.3 Competition

Our long tenure at MIA indicate that our SATS customers consider price but they would buy based on quality customer support and service if the offerings were positioned correctly. Price is the message they're exposed to again and again; they have been trained to shop on price We have very good indications that many would willingly pay 5-10% more for a relationship with a long-term vendor who provides quality service and support. They end up in the box-pusher/service provider channels because they aren't aware of the alternatives that in the past we have not be willing to offer.

Service availability is also very important. The tenants tend to want immediate solutions to problems. Consequently, they can be subjected to high-pressure, undertrained salespeople who may not be able to factor in all of a customer's needs and make promises that are not delivered.

The CUTE buyers understand the concept of service and support, and are more likely to pay for it when the offering is clearly stated

There is no doubt that we compete more against all the service providers (BellSouth, Worldcom, etc.) than against other box pushers . We need to effectively campaign against the idea that businesses should buy equipment from vendors that don't needed onsite service, support, and training.

2.4 Products Offered

Pedro - want Orlando's pricing structure.

In SATS, we support one main line today, rental of voice and data equipment.

We need to expand these offerings to include three main lines:

- Purchase of voice and data equipment, either with cash or leasing.
- Maintenance of voice and data equipment within standard product lines regardless of the purchasing location or vendor
- New service rates for ports and cabling infrastructure.

In CUTE, we offer a package thatr includes both the terminal equipment and the necessary software. We need to investigate other options of pricing for usage, perhaps on a per ticket basis. We also need to investiagte offering a different wireless product suite to customers.

In all cases, customers can receive training on a going forward basis for a price We offer all move, add and change services for both voice and data.

3.0 Marketing Strategy

MACS will change its focus to differentiate itself from competitors and improve the business by satisfying the real need of the SATS and CUTE customers for reliable information technology including hardware and all related services.

3.1 Mission

MACS is built on the assumption that the management of local business units views information technology for business like legal advice, accounting, graphic arts, and other bodies of knowledge, in that it is not inherently a do-it-yourself prospect. Smart business people who aren't communications experts need to find quality vendors of reliable hardware, software, service, and support. They need to use these quality vendors as they use their other professional service suppliers, as trusted allies.

MACS is such a vendor. It serves its clients as a trusted ally, providing them with the loyalty of a business partner and the economics of an outside vendor We make sure that our clients have what they need to run their businesses as well as possible, with maximum efficiency and reliability and to focus on their core strengths. Most of our tenants applications are mission critical, so we give our clients the assurance that we will be there when they need us.

3.2 Marketing Objectives

We need to focus our offerings on any airport tenant as the key market segment we should own. This means any tenant at any property owned by MDAD and leased to customers. Our values - training, installation, service, support, knowledge - are more clearly differentiated in this segment.

As a corollary, the CUTE market is also appropriate. We want to compete for all airlines regardless if they have in house systems by offering additional services they may not be able to employ due to their corporate limitations

BS V. MDC(1) 000169

PSC 6560

3.6.1 Focus on Service and Support

Our first pyramid, shown in the following illustration, is under the main strategy point of focusing on service and support instead of brand names and equipment.

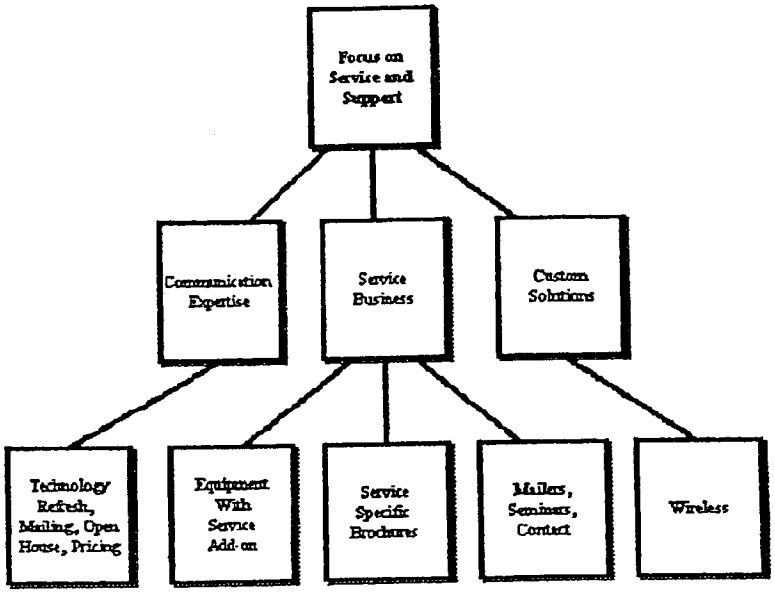
As the illustration shows, our first tactic under that strategy is related to communicating expertise The information highway is booming and reliability is key everywhere in our target market. Our competitors simply can't match us for going to our customers' locations and solving their communications problems. This is an excellent example of something we can give that our competitors can't, and our customers want. Our specific programs for this tactic include our technology refresh program, regular mailers to our customers, semi-annual open houses, and our revised pricing options.

Our second tactic is to sevice as a line of business. Programs include sell equipment to the customer with service add on, and developing sales and marketing programs intended to sell this type of service as the core of our business. This includes more mailers, a new price list, and program outlines and materials.

Finally, the third tactic is providing custom solutions. This generally links to our growing experience with applications that our customers utilize Our only current sales and marketing program for this will be the airport wireless network for our customer's customer, the passenger

BS V. MDC(1) 000171

PSC 6561


Focus on Service and Support
Communication Expertise
Service Business
Custom Solutions
Technology Refresh, Mailing, Open House, Pricing
Equipment With Service Add-on
Service Specific Brochures
Mailers, Seminars, Contact
Wireless

3.6.2 Focus on Relationships

Our second pyramid, shown in the following illustration, is under the main strategy point of focusing on customer relationships. We need to be strategic allies to our customers and be their experts in communications systems, in a way that none of our competitors can ever hope to match.

This second pyramid has three main tactics:

The first tactic shown is about marketing the services, not the product. We all know what that means, that we should be emphasizing the relationship with us at MACS, instead of the brand-name on the packages such as BellSouth or Worldcom. We can't sell the brand names better than the others, but we can sell ourselves and the important differences we offer. Related programs include the complete re-creation of our company literature, additional sales training, and special mailers to our customers.

The second tactic is to make sure we have more customer contact. We can't afford to sit back like a large competitor and wait for our customers to come to us. We need to send mailings, emails, and telephone calls to make sure things are going right for them. Do they need additional voice or data services? A lot of customers do, and they're grateful for our reminders. Programs for this tactic include regular news letters about technology, open houses, and end user training. Being proactive will give us an edge over our competitors.

The third and final tactic is maintain our customer base. We work hard to find our customers, and our financial analysis shows that the most economic way to increase revenue is by focusing on our existing customers instead of finding new customers. That's new products, upgrades, and additional services. Planned programs for this tactic include upgrade mailings, service contract mailings, and personal contact.

BS V. MDC(1) 000173

PSC 6563

3.7 Marketing Mix

A core element of our marketing strategy is a change in the marketing mix. In terms of promotion, we need to sell our company as a differentiated strategic ally, not just our products In price, we need to remain slightly higher than the competition and we need to be able to defend that. Our product marketing has to recognize more that our service and our relationship is the key to our future product marketing. We sell a relationship more than products

BS V. MDC(1) 000175

PSC 6564

4.0 Financials

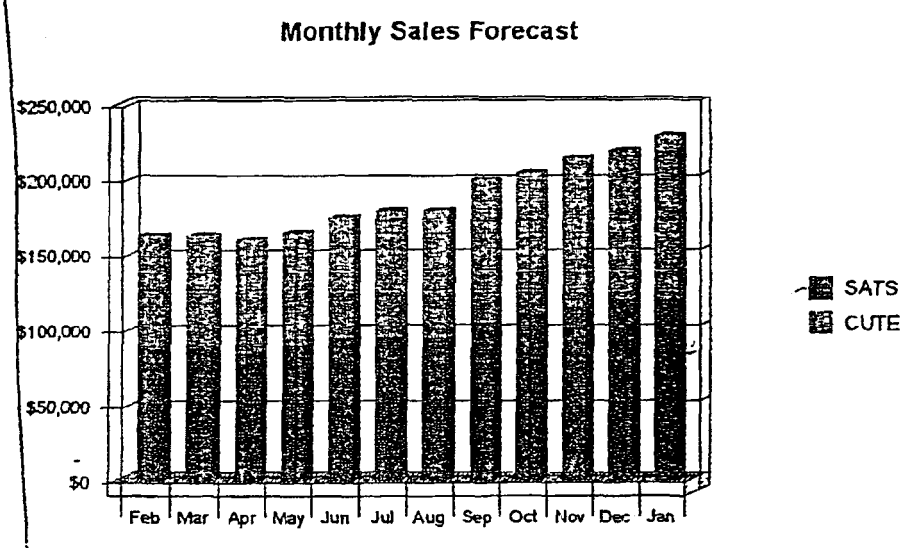
As the following details show, we need to improve our the number of customers and gross revenues The business has been trending downward because we've been caught in price competition and current economic conditions. We need to reverse that trend.

4.1 Sales Forecast

The $2,231,000 sales forecast is shown in detail in the tables and charts below. This represents a modest 9% increase over the present year. We believe it is a conservative forecast, and we are sure we can make our numbers this year as a result of more effective marketing.

The data shows that we are not able to attribute our sales in any significant way to our sales and marketing program.

This doesn't indicate a problem with the plan or our implementation; it is just a fact of life. Much of our marketing activity generates sales in ways that don't allow us the luxury of tying it back directly to a specific program



5.0 Controls

1. Tracking and follow-up: Will we have the discipline, as an organization, to track results of the marketing plan and make sure that we implement?
2. Market segment focus: How can we be sure we have the discipline to maintain the focus?
3 Saying no: Can we say no to special deals that take us away from the target focus? Can we say no to unprofitable deals? Should we say no to profitable deals?

5.1 Implementation

When — when will I see A flier.

Bill is in charge of the overall plan which includes the new services promotional flyer. We will be sending this out to all tenants. This is an all-year ongoing project so we don't list specific dates, just starting in April and ending at the end of November. Bill is also responsible managing the marketing plan.

- Holly, as Sales Support Consultant, will have some specific programs as well as the sales goals. We expect to see an increase in site visits by the end of May, and at least three new accounts by the end of the following month Holly will also be managing any mailing programs we implement, with several specific milestones included
- Sherri, as Network Consultant, will be managing any seminar programs we design for prospective clients. Sherri will also be responsible for keeping both the internal and external price lists up to date and investigating, from a technical perspective, any new product offering we may decide to pursue

BS V. MDC(1) 000178

PSC 6566

Milestones

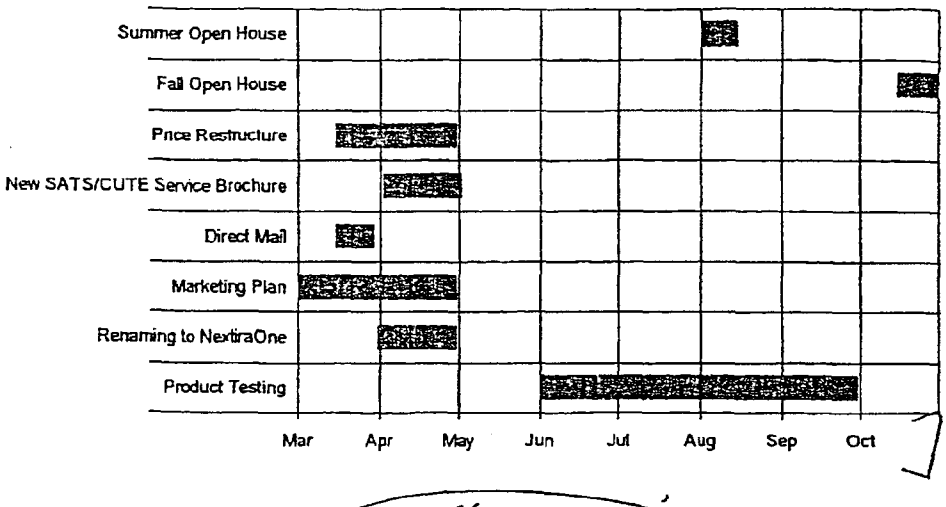


Table 5.1: Sales Forecast

Sales Forecast Sales	FY2003	FY2004	FY2005	FY2006	FY2007
SATS	$1,206,000	$1,326,600	$1,459,260	$1,605,186	$1,765,705
CUTE	$1,050,000	$1,127,500	$1,240,250	$1,488,300	$1,785,960
Total Sales	$2,256,000	$2,454,100	$2,699,510	$3,093,486	$3,551,665
Direct Cost of Sales	FY2003	FY2004	FY2005	FY2006	FY2007
SATS	$719,000	$850,000	$900,000	$950,000	$1,000,000
CUTE	$620,000	$900,000	$850,000	$1,200,000	$1,400,000
Subtotal Cost of Sales	$1,339,000	$1,750,000	$1,750,000	$2,150,000	$2,400,000

5.2 Marketing Organization

MACS is a small service of MDAD.

Bill, Account Manager, is responsible for general management. He specifically is responsible for sales and marketing as the lead of the organization.

Holly, our Sales Support Consultant, is responsible for managing the in-house calls, service requests, and customer contacts. We will also put any mailing programs under Holly because they must be carefully coordinated with the follow-up by either marketing or operations.

Sherri, our Network Consultant, will be responsible for marketing programs including price lists, sales literature, MDAD pricing, technical support, new product review, etc.

BS V. MDC(1) 000179

PSC 6567

5.3 Contingency Planning

1. We need to watch our results very carefully. We may need to overall the way we offer products and the type of services we offer. It isn't a bad option, to think that we might be able to avoid the straight competition with the major players by focusing more on our true value.
2. It's possible that the value-added position without hardware rentals could be a better way to go. We have to watch how the customer react and the possible rental revenue decline

BS V. MDC(1) 000180

PSC 6568

MDAD
SATS Consolidated
YTD Revenue

Quarterly Totals					Billing Period	Total Rental	Total Long Distance	Total Installation	Total Service & Repair	Total Revenue YTD
Total Revenue 1st Q					2/7/02-4/6/02	$331,714.86	$11,025.71	$7,689.05	$1,042.86	$351,472.49
Total Revenue 2nd Q					4/7/02-6/30/02	$508,408.32	$14,903.11	$28,084.69	$3,531.23	$554,890.60
Total Revenue 3rd Q					7/1/02-9/30/02	$168,724.94	$6,337.27	$4,031.18	$1,705.60	$180,801.65
Total Revenue 4th Q					10/1/02-12/31/02	$0.00	$0.00	$0.00	$0.00	$0.00
Total Revenue to Date					8/21/2002	$1,008,848.12	$32,266.09	$39,804.82	$6,279.69	$1,087,164.63

Monthly Totals	# of Customers	# of New Customers	# of Customers Lost	Reason/Description	Billing Period	Rental	Long Distance	Installation	Service & Repair	Billing Total
Monthly Revenue-FEB	56	0	0		*2/7-3/6/02*	*$165,816.44*	*$4,797.90*	*$4,556.24*	*$100.00*	*$175,270.58*
Monthly Revenue-MAR	55	0	-1	Midway Airlines-filed Bankruptcy	*3/7-4/6/02*	*$165,898.42*	*$6,227.81*	*$3,132.81*	*$942.86*	*$176,201.90*
Monthly Revenue-APR	57	2	0	Dalo Elecinc; H&D Electric-new service	*4/7-4/30/02*	*$169,401.72*	*$3,738.25*	*$13,333.31*	*$0.00*	*$186,473.28*
Monthly Revenue-MAY	58	1	0	Matrix Systems-new service	*5/1-5/30/02*	*$169,368.83*	*$5,405.78*	*$4,054.50*	*$0.00*	*$178,829.11*
Monthly Revenue-JUN	58	0	0		*6/1-6/30/02*	*$169,637.77*	*$5,759.08*	*$10,696.78*	*$3,531.23*	*$189,588.21*
Monthly Revenue-JUL	56	0	-2	Dalo Elecinc; H&D Electric-left Airport	*7/1-7/30/02*	*$168,724.94*	*$6,337.27*	*$4,031.18*	*$1,705.60*	*$180,801.55*

BS V. MDC(1) 000181

PSC 6569

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

BELLSOUTH TELECOMMUNICATIONS, INC., a foreign corporation,

Plaintiff,

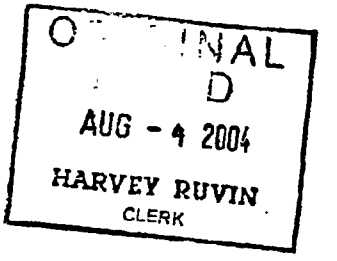
v.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida,

Defendant.

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03



PLAINTIFF BELLSOUTH TELECOMMUNICATIONS, INC.'S REPLY TO DEFENDANT MIAMI-DADE COUNTY'S ANSWER AND AFFIRMATIVE DEFENSES TO SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND FOR ISSUANCE OF WRIT OF MANDAMUS

Pursuant to Rules 1.100(a) and 1.140, Fla. R. Civ. P., Plaintiff, BellSouth Telecommunications, Inc. ("BellSouth") submits its Reply to the Affirmative Defenses filed by Defendant, Miami-Dade County ("Miami-Dade") to BellSouth's Second Amended Complaint for Declaratory and Injunctive Relief and for Issuance of Writ of Mandamus.

In addition to the responses set forth below, BellSouth reserves the right to move to strike some or all of Miami-Dade's affirmative defenses at a later date. BellSouth further reserves the right to supplement, modify or amend this Reply in light of ongoing discovery. All remaining allegations in Miami-Dade's Answer and Affirmative Defenses to the Second Amended Complaint not otherwise addressed herein are denied. Additionally, BellSouth denies Miami-Dade's entitlement to any of the relief requested in its Answer and Affirmative Defenses.

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100 SOUTHEAST 2ND STREET
MIAMI, FLORIDA 33131-2158

LASH&GOLDBERG LLP

WESTON CORPORATE CENTER
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2500 WESTON ROAD
FT. LAUDERDALE, FLORIDA 33331

3.3 Financial Objectives

1. Increase our customer base by 45% over a five year period.
2. Increase sales revenues by 38% over a five year period.
3. Increase our CUTE offering to 50% of the total revenues.

3.4 Target Markets

We cannot survive just waiting for the customer to come to us. Instead, we must get better at attracting the specific tenants whose needs match what we have to offer. Focusing on tenants prior to their arrival at MIA is the key to our future.

Therefore, we need to finely craft our marketing message and our product offerings. We need to develop our message, communicate it, and make good on it.

3.5 Positioning

For tenants who need reliable systems and can't afford their own full-time support employees, MACS is their strategic voice and data ally. Unlike the our competitors that sell equipment and telco services, MACS is an ally to our clients' businesses, and offers them a full range of services from installation to maintenance, support, and training One single point of contact for any communication issue.

For CUTE customers we offer the flexibility of gate information, consistent pricing, and emergency service not offered by anyone in the area.

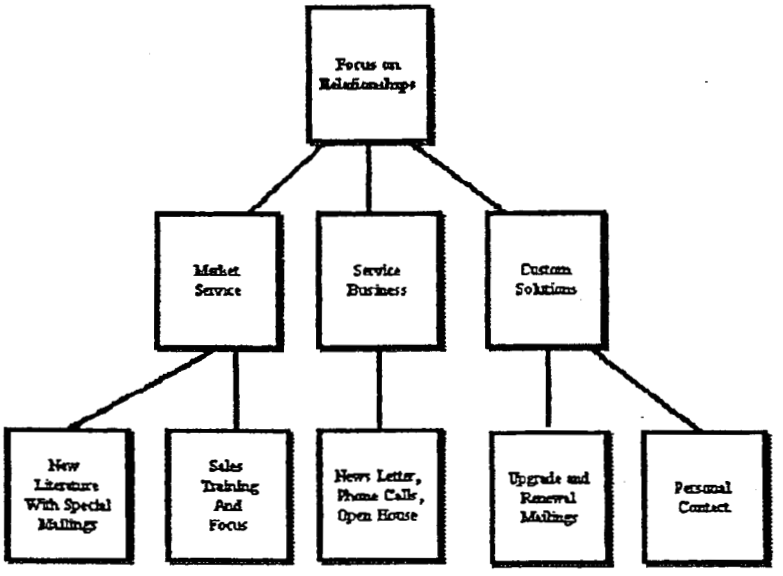
3.6 Marketing Strategy Pyramid

We must differentiate ourselves from the competition. We need to establish our business as a clear and viable alternative for our target market, to the price-only kind of buying. We do this by promoting our value added resources.

We've developed two strategy pyramids, each based on one main fundamental strategy The first strategy is about focusing on service and support, and the second strategy is about focusing on customer relationships instead of products. Each is explained in greater detail.

BS V. MDC(1) 000170

PSC 6571


Focus on Relationships
Market Service
Service Business
Custom Solutions
New Literature With Special Mailings
Sales Training And Focus
News Letter, Phone Calls, Open House
Upgrade and Renewal Mailings
Personal Contact

3.8 Marketing Research

Research is an integral step in developing any marketing plan We definitely need to know more about our customers. In the past we've been too distant, and perhaps too quick, to just guess about our customers, rather than conducting real research. For this plan we need to develop two new lines of market research.

1. Primary research on our own customer base. This doesn't have to be elaborate, but we do need to know more about our existing customers. Random telephone calls, through-the-mail surveys, and on site surveys may be appropriate. What do our customers think about us? How do they grade our services?
2. Secondary research on the Internet and in published magazines, etc We think it's time to establish a process for going through published research to find out what's available about buying patterns and demographics, business needs, etc., for our main target users We think there is a lot of information already available on these types, and much of it is readily available for a little bit of research.

BS V. MDC(1) 000176

PSC 6573

With respect to Miami-Dade's affirmative defenses, BellSouth states as follows (the numbers below correspond to the paragraph numbers in Miami-Dade's affirmative defenses):

1. BellSouth denies and avoids this "First Defense - Failure to State a Claim "

2. BellSouth denies and avoids this "Second Defense - Laches."

Respectfully submitted,

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Counsel for BellSouth Telecommunications, Inc.

CASE NO. 02-28688 CA 03

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Facsimile and U.S. Mail this 4th day of August, 2004, to David Hope, Assistant County Attorney, County Attorney's Office, P.O. Box 592075, Miami, FL 33159-2075.

By: _____
Martin B. Goldberg

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IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS, INC.,
a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

VIDEOTAPE DEPOSITION

OF

MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004
10:15 a.m. - 5:00 p.m.

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Whatever else is out there, Opa Locka. Any other facility. I think there is a jump school at Homestead General. You have those things that are sitting out there.
Q. Why doesn't the county or MDAD provide telecommunication service to those commercial tenants at the other county owned airports?
A. Don't know. I guess we haven't gotten around to either discussing or asking
Q. Are you aware of any plans to do that?
A. I haven't had any discussions with my guys about it yet.
Q. When you say your guys, have you had any discussions with anybody who you report to about that?
A. Oh, no, sir.
Q. Who does Angela Giddens report to?
A. County manager
Q. Who is who right now?
A. Mr. George Burgess.
Q. How long has he been the county manager?
A. He just came back. I'm not sure
Q. Recently?
A. Yes.
Q. Are you aware of any discussions with the

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current county manager with respect to this lawsuit?
A. No, sir.
Q. Are you aware of any discussions with the prior county manager with respect to this lawsuit?
A. No, sir
Q. Are you aware of any meetings that have taken place regarding this lawsuit that you have not been in attendance at?
A. No, sir
Q. Would you expect to be at any meeting where this lawsuit was discussed?
A. I guess it depends. I'm not sure if I need to attend. I don't know
Q. Why did the county enter into the transaction it did in January of 2002 to purchase the assets of Nextera?
A. It was, if I recall properly, based upon an audit and a review by county auditors, as well as there was an individual that came from the police department that was there temporarily, I believe it was Tom Arnold, that looked at processes from law enforcement and looked at processes and looked at the agreement and other things and said it would be in the county's best interest to buy out and own and operate rather than the existing way we were doing

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business at that time
Q. What was the existing way that you were doing business at that time?
A. It was a managed services agreement in which Nextera provided the service, did the billing and operated, supported the MDAD voice network or voice system, voice network as it stood and they managed and operated, and there's a management fee
There was I think a percentage of the share tenant revenue that came back. Whatever was generated came back to the department
Q. So before January 2002, Nextera owned and operated the telecommunications facility, correct?
MR. HOPE: Objection to form
A. They owned it. They operated it under a management agreement with the department, yes, sir.
Q. And then after January of 2002 the county owned and operated the facility, correct?
A. The county owned the facility and we contracted to have someone operate it for us.
Q. But aren't we saying the same thing. If the county is operating the facility after 2002, albeit through a management agreement, the county is still operating the facility? You are operating it, correct?

Page 196

A. We are still operating it, yes.
Q. There is no dispute about the fact that you are operating it, correct?
A. All right
Q. And you weren't operating it before January 2002 because Nextera was?
A. Yes, sir.
Q. There's no dispute about that, correct?
A. Yes, sir.
Q. Meaning there's no dispute, you agree with me, right? Sorry. You do agree with me, there is to dispute, right?
A. I concur with your last statement.
Q. Thank you. I appreciate that
MR. GOLDBERG: No further questions. Mr. Hope
MR. HOPE: None.
MR. GOLDBERG: You have a right after every deposition once the court reporter prepares a transcript, it is your right to elect to either read the transcript to make sure that it's accurate or to waive reading of the transcript I'm sure Mr. Hope --
MR. HOPE: We want to read
MR. GOLDBERG: He has said you are going to

MEMORANDUM

TO Honorable Chairperson and Member Board of County Commissioners

DATE: January 29, 2002

FROM Steve Shiver County Manager

SUBJECT: Telecommunications Services at the Aviation Department

RECOMMENDATION

It is recommended that the Board of County Commissioners (the "Board") approve the attached resolution waiving the competitive bid requirements of Administrative Order No. 3-2 related to the procurement of commodities and services and approve in principle the non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement ("Agreement") between Miami-Dade County, (the "County") and NextiraOne, LLC[1] ("Nextira"), substantially in the form attached hereto, which provides for: 1) the acquisition of, in accordance with the principles delineated in the Agreement, title to all telecommunications network, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as described in Schedule A to the Equipment Lease and Maintenance agreement ("ELM Agreement") and Schedule E to the Shared Airport Tenant Services agreement ("SATS Agreement"), as of February 6, 2002 for the acquisition price of $6,450,000 which will be amortized at five (5) percent over five (5) years; 2) resolution of various claims arising out of the ELM Agreement and SATS Agreement; 3) assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at Miami International Airport ("MIA") or the County's other owned or operated general aviation airports; and, 4) Nextira to become the interim telecommunications infrastructure manager, to provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD") and shared airport tenant services customers at MIA and the General Aviation Airports ("GAAs") until a new provider is selected, but for no longer than a period of twenty-four (24) months.

In addition, it is recommended that the Board approve the attached resolution authorizing the County to make direct purchases of the following equipment: (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport systems facilities. Under this system the County will purchase directly, certain commodities as indicated by Nextira and be exempt from paying state sales taxes and mark-up

[1] NextiraOne, LLC is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.

costs on these purchases. It is also recommended that the Board authorize, in accordance with Ordinance No. 99-63, the inclusion of a random audit provision, including the one quarter (1/4) of one percent assessment, in the Agreement. It is further recommended that the County Manager be authorized to execute the Agreement.

BACKGROUND

The County is currently under contract with Nextira. Nextira leases to the County, and manages, operates and maintains all the telecommunications infrastructure and services serving MIA and the GAAs at an approximate annual cost of $7,300,000. MDAD's agreement with Nextira expires on February 6, 2002.

NEGOTIATIONS

In July 2001, the Board approved Resolution No. R-852-01, approving a professional services agreement between the County and ResAvia. ResAvia is providing specialized technical and negotiation services to resolve the various claims arising out of the ELM Agreement and SATS Agreement entered into between the County and Nextira, and to negotiate a buy-out and new agreement with Nextira to allow MDAD an opportunity to finalize its long term voice and data telecommunications strategy.

INTERIM MANAGER FOR TELECOMMUNICATIONS INFRASTRUCTURE

MDAD is simultaneously working to develop a request for proposal ("RFP") to award a contract to a service provider to serve as the manager of the telecommunications infrastructure. Due to time constraints, the County will not be able to award this contract before February 6, 2002, when the Nextira contract expires. To assure the uninterrupted operation of the County airports, ResAvia, MDAD and the County Attorney's Office negotiated a proposed management agreement type contract (the "Agreement") with Nextira, to retain it as manager of the installed telecommunications infrastructure based upon County ownership of the equipment as further described below:

PROJECT LOCATION:	Miami International Airport and General Aviation Airports
PROJECT DESCRIPTION:	Provides for the operations, management, maintenance, service, support and equipment and supplies of the telecommunications and data, infrastructure, hardware and software systems for the MDAD and the shared airport tenant services customers at Miami International Airport and the General Aviation Airports. The scope of services includes the management of the shared airport tenant services for the County, including CUTE, to tenants and users at the Airport. In addition, Nextira will be

required to implement a transition program, one hundred and twenty (120) days prior to the expiration of the term of this Agreement, to ensure that either the new vendor selected as a result of the RFP process or MDAD's operating and maintenance personnel are trained in all aspects of the telecommunications and data infrastructure.

FIRM: NextiraOne, LLC

LOCATION OF FIRM: Houston, Texas

TERM OF AGREEMENT: The Agreement shall be for a duration of twenty-four (24) months. The County may terminate the Agreement with or without cause on thirty (30) days written notice to Nextira, provided however, the Agreement shall have a minimum term of eighteen (18) months unless terminated earlier for cause.

AMOUNT OF AGREEMENT:

Compensation to the Contractor

One-Time Acquisition Price:

Acquisition of the telecommunications, data network, and CUTE infrastructure, software licenses, permits, and other assets in Schedule A to the ELM Agreement and Schedule E to the SATS Agreement of $6,450,000 which will be amortized at five (5) percent over five (5) years.

Fixed Management Fee:

This Agreement provides for a fixed management fee of $6,144,067 for the first year, which includes overhead and profit, staff transition costs, vendor agreements and spare parts carrying charge.

The compensation for the second year is based on this Management Fee as adjusted by the budgeting process that incorporates the requirements of the Capital Improvement Program (CIP) and the change in the Consumer Price Index (CPI) for the salaries of the personnel

3

Variable Costs:

The Agreement also provides for the variable costs, when authorized by the Department, and includes: 1) the procurement of parts, materials and software ($2,630,000), 2) On-call after hour services ($273,000), and 3) subcontractor services for wiring installation and maintenance, as necessary ($899,415).

SATS Revenue:

Per the SATS Agreement, last year MDAD received $267,000 which was based on ten (10) percent of gross revenues. Under this new Agreement, MDAD will receive all SATS gross revenues which last year was $2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

Compensation to the County

The Contractor will pay to the County the sum of $110,000, on February 6, 2002, on account of excess space occupied without lease by the Contractor in Building 3030 at MIA for the period from November 1, 1997 to and including February 6, 2002.

RECOMMENDED CONTRACT MEASURES:	No measure
USING AGENCY:	Miami-Dade Aviation Department
FUNDING SOURCE:	Miami-Dade Aviation Department Operating Budget for Consulting Services and Aviation Revenue Bonds.
APPROVED FOR LEGAL SUFFICIENCY:	Yes

CONTINGENCY PLAN

As reported to the Board at its December 18, 2001 meeting, in the event that the negotiations with Nextira fail and no agreement is reached by the contract expiration date, the Department has a contingency plan to assure continuity in the provision of telecommunication services.

SUMMARY

In summary, our preferred outcome is a negotiated buyout of the telecommunications equipment and infrastructure, retaining Nextira for a limited time to act as manager of the telecommunications infrastructure, and obtaining a long-term contract for telecommunications infrastructure management through a competitive request for proposal. In addition, the above recommendation begins the implementation of MDAD's long-term, cost-effective strategy to enable better management and control of our telecommunications infrastructure. In the alternative, MDAD has a plan to continue services without Nextira while procurement processes and legal remedies are undertaken.

Attachment

5