

**MEMORANDUM**

JANUARY 9, 1995

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (CANZANO) *YH*  
RE: DOCKETS NOS. 921074-TP, 930955-TL, 940014-TL, 940020-TL,  
931196-TL, 940190-TL - EXPANDED INTERCONNECTION PHASE II  
AND LOCAL TRANSPORT RESTRUCTURE

*0034-fof*

Attached is a **FINAL ORDER** to be issued in the above-referenced docket. (Number of pages in Order - 68)

DC/clp  
Attachment  
cc: Division of Communications  
I:921074fo.dc

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Expanded Interconnection ) DOCKET NO. 921074-TP  
Phase II and Local Transport ) DOCKET NO. 930955-TL  
Restructure. ) DOCKET NO. 940014-TL  
\_\_\_\_\_ ) DOCKET NO. 940020-TL  
DOCKET NO. 931196-TL  
DOCKET NO. 940190-TL  
ORDER NO. PSC-95-0034-FOF-TP  
ISSUED: January 9, 1995

The following Commissioners participated in the disposition of this matter:

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DOCUMENT NUMBER-DATE

00234 JAN-95

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### FINAL ORDER

BY THE COMMISSION:

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## I. BACKGROUND

This matter came to hearing as the result of a Petition by Intermedia Communications of Florida, Inc. (Intermedia or ICI) to permit Alternative Access Vendors (AAV) provision of authorized services through collocation arrangements in Local Exchange Company (LEC) central offices. In order to address Intermedia's petition, broader questions regarding private line and special access expanded interconnection had to be resolved, which were addressed in Phase I. See Order No. PSC-94-0285-POF-TL. The issues regarding expanded interconnection for Private Line and Special Access raised still larger questions regarding expanded interconnection for switched access. This is the subject of the instant proceeding, Phase II.

We found in Phase I that expanded interconnection for private line and special access services is in the public interest. We mandated physical collocation and other requirements for its implementation.

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The Federal Communications Commission (FCC) in its initial decision on expanded interconnection mandated physical collocation. Our Phase I decision essentially mirrored the FCC's decision mandating physical collocation. However, on June 10, 1994, the United States Court of Appeals for the District of Columbia Circuit issued an order stating that it would vacate in part and remand in part the first two of the FCC's expanded interconnection orders on the grounds that the FCC did not have express statutory authority to require the LECs to provide expanded interconnection through physical collocation. In recognition of the confusion created by the courts decision, on June 21, 1994, we stayed the Phase I order and held in abeyance all outstanding motions until Phase II is resolved.

On July 14, 1994, the FCC adopted an order modifying its policy to be consistent with the Court's decision. On remand, the FCC mandated that all Tier 1 LECs, those with revenues over \$100 million annually, make virtual collocation available under tariff, to all collocators that request it. The FCC also stated that the LECs would be exempted from a mandatory virtual collocation requirement at any central office for which the LEC opts to offer under tariff expanded interconnection through physical collocation.

The hearing for Phase II was held on August 22-24, 1994 regarding issues relating to expanded interconnection for switched access and local transport restructure.

## II. SUMMARY OF DECISION

Essentially, we find that expanded interconnection for switched access is in the public interest. Virtual collocation shall be offered under tariff to all interconnectors upon request. The LECs shall be exempt from this requirement in offices where they opt to provide physical collocation. This is consistent with the FCC's current policy. Also, pricing flexibility will be allowed for the LECs, at this time, in the form of zone density pricing. If the LECs decide they need further pricing flexibility, such as Contract Service Arrangements (CSAs) to meet competitive needs, they should come before us with a request.

Chapter 364, Florida Statutes, does not prohibit expanded interconnection for switched access. However, there are certain prohibitions as to the extent to which it can be implemented. AAVs are prohibited from interconnecting with the LEC switch for the

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provision of switched access. We note that AAVs can provide transport of switched traffic between a single IXC's points of presence.

Only Tier 1 LECs are required to file tariffs necessary for the provisioning of intrastate expanded interconnection. At a minimum these tariffs shall mirror the tariffs filed at the federal level. Non-Tier 1 LECs that receive a bona fide request for interconnection shall if possible negotiate an agreement to provide expanded interconnection. If the parties are unable to reach an agreement, the matter shall be brought to the Commission for resolution. We should review such requests.

In addition, we have restructured the rate design for switched access local transport which will facilitate the LECs' ability to compete in this market. Our restructure is the same rate structure proposed by the LECs and adopted by the FCC. However, the LECs' rate levels shall be revised and refiled with cost and other supporting data.

### III. STIPULATIONS

We hereby approve the following stipulations by the parties:

1. Switched access service uses a local exchange company's switching facilities to provide a communications pathway between an interexchange company's terminal location and an end user's premises. Switched access is provisioned under a feature group arrangement. There are four feature groups: FGA, FGB, FGC, and FGD. These categories are distinguished by their technical characteristics, e.g. the connection to the central office is line side or trunk side. Rate elements differ by name according to the respective local exchange company. Rate elements typically include local switching, carrier common line, local transport, and carrier access capacity. Rate elements are currently priced under the equal charge rule. This means that each unit is priced the same as the next unit for a given rate element. Rates and charges include recurring, nonrecurring, and usage.

2. Local transport is one of the switched access rate elements. Local transport is currently priced on a usage sensitive basis. The rate is applied on a per minute of use basis. Regardless of distance all transport minutes of use are assessed the same rate per minute of use.



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3. Only Tier 1 LECs (Southern Bell, GTEFL, United, and Centel) shall be required to offer switched access expanded interconnection.

If a non-Tier 1 LEC receives a bona fide request for expanded interconnection but the terms and conditions cannot be negotiated by the parties, the Commission shall review such a request on a case-by-case basis. If the parties agree on expanded interconnection, the terms and conditions shall be set by individual negotiation.

4. Expanded interconnection shall be offered out of all LEC offices, which include central offices, end offices, tandems, and remotes, that are used as rating points for switched access services and have the necessary space and technical capabilities. Initially, expanded interconnection shall be offered out of those central offices that are identified in the proposed tariffs in the interstate jurisdiction. Additional offices shall be added within 90 days of a written request to the LEC by an interconnector.

5. Any entity shall be allowed to interconnect on an intrastate basis its own basic transmission facilities associated with terminating equipment and multiplexers except entities restricted pursuant to Commission rules, orders and statutes.

6. The Commission shall allow expanded interconnection of non-fiber optic technology on a central office basis where facilities permit. The actual location of microwave technology shall be negotiated between the LEC and the interconnector.

#### IV. FORMS AND CONDITIONS COMPARED TO FCC

##### A. Expanded Interconnection as Prescribed by the Federal Communications Commission

After the District Court's order, the FCC modified its original decision that established a mandatory physical collocation policy. On July 14, 1994, the FCC established a mandatory virtual collocation policy for special and switched access expanded interconnection. The FCC provided for two forms of expanded interconnection: physical collocation and virtual collocation. The FCC defines physical collocation as an offering that enables an interconnector to locate its own transmission equipment in a segregated portion of a LEC central office. The interconnector

pays a tariffed charge to the LEC for the use of that central office space, and may enter the central office to install, maintain, and repair the collocated equipment. The FCC defines virtual collocation as an offering in which the LEC owns, or leases, and exercises exclusive physical control over the transmission equipment located in the central office, that terminates the interconnector's circuits. The LEC dedicates this equipment to the exclusive use of the interconnector, and provides installation, maintenance, and repair services on a non-discriminatory basis. The FCC found that requiring mandatory virtual collocation was in the public interest. The FCC also appears to grant state commissions broad latitude in defining the circumstances under which one form of collocation is established over another.

**B. Forms and Conditions Preferred by the LECs**

GTEFL asserts that the FCC's order on expanded interconnection does not preempt us from implementing our own forms and conditions for switched access expanded interconnection to meet the specific needs and concerns of the state. However, GTEFL does not present evidence regarding the specific needs and concerns of Florida regarding switched transport nor how these needs differ from those on the interstate level.

GTEFL mentions, however, some drawbacks to mandatory physical collocation. Specifically, GTEFL is concerned about space allocation and that the FCC's expanded interconnection order does not provide a LEC the opportunity to deny physical collocation when floor space is available. GTEFL is concerned that this may cause a LEC to expand its central office in order to provide additional space for its own operations which might lead to an increase in rates. GTEFL states that physical collocation affects a LEC's capital planning efforts, because it forces LECs to take into account possible physical collocation requests. In addition, GTEFL asserts that space constraints may lead to the perception that one party was unfairly allowed to collocate while another party was not. Our review of evidence from non-LECs does not reveal statements that counter GTEFL's assertions regarding expanded interconnection's impact on the allocation of floor space.

Southern Bell asserts that we should adopt the FCC's approach to expanded interconnection for switched access. Southern Bell maintains that if the interstate and intrastate structures for expanded interconnection are different, it would result in administrative problems. We found no specific examples, however, of administrative problems in our review of the record. Nor did we find any evidence that refuted Southern Bell's assertions that

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administrative problems would occur with the implementation of mandatory physical collocation.

United's concern regarding terms and conditions for expanded interconnection was to limit the customer's ability and incentive to forum shop. To avoid this problem, United asserts that the terms and conditions we adopt for expanded interconnection should be the same as those established by the FCC. Our review of the evidence provides nothing that counters United's assertions regarding forum shopping.

ALLTEL asserts that the FCC's decision on expanded interconnection exempts Tier 2 LECs from the requirement to provide expanded interconnection. ALLTEL maintains that the rationale presented by the FCC for not requiring expanded interconnection for private line/special access by Tier 2 LECs also holds for switched access interconnection. The FCC found that requiring expanded interconnection for special access by Tier 2 LECs would have an adverse impact on universal service. ALLTEL states that diversion of special access traffic from the network of a Tier 2 LEC would have a large impact on this type of LEC.

Regarding ALLTEL's claims of financial loss, our review of the evidence reveals no empirical data specifying estimated revenue losses that would stem from the implementation of expanded interconnection. ALLTEL presented no evidence of potential competitors in its service area nor did ALLTEL provide evidence supporting the assertion that universal service would be adversely affected due to expanded interconnection. Although in theory a diversion of traffic from ALLTEL's switched access facilities may result in a need to increase revenues from other sources, we cannot determine the extent of the impact. More importantly, we believe that without evidence of the potential of a market entrant in the ALLTEL service area, we cannot conclude that there will be any competition for switched access in ALLTEL's service area after the implementation of expanded interconnection. We found no evidence that would indicate that AAVs intended on competing for switched access in Tier 2 LEC service areas such as ALLTEL's.

C. Forms and Conditions Preferred By Non-LECs

Florida Cable Television Association (FCTA) argues that we should not allow LECs the option of providing either virtual or physical collocation, because it would have a negative impact on the technical, operational, and financial characteristics of the interconnector. FCTA, however, could not specify what the impact on technical characteristics would be. Our review of the record shows no empirical data documenting the estimated impact on



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interconnectors resulting from a failure to establish mandatory physical collocation. FCTA states the specific operational problems that would occur from not requiring mandatory physical collocation involve an interconnector's ability to maintain, modify, and access its equipment.

ICI states that we should base our expanded interconnection policies on those established by the FCC which would eliminate barriers to full competition for switched services. Such barriers include a non-LEC's inability to carry switched traffic from a customer to LEC central offices, a non-LEC's inability to transport traffic between nonaffiliated entities, and a non-LEC's inability to carry voice traffic. The LECs presented no evidence to refute Intermedia's assertions regarding such barriers.

Sprint argues that we should establish the same switched interconnection policies and prices that were adopted by the FCC. First, the same facilities are used to provide both intrastate and interstate traffic, so using the same interconnection requirements and prices for intrastate and interstate facilities would be appropriate. Second, the same pricing and interconnection policy should be consistent between the decisions in Phases I and II.

#### V. EXPANDED INTERCONNECTION FOR SWITCHED ACCESS

Expanded interconnection is a collocation arrangement that permits access providers other than the local exchange companies to interconnect with the local exchange companies' networks on the local exchange companies' premises. Under this arrangement, the local exchange companies are required to provide space at designated points within their networks for locating, either virtually or physically, the transmission equipment of competing access providers. Customers can use the LECs' local loops to connect with LEC central offices and then, via expanded interconnection, select from among available access providers the switched transport services that connect a LEC central office with an interexchange carrier's point of presence.

The arguments of the parties regarding whether expanded interconnection is appropriate are framed in terms of expanded interconnection's impact on LEC revenues, ratepayers, and on potential competitors as well as the potential benefits that customers may receive from expanded interconnection. Each of the



parties that provided a position on this issue agree to a certain extent that expanded interconnection for switched access is indeed in the public interest.

A. Potential Benefits to Customers

ICI asserts that expanded interconnection would encourage users to take advantage of new, upgradeable technology and to purchase facilities for their efficiency and cost, not because there is only one supplier. Intermedia also argues that expanded interconnection would increase the scope of access competition and bring the telecommunications industry closer to a competitive market. Large end-users, according to Intermedia, have a need for service to be available from several competitive providers. With expanded interconnection, AAVs would be able to meet this need.

ATT-C also argues that competition would facilitate customer choice as well as the development of new services. Expanded interconnection would facilitate the introduction of competition within the local exchange and hence foster better price performance between competing providers of service.

Teleport states that with expanded interconnection AAVs could provide customers with operational and strategic security.

Sprint states that switched interconnection would provide several benefits including accelerated deployment of new technologies, route diversity, increased responsiveness to customers and the movement of prices closer to cost.

The LECs expressed certain reservations regarding the benefits of expanded interconnection. GTEFL argues that interconnection may harm LECs and their rural and residential customers on a relative basis. Any benefits obtained by large customers will be at the expense of smaller rural and residential customers. If large urban businesses migrate from LEC tariffed services to those provided by alternative providers, the subsidies that benefit rural and residential customers will be lost. These subsidies, according to GTEFL, support the prices for services that are priced below cost. If there is any benefit to the rural customer due to expanded interconnection, it will be deferred to the indefinite future. Increased rates for these customers are a real possibility.

Southern Bell asserts that expanded interconnection could be in the public interest, because it could result in additional competitive alternatives. In order to fully compete and ensure that subscribers receive service from the most efficient competitor, Southern Bell argues that LECs should be afforded

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pricing flexibility. Pricing flexibility allows the LECs to retain as much contribution as possible. Residential ratepayers may be financially affected if LECs are not allowed to compete fully to provide access services. With competition there is the threat that contribution from switched access service will be lost.

United/Centel asserts that in the long term, the competitive provisioning of switched transport service is in the public interest and will provide customers the benefits of product innovation, higher quality service, network diversity, and lower prices. United/Centel states, however, that end-users who are able to take advantage of expanded interconnection alternatives will pay less while those who cannot will pay more for the same service.

Accordingly, we find that the benefits that may occur from the introduction of expanded interconnection for switched access include:

1. Product innovation;
  2. Increased customer choice;
  3. Operational and strategic security;
  4. Increased quality of service;
  5. Deployment of new technology;
  6. Network diversity; and
  7. Avoidance of uneconomic bypass of the LEC local network.
- B. Revenue Impact on the LECs

The LECs argue that intrastate expanded interconnection for switched access will have a negative impact on their revenues. The resulting loss of contribution could cause an increase in rates for their small residential and business customers. However, other parties, such as Teleport and Sprint, contend that expanded interconnection for switched access will not cause serious financial harm to the LECs. Southern Bell argues that the revenues that are at risk are the transport portion of switched access revenues which represent the facilities running from the serving wire center to the customer premises, including any successive end offices.

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Teleport states that the impact of offering interstate switched access interconnection as compared to the total interstate switched access market is very small. It estimates that \$418 million of the \$11 billion market, under 5 percent, is all that will become competitive. The \$418 million represents the dedicated trunk portion of local transport for interstate switched access which is the only portion Teleport believes it can provide because of the current regulatory policy. Teleport asserts that the impact on the intrastate side will be even smaller.

On a company-specific basis, GTEFL estimates that for each minute of use that is removed from its transport facilities, GTEFL will lose \$0.0073 per minute of revenue, and \$0.0053 per minute of contribution. GTEFL also states that the total revenue and contribution loss would depend on the number of entities interconnecting at its central offices. Using a conservative estimate, GTEFL would expect to lose \$2,769,500 in contribution per year. Theoretically, GTEFL could lose as much as \$27,695,000; however, GTEFL concedes that the potential revenue loss from expanded interconnection directly is relatively minor.

Southern Bell estimates that the revenues at risk represent about 16 percent of all intrastate switched access. Based on Southern Bell's 1993 FPSC annual report, we calculate that this would be less than 2 percent of Southern Bell's total intrastate revenues. IAC notes that Southern Bell has not received a single request for collocation in Florida; thus, IAC argues that the potential for competition has not translated to a reality. IAC also asserts that intrastate dedicated transport is a relatively small market. For Southern Bell, the amount would be about \$9 million, representing less than 4 percent of its intrastate switched access revenues (\$236 million for 1993).

There is evidence that competition on the network may actually prevent some revenue loss. Intermedia argues that when a large user leaves the network and uses VSAT or other such devices to provide the user's own transport, the LECs and all other network service providers, such as IXCs, lose the revenue. In such a case, it is a permanent loss, because the user has made an investment in a private network. IAC states that as long as the large user remains on someone's network, the LEC has a greater chance to get that customer back than if the user purchases a private network.

In principle, GTEFL agrees. GTEFL states that to the extent that these large volume customers have more options available to them, then there would be relatively less movement to the private networks and VSAT type arrangements than there otherwise would be. At the same time, GTEFL notes that these other networks, at least



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from a LEC perspective, simply look like competitive alternatives. However, we agree with Intermedia that a customer, having left the public network and invested in a private network, is less likely to return to the public network. It would be less costly for a customer to return to the LEC network from a competitor's network, since the customer would not have the sunk cost of the private network equipment.

In fact overall revenues could increase. GTEFL did not include potential growth, such as minutes-of-use growth, line growth, and customer growth in its evaluation of the impacts. Although GTEFL argues that the LEC may lose contribution relative to what the LEC would have received, it agrees that in an absolute sense, revenues could increase. Sprint notes that switched interconnection could result in a new revenue source for the local exchange company in the form of monthly and nonrecurring charges. Southern Bell states that the interconnectors would have to pay a cross-connect charge, which is functionally the same as the local channel segment, although the rate is not the same. Southern Bell also notes that if the interconnector uses the local loop, it will also have to pay the LEC for the local switching and the carrier common line charges.

Based on our review of the record, it appears that there will be no substantial impact on LEC revenues as a result of switched expanded interconnection in the short term. The long term is more difficult to evaluate. The parties seem to agree that the AAVs currently are limited in the services that they can provide, and, therefore, competition will be limited. Until such competition becomes a real possibility, the potential impact is unknown.

### C. Potential Separations Impact

Only Southern Bell and GTEFL provided evidence regarding the separations impact of expanded interconnection. The two companies have conflicting views.

Because Southern Bell has not developed a forecast of demand for collocation, it was unable to quantify the potential separations impact or conclude that there will be a separations impact.

In contrast, GTEFL argues that the increased competition fostered by interconnection could have a significant impact on separations. GTEFL explains that, because of a decrease in switched access minutes of use, both intrastate and interstate, the



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LEC investment in jointly used facilities will have to be reallocated. Thus, the amount allocated through separations to such services as intraLATA toll and EAS will increase.

Yet, GTEFL also stated that, at least in the short term, competition will be limited, due to statutory restraints. Until there is full competition in the local network, no adverse impacts will occur.

If the competition will be limited, we do not believe there could be a significant impact on separations. Indeed, the FCC did not change any of the existing separations rules in the Switched Transport Expanded Interconnection Order, because it found that any indirect cost reallocation that might result from the implementation of expanded interconnection would not be of sufficient magnitude to undermine universal service or threaten state regulatory programs. (para. 147-51) Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, FCC 93-379). The FCC stated:

Because the initial magnitude of expanded interconnection costs and revenues is likely to be very small relative to LECs' total regulated costs and revenues, we conclude that any effect of the existing rules on the overall separations allocations should be minimal and should permit ample time for the Joint Board to make a recommendation to the Commission. (Para. 137, p. 473249 Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, FCC 94-190)

We agree with the FCC that, due to the limited impact, at least in the short term, of switched expanded interconnection, any separations impact will be negligible.

**D. Impact on General Body of Ratepayers**

The LECs expressed concern that the increased competition from switched access expanded interconnection will impact local rates.

ALLTEL contends that competition will: 1) create downward pressure on some of ALLTEL's switched access rates; 2) result in the loss of large switched access customers; or 3) result in a combination of 1) and 2). If any of these occurs, it could put pressure on ALLTEL's other rates, especially the rates of its basic local business and residential customers.

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GTEFL asserts that expanded interconnection for switched access is likely to have a negative impact on contribution that historically subsidizes basic residential rates. GTEFL argues that, as large business customers migrate from LEC switched access services to those of LEC competitors, contribution that benefits rural and residential customers will be eroded.

Southern Bell also argues that there was a significant threat to contribution received by LECs for switched transport access services. The Company states that these services provide a contribution to residential service; thus, the ratepayer could be adversely affected.

United/Centel concurs with the other LECs. United/Centel states that as contribution from switched access services are eroded by access competition, the prices of subsidized services, such as local dial tone, will necessarily have to be increased or other sources of subsidies will have to be found.

Our review of the evidence indicates that there will be no substantial impact on LEC revenues as a result of switched expanded interconnection in the short term. Thus, there would be little, if any impact on the general body of ratepayers. However, as with the revenue impact, it is impossible to quantify what any long-term effect on ratepayers will be because of the unknown factors.

Upon consideration, we find that expanded interconnection for switched access is in the public interest. There are potential benefits to customers due to expanded interconnection that include customer choice, strategic and operational network security, product innovation, and the deployment of new technology. In the short term, the revenue impact of allowing expanded interconnection for switched access appears to be insignificant. Based on the evidence of record, there is no indication that there will be a substantial negative impact on residential or small business ratepayers. The separations impact also appears to be negligible. Further, it appears that the impact on the general body of ratepayers will be minor.

**VI. DEDICATED AND SWITCHED SERVICES BETWEEN NON-AFFILIATED ENTITIES**

Section 364.337(3)(a), Florida Statutes, limits the provision of dedicated private line services by alternative access vendors to between affiliated entities only. Affiliated entities are defined as those corporations, partnerships, proprietorships or other groups that hold stock in excess of fifty percent of the stock of

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the entity which claims to be affiliated. See Order No. 24877. Thus, if an entity controls less than fifty percent or less of the stock of another entity, such entities are not affiliated.

Notwithstanding, the statutory limitations we address the affiliate restriction issue for our own further edification. With information we are either equipped to respond to legislative questions or actions regarding the affiliate restriction. The arguments of the parties focus generally on the potential benefits to customers, revenue impact on LECs and the impact on the general body of ratepayers.

Non-LECs state that the offering of dedicated and switched services between unaffiliated entities is in the public interest. Southern Bell asserts that if the allowance of more options for telecommunications services is in the public interest, then permitting dedicated and switched services between non-affiliated entities by non-LECs would provide additional options to end-users. Southern Bell's primary concern is the erosion of contribution that has been historically obtained from these services.

**A. Potential Benefits to Customers**

Intermedia asserts that non-LEC provision of both dedicated and switched services between non-affiliated entities is in the public interest. Intermedia also argues that the restriction on transport between non-affiliates is inefficient and expensive for users that want to transport large amounts of data between a large customer and themselves.

Teleport contends that one benefit that would result from non-LECs providing service between non-affiliated entities is the enhancement of Florida's competitive environment. Specifically, Teleport asserts that allowing this type of service would result in fiber optic facility deployment and a network that is operationally and strategically secure. Teleport describes operational security as the ability to acquire diverse, redundant routing and switching service from two independent local networks, and adds that the goal of an operationally secure network is to insure against network failure. Teleport states that strategic security refers to a business that obtains services from a telecommunications provider that does not compete in that business' core business.

We found no evidence presented by the LECs refuting any of the benefits described above by non-LECs. Based on our review of the record, it appears that allowing dedicated and switched transport by non-LECs will provide customers with another choice for data transport between non-affiliates. Further it appears that removing



the affiliate restriction will promote deployment of fiber optic facilities, reduce inefficiencies and expense for end-users and provide networks that are operationally and strategically secure. We note however, that non-LEC provision of such service will not come to fruition, however, until current affiliate limitations are removed.

**B. Revenue Impacts on the LEC**

Southern Bell states that LEC revenues will erode due to the additional competition for switched and dedicated transport. We believe that the revenue impact from non-LEC provision of dedicated and switched services between unaffiliated entities will be minor, if at all, in the short term. However, if the offering of dedicated and switched access services between non-affiliated entities has an impact on local rates, we maintain the flexibility to address such an issue if necessary.

**C. Impact on General Body of Ratepayers**

With the exception of Southern Bell, none of the LECs presented evidence regarding the impact on the general body of ratepayers derived from providing dedicated and switched services between non-affiliated entities. Southern Bell states that, as with the provision of expanded interconnection for switched access, the competition from non-LEC providers for service between non-affiliates will erode the contribution that historically subsidizes other local exchange services.

It appears from this record that the revenue impact to the general body of ratepayers in the short term will be minor but may increase in the long term. In the long term competition in the switched transport market may increase, with more traffic bypassing LEC switches. We expect that LEC responses to any increase in switched transport competition would include the reduction in contribution in markets that competitors target.

Upon review, we find that if otherwise statutorily permitted, allowing non-LEC entities to provide dedicated and switched service between non-affiliated entities is in the public interest. There are a number of benefits to customers from allowing non-LECs to provide such services between non-affiliates. There will be a revenue impact on the LECs; however, evidence indicates that such impact will be minor. We expect that in the short term the impact on the general body of ratepayers will be minor, but we acknowledge that with an increase in competition in the future, the impact may increase. However, expanded interconnection will have an impact on revenues of the local exchange companies, which may put future



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pressure on local rates. With an increase in competition, we maintain flexibility to address such revenue impact if we view that impact as unacceptable. In order for customers to benefit from the provision of service by non-LECs between unaffiliates, the current legislative restrictions on dedicated services between non-affiliates would have to be removed.

#### VII. STATUTORY AUTHORITY

Expanded interconnection for switched access is not specifically addressed in Chapter 364, Florida Statutes. The parties essentially agree that nothing in Chapter 364 prohibits us from requiring expanded interconnection for switched access; however, the parties differ as to the extent which expanded interconnection can be implemented.

GTEFL, Southern Bell, FCTA, and Time Warner generally agree that switched access interconnection authority will not supersede other statutory restraints on competition and that interconnectors will not be allowed to provide services that are otherwise prohibited by law. GTEFL and Southern Bell address limitations on AAVs as interconnectors. Intermedia and Teleport set forth positions that AAVs should be allowed to transport such traffic if they are permitted to interconnect. GTEFL and Southern Bell object to Intermedia and Teleport's positions that AAVs will be able to provide dedicated trunk portions of switched access transport and assert that AAVs may not provide switched services.

United/Centel states that nothing in Chapter 364 allows the Commission to impose mandatory physical collocation requirements as an integral part of expanded interconnection. We note that this point is moot because we are mandating virtual rather than physical collocation, which is discussed later in this Order.

The primary question is whether the contemplated use of expanded interconnection for switched access is permissible under Chapter 364, generally or whether specific provisions restrict some contemplated use of the interconnection. In addition to our general regulatory powers, Section 364.01, Florida Statutes, we are responsible for regulating interconnection of telecommunications facilities, Section 364.16, and encouraging cost-effective technological innovation and competition if doing so will benefit the public by making modern and adequate telecommunications services available at reasonable prices, Section 364.01(c), Florida Statutes. Specifically, Sections 364.335 and 364.337, Florida

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Statutes, must be carefully reviewed to determine whether there are restrictions on the contemplated use of interconnection for switched access.

Although we agree with Teleport and Intermedia's positions that we are required to encourage effective competition in the telecommunications industry, we must first consider specific statutory limitations.

Pursuant to the provisions of Section 364.337(3)(a):

'alternative access vendor services' means the provision of private line service between an entity and its facilities at another location or dedicated access service between an end-user and an interexchange carrier by other than a local exchange telecommunications company, and are considered to be interexchange telecommunications services.

In addition, private line service is defined in Section 364.335(3), as

any point-to-point or point-to-multipoint service dedicated to the exclusive use of an end-user for the transmission of any public telecommunications service.  
(emphasis supplied)

Thus, under existing law, AAVs may provide only private line or dedicated access services.

The types of services which an AAV can provide has been decided in Order No. 24877, issued August 2, 1991, (hereinafter the AAV Order). In the AAV Order, we specifically found:

- 1) AAVs can provide interexchange and intraexchange private line service and dedicated access between an end-user and an IXC;
- 2) Section 364.337 only allows AAVs to provide private line service between affiliated entities; and
- 3) the provision of switched services is prohibited for AAVs.

We also found that the affiliate restriction to any part of dedicated (point-to-point) service in which an IXC plays a part. If an AAV provides special access which is part of an end-to-end dedicated service, it may only be provided between an end-user and its affiliates. However, an AAV may provide special access which connects an end-user to an IXC-POP.

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Teleport contends that local transport service involves a dedicated, point-to-point facility between the LEC central office (collocation point) and the IXC POP. Teleport asserts that it is dedicated to the exclusive use of the end-user, in this case, the IXC. Teleport states that the dedicated local transport which would be provided by a non-LEC, including an AAV, is functionally equivalent to the dedicated transport service previously approved in Phase I. Teleport contends that the record shows that local transport is a dedicated, point-to-point service which is technically and economically equivalent to a private line service and does not entail switching and distribution of calls.

Southern Bell states that switching involves 3 primary elements: 1) the carrier common line, which goes from an end-user to a LEC central office; 2) local switching, which occurs at the central office, and 3) local transport, which goes from the LEC central office or serving wire center to the IXC. Switched access service only entails switching in one of the three elements that provide the connection from the end-user to the IXC. Southern Bell notes that the features of access service that AAVs are authorized to provide are 1) it must go from an end-user to an IXC; and 2) it must be entirely dedicated.

GTEFL states that the AAVs agreed in the Commission's 1991 general investigation that they were not authorized to provide switched services and did not intend to do so. GTEFL concurs with Southern Bell that switched transport service is and has always been part of switched access service. GTEFL maintains that our finding that AAVs are in the public interest contemplated that they would not provide anything other than special access as it has always been understood. GTEFL states that we declined to certificate AAVs as IXCs partly because it would cause confusion about the provision of switched interexchange service. GTEFL asserts that this observation recognizes that AAVs, unlike IXCs, cannot provide switched access services in any form.

Our interpretation of Teleport's position is that AAVs are physically capable of providing a switched access trunk that is technically and economically equivalent to the dedicated transport service approved in Phase I. Although this may be logical, we find that AAVs are prohibited by statute from providing switched access transport except for transport between a single IXC's facilities.

With expanded interconnection for switched access, the customer controls the destination of a transmission by way of the LEC's switch, in that it could be any local call or a long-distance call. Thus, the end-user is not being provided dedicated private



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line service or special access. Section 364.337 states that AAVs can provide only private line service or special access service between an end-user and an interexchange carrier.

In fact, on reconsideration of the AAV Order, we prohibited AAVs from offering packet switching service because the "customer control capability could transform a virtual private line service into a switched service." See Order 25546.

We believe that Sections 364.335 and 364.337, Florida Statutes, allow AAVs to provide only dedicated private line service and dedicated special access. Those statutes do not authorize any transmission method other than dedicated. (Order No. 25546) (Emphasis added)

Thus, we found that only dedicated transmission is permissible under Sections 364.335 and 364.337. Likewise, in expanded interconnection for switched access, the customer has control capability; thus, the service is not dedicated private line service nor is it special access service - it is a switched service.

We hold that switched access transport is not dedicated transport and does not meet the statutory requirements in Sections 364.335 and 364.337. To allow AAVs switched access interconnection would be adding a switch between an AAV and the end-user. The AAV's position is, in essence, a mere extension of the AAV's network into the switched services arena.

GTEFL also asserts that another hurdle to AAV provision of switched access transport is the affiliated entity restriction. Switched access transport is not provided between affiliated entities; rather, by definition, it is a switched service provided between a local exchange company and an IXC. Thus, GTEFL argues that AAV provision of any portion of switched transport would violate the statutory affiliate limitation on AAV operations.

Intermedia's position is that Chapter 364 generally encourages competitive provision of dedicated transport services and that no provision prohibits transport of switched traffic. Essentially Intermedia presents two lines of argument. If such transport is viewed as local service, then it qualifies as a private line service and may be provided by an AAV under Section 364.335(3). If the transport is viewed as an interexchange service, then it may be provided by both IXCs and AAVs under Section 364.337. In addition, Intermedia argues that this service is no different than a number of other transport services currently being provided competitively.



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Intermedia states that the contemplated use of interconnection is to allow dedicated transport from the point of interconnection with the central office to the IXC's POP. Intermedia's first argument is the position that transport is private line. Intermedia asserts that if dedicated transport of switched long distance traffic to the IXC's POP is viewed to be competitive local service, then 1) Section 364.335(3) controls; and 2) this dedicated transport meets the statutory definition of private line.

Intermedia contends that the transport segment is a) point-to-point; b) for the exclusive use of the subscriber, ie, the IXC; and c) for the transmission of a public telecommunications service. The AAV would take the switched long-distance traffic delivered to it through interconnection and transmit it down a dedicated telecommunications pipeline to the IXC's POP. The AAV would have no ability to terminate the traffic elsewhere. Intermedia asserts this meets the statutory test and for the first time, dedicated transport has been unbundled from other elements, such as switching and local channel elements, with which it was part of a switched product.

Intermedia also contends that IXCs and other businesses are end-users within the meaning of Section 364.335. Intermedia suggests that "end-user" often means the person using the telephone facility to place a call and an IXC does not fit this narrow view of the term. Instead, Intermedia asserts that "end-user" should be interpreted as "the subscriber that uses the service." Both natural persons and businesses would qualify to use private lines, which would shift the focus of the statutory definition from the entity using the service to the nature of the service being used. Thus, Intermedia argues that dedicated transport of switched long distance traffic meets the statutory definition of private line service under Section 364.335, Florida Statutes. If such transport is viewed to be a local service, then AAVs are allowed to use expanded interconnection for the purpose of providing that service.

We find that Intermedia's arguments fail for some of the same reasons as Teleport's.

Intermedia states that the contemplated use of interconnection is to allow dedicated transport from the point of interconnection with the central office to the IXC's POP. This interpretation fails the statutory provisions. If the transmission passes from the end-user through the LEC's switch, it is a switched service which the AAV is prohibited from providing as discussed previously.

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As previously discussed, to allow AAVs switched access interconnection would be adding a switch between an AAV and the end-user. In essence, this would be an extension of the AAV's network into the switched services arena.

Intermedia attempts to persuade us that the meaning of "end-user" in Section 364.335(3) should be interpreted as "the subscriber that uses the service" and should include IXCs. Intermedia then asserts that an IXC can be an end-user for which an AAV could provide dedicated transport to the IXC's POP. However, under Rule 25-4.003(46), Florida Administrative Code, in the general definitions section, "subscriber" is defined as any person, firm, partnership, corporation, municipality, cooperative organization, or governmental agency supplied with communication service by a telephone company. (Emphasis added) "End-user," on the other hand, is defined in Rule 25-24.610(1)(c), Florida Administrative Code, governing operator service providers, as a person who initiates a call or is billed for a telephone call. It is inappropriate to confuse the two terms. An end-user initiates the call. IXCs do not initiate calls; instead, they supply a service to end-users by receiving and transmitting traffic from end-users. Therefore, we find that an IXC is not an end-user within the meaning of Section 364.335(3).

Intermedia then contends that if dedicated transport is not viewed to be a local service, but rather an interexchange service, then such service must be authorized under Section 364.337, Florida Statutes. ICI states that this section gives us the statutory authority to authorize the provision of competitive interexchange services, and entities receive certificates to operate as IXCs, AAVs or both.

Intermedia states that an IXC may enter into a collocation agreement with the LEC and choose to provide dedicated transport to other IXCs, and asserts that not one word in Chapter 364 prohibits this type of transport. Intermedia suggests that if transport is considered an interexchange service, then Intermedia, which has an IXC certificate, can provide this service.

Although Intermedia says there is not one word in the statutes prohibiting transport from one IXC to another, we have previously held there are certain restrictions. The bypass restriction set forth in Order No. 16804 provides that "IXCs shall not be permitted to construct facilities to bypass the LECs unless it can be demonstrated that the LEC cannot offer the facilities at a competitive price and in a timely manner." In the AAV Order, we found it appropriate to change the bypass restriction so that AAVs are authorized to provide bypass services subject to certain

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conditions. We specifically found that "neither IXCs nor any other entities shall bypass LEC facilities unless they are certified as AAVs." Thus, if an IXC collocates in a LEC's central office and seeks to transport traffic to another IXC, it would violate the bypass restriction.

Intermedia contends that if an entity holds only an AAV license and dedicated transport is viewed as an interexchange service, then it may still provide such service under Section 364.337(3). Intermedia states that it is clear that dedicated transport does not involve switching and meets the statutory definition of private line. Intermedia also states that transport configurations may vary. Intermedia suggests that whether the IXC has its facilities at the point of interconnection with the LEC depends on the arrangements made between it and the AAV. ICI states that no general prohibition could be made pursuant to Section 364.337(3). ICI states, for example, an IXC could interconnect its facilities with the LEC through a physical or virtual collocation arrangement with the AAV. Thus, Intermedia asserts that an AAV could grant an IXC collocation with it for the purposes of ensuring that the AAV's transport service was between the IXC's facilities at the point of interconnection and its facilities at its POP.

If the transmission passes from the end-user through the LEC's switch, it is a switched service which the AAV is prohibited from providing. It is well-established that an AAV can provide IXC POP-to-POP connection. See AAV Order. Therefore, we hold that AAVs can provide switched access transport between a single IXC's points of pressure only if the LEC's switch is not in-between the IXC's POPs.

Southern Bell submits that the plain language reading of Section 364.337(3)(a) cannot be reasonably construed to mean that an AAV can carry switched access traffic. It would have been easy enough for the legislature to provide that an AAV cannot provide switching, but that it can provide any non-switched part of any access service, including switched access. Instead, Southern Bell notes that the legislature chose to specifically limit alternative access vendor services to the provision of dedicated access, rather than a dedicated piece of switched access, and to further provide that this dedicated service is to be all the way from the end-user to the IXC. Thus, Southern Bell contends that any argument that an AAV can use expanded interconnection as a means to carry switched traffic under the language of Section 364.337 is clearly untenable and must be rejected. We agree.



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Upon review, we find that there is nothing in Chapter 364 that prohibits expanded interconnection for switched access. However, there are certain prohibitions as to the extent which expanded interconnection for switched access can be implemented. Pursuant to the statutory provisions of Sections 364.335(3) and 364.337, Florida Statutes, we find that AAVs are prohibited from interconnecting with the LEC switch for the provision of switched access. However, AAV's can provide transport of switched traffic between a single IXC's points of presence.

#### VIII. PHYSICAL COLLOCATION

The issue of whether a physical collocation mandate raises federal or state constitutional questions about the taking or confiscation of LEC property is moot because we are mandating virtual rather than physical collocation, discussed below.

#### IX. VIRTUAL COLLOCATION

The FCC defines physical collocation as an offering that enables an interconnector to locate its own transmission equipment in a segregated portion of a LEC central office. The interconnector pays a charge to the LEC for the use of that central office space, and may enter the central office to install, maintain, and repair the collocated equipment. See FCC Report & Order, Released 7/25/94, para 7.

Virtual collocation is an offering in which the LEC owns (or leases) and exercises exclusive hands-on control over the transmission equipment, located in the central office, that terminates the interconnectors circuits. The LEC dedicates this equipment to the exclusive use of the interconnector and provides installation, maintenance, and repair services on a non-discriminatory basis. The interconnector has the right to designate its choice of central office equipment and to monitor and control the equipment remotely. Monitoring and control is the ability to track, reconfigure, and supervise the operation of communication circuits terminating in such equipment from a remote location. The LEC connects the equipment to the interconnector's circuit outside the central office, with an interconnection point between the LEC-owned facilities and interconnector-owned facilities as close as possible to the office. See FCC Report & Order, Released 7/25/94, para 7.



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On June 10, 1994, the United States Court of Appeals for the District of Columbia Circuit issued an order stating that it would vacate in part the first two of the FCC's expanded interconnection orders on the grounds that the FCC did not have express statutory authority under the Communications Act of 1934, as amended, to require the LECs to provide expanded interconnection through physical collocation. Bell Atlantic Telephone Companies, et al. v. Federal Communications Commission, et al., 24 F.3rd 1441 (D.C. Cir. 1994) The court vacated the orders insofar as they required physical collocation; in all other respects, the orders were remanded to the FCC for further proceedings.

On July 14, 1994, the FCC adopted an order modifying its policy so that it is consistent with the Bell Atlantic decision. See Memorandum Opinion and Order, Issued July 25, 1994, CC Docket 91-141. On remand, the FCC mandated that all Tier 1 LECs make virtual collocation available, under tariff, to all interconnectors that request it. Concerning physical collocation, the FCC stated that LECs will be exempted from a mandatory virtual collocation requirement "at any central office or offices for which the LEC opts to offer under tariff expanded interconnection through physical collocation." See FCC Report & Order, Released 7/25/94, para 31.

Tier 1 LECs are defined by the FCC as those companies having annual revenues from regulated operations of \$100 million or more. The Tier 1 LECs in Florida include GTEFL, Southern Bell and United/Centel. The primary position of these companies is that we should allow negotiated collocation, without mandating any particular type. However, GTEFL states that if we decline to permit negotiated collocation, then the appropriate alternative is a policy of mandatory virtual collocation as implemented by the FCC. Southern Bell concurs because this allows the LEC to choose which type of collocation to offer.

United/Centel states that it is not opposed to providing collocation. It is, however, opposed to being unconditionally required to provide any specific form of collocation, either physical or virtual. United is unique in that it has been negotiating collocation arrangements for some time. We note, however, that these collocation arrangements were not for expanded interconnection, but for central office space leased by outside parties. United/Centel states that collocation should be treated as a line of business and negotiated on an arms-length basis with terms and conditions which are beneficial to both parties. United/Centel asserts that there are equal and compelling incentives for LECs and AAVs to negotiate mutually advantageous collocation arrangements. For example, the AAVs have the

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opportunity to reach a larger customer base and the LECs are presented with a business opportunity to lease floor space.

We are concerned about allowing the LECs to negotiate collocation arrangements when the majority of the bargaining power would be with the LEC. FCTA asserts that the LEC is in control of the facilities and has the dominant position in negotiations. Southern Bell admits that whoever controls a particular location can indeed limit a competitor's access if the terms and conditions for collocation are not formally established. We find that AAVs, especially smaller ones, would lack the necessary market power to negotiate an equitable arrangement with the LEC. Therefore, we shall not order individual negotiation for collocation arrangements.

Teleport, FCTA and Time Warner assert that if we mandate virtual collocation, it should be technically, operationally, economically and administratively comparable to physical collocation. Although FCTA's primary position is to have a physical collocation mandate, it recognizes the circumstances that led to the FCC's change to a virtual collocation mandate. FCTA states that a virtual collocation standard should give interconnectors what they would have received under physical collocation. Teleport echoes this belief and adds that a virtual collocation standard that is comparable to physical collocation will protect the critical competitive, operational and financial characteristics of the interconnector's services.

In the federal proceedings, the AAVs asked the FCC to require that virtual collocation be technically, operationally, economically and administratively comparable to physical collocation. The FCC found that this standard would impose burdens on the LECs that are unnecessary to protect the interconnectors' interests. See FCC Report & Order, Released 7/25/94, para 43. They found that interconnectors acquiesce to LEC performance standards on the LEC circuits to which the interconnector circuits are attached. Also, "interconnectors can achieve a high level of reliability through the use of electronics with redundant components and remote monitoring and control rather than through expedited repair procedures." See FCC Report & Order, Released 7/25/94, para 62. We view the interconnectors' request for special standards as tariffing issues. The currently proposed interconnection tariffs contain terms and conditions that are unique to the service and applicable to any and all customers that choose to buy from those tariffs. We are willing to entertain any specific proposals from the AAVs for reasonable additions to the LECs' tariffs.

ATT-C and Sprint believe we should adopt interconnection rules that are consistent with those prescribed by the FCC. Many of the parties recognize that there is a need for compatibility between state and interstate policies. Sprint states that the same collocated facilities and equipment will be used to interconnect interstate and intrastate traffic. GTEFL believes that having a unified plan will limit administrative costs and remove some of the incentives for misreporting the jurisdictional nature of the traffic. United/Centel adds that since the user has the ability to send interstate and intrastate traffic across the same facility there is an incentive to shop tariffs and report traffic accordingly. We find that this argument has merit, because to the interconnector desiring collocation, jurisdiction does not make a difference when considering the equipment and central office facilities needed. Interconnectors will buy out of whichever tariff is more attractive to them.

Consistency and coordination with the federal expanded interconnection policy were important factors in determining the type of interconnection arrangement to order in Phase I of this docket. The record indicates that the parties believe consistency is just as important in Phase II. The LECs contend that consistency can be achieved through individually negotiated arrangements. We think that negotiated arrangements have the potential to be one-sided, since the LEC owns and controls the central office. Other parties state that we should mirror the FCC's mandate of virtual collocation but only if it is operationally, technically administratively and economically comparable to physical collocation, which we find are tariff-related issues and should be addressed at the time a proposed interconnection tariff is filed. Therefore, we shall require the LECs to provide virtual collocation for switched access expanded interconnection to all interconnectors upon request. LECs will be exempted from this requirement in offices where they opt to provide physical collocation. Once space for physical collocation is exhausted, the LEC must provide virtual collocation.

#### X. RECIPROCAL INTERCONNECTION

This issue addresses whether or not collocators should be required to offer interconnection to the LECs or other parties.

Intermedia states that we should require reciprocal interconnection and that Intermedia is willing to provide it to LECs and other parties that seeks to use its network. Intermedia states that the reciprocal interconnection arrangements will be offered under similar terms and conditions as those established by



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the LECs; however, collocation will be limited due to the availability of space.

The LECs favor a reciprocal interconnection requirement. GTEFL believes that it is necessary to foster competition in the marketplace and that everyone should be subject to the same rules and requirements. GTEFL asserts that such a requirement would be consistent with symmetrical treatment of all parties in the marketplace. GTEFL also provides that if AAV costs are lower than the LEC then the LEC should not be precluded from purchasing inputs from the AAV to provide services to its customers. Southern Bell echoes GTEFL's position by stating that reciprocity under the same terms and conditions as required for LECs should be a part of any interconnection arrangement in Florida. Without reciprocal interconnection, Southern Bell asserts that customers may be denied the option of purchasing LEC services at the most competitive price.

ATT-C, Sprint, Teleport, Time Warner and FCTA assert that reciprocity should not be a requirement. ATT-C does not believe that collocators should be ordered to allow LECs to interconnect with their networks. ATT-C's position is that expanded interconnection was designed by the FCC to initiate competition into the LEC monopoly environment, and since none of the potential competitors possesses a monopoly, interconnection requirements are not necessary. ATT-C does not oppose reciprocal interconnection, but only opposes having it mandated. Teleport concurs with ATT-C's position but adds that as competition develops, a non-dominant competitive carrier would be foolish to reject a collocation request and the associated revenues because that the potential interconnector would simply go to the next provider.

We note that FCTA raises the argument that the LECs' ability to collocate with cable television facilities is governed by a federal scheme enacted by Congress. FCTA, therefore, asserts that we are preempted from imposing expanded interconnection requirements upon collocators that are cable operators. Although we disagree with FCTA's argument, we do not believe there is a need to address this because we are not mandating reciprocal interconnection.

The arguments advanced by the non-LECs are consistent with the FCC's line of reasoning regarding its comments on reciprocity. The FCC asserts that mandated expanded interconnection for the LECs is necessary, because LECs are the dominant carriers and control facilities to which other parties need access in order to provide service. On mandating reciprocity, the FCC states that there is no reason to impose expanded interconnection requirements on parties



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that lack market power and do not control bottleneck facilities.  
(FCC Report & Order, Released 7/25/94, para 104)

We agree that AAVs do not have as much freedom to discriminate among customers as would a dominant carrier such as a LEC. AAVs would have an incentive to explore additional revenue streams to help fund their network goals and advance their company in the market. In principle, symmetrical treatment would be appropriate in a more mature environment. However, we do find that mandated symmetrical treatment is not appropriate at this time, because the market itself is not symmetrical. The LECs are currently the dominant providers of local access services and the owners/controllers of the bottleneck facilities. Therefore, we hold that it is not necessary at this time to mandate that collocators permit LECs and other parties to interconnect with their networks. Instead, we encourage collocators to allow LECs and other parties to interconnect with their networks. To the extent the LECs believe they are being discriminated against or the efficiency of the network is affected, they should bring it to our attention. If a dispute arises, we shall review the request to interconnect on a case-by-case basis.

#### XI. REQUIREMENT TO FILE TARIFFS

In Phase I we required only Tier 1 LECs to file tariffs for private line and special access service expanded interconnection. We decided that less, not more, regulation was appropriate. The issue before us is which providers of switched access transport should be required to file tariffs.

IAC, Sprint, and United/Centel assert that any party providing switched access services should be subject to tariffing requirements. Intermedia, FCTA, Teleport, and Time Warner argue that AAVs and other interconnectors should not be required to file tariffs, but all companies that are currently under tariff mandates should continue to file tariffs. Southern Bell and GTEFL advocate that no party, LEC or AAV, should be required to file tariffs. ALLTEL, ATT-C, and OPC took no position.

Southern Bell asserts that local exchange companies and other transport providers should not be required to file tariffs because these decisions should be left to the transport provider. Southern Bell states that federal and state statutes and rules requiring tariffs should be removed, so that Southern Bell could have the same pricing flexibility that is enjoyed by its competitors.

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Although GTEFL states in theory that no provider should be required to file tariffs for switched access services, it argues that all providers of switched access should be treated equally, and if we retain tariff requirements for the LECs, then AAVs should also be subject to these same requirements. GTEFL states that a tariffing requirement imposed only on the LECs may weaken price competition to the detriment of the consumer. GTEFL also asserts that tariffing by all providers could benefit consumers by facilitating comparison shopping among consumers by minimizing search costs. This availability of information in turn contributes to a more efficient marketplace. Thus, GTEFL argues, those parties opposing the filing of tariffs are mistaken from a current public policy perspective.

IAC asserts that all providers of switched access should be required to file tariffs, because there is a significant danger of discrimination in the market, and the only means that one has to detect and prevent discrimination is tariffing. IAC notes that AAVs are required to file tariffs for their services at the interstate level.

United/Centel argues that any party, whether dominant or non-dominant, offering transport services should be subject to tariffing requirements, because it could be beneficial to many of the parties involved. It asserts that non-dominant providers have more streamlined tariffing procedures before the FCC, but must tariff nonetheless, and that the tariffing requirement should be no less in Florida. United/Centel also states that not requiring the non-dominant carriers to file tariffs would give them some advantage in the marketplace. In addition, United/Centel asserts that it may benefit customers and even this Commission in terms of complaint processing, because the tariff could be used to determine the validity of the complaint.

Sprint contends that all providers of switched access services should be required to file tariffs because the non-dominant carriers could potentially affect the market with discriminatory pricing. It supports GTEFL's argument that a tariff is an excellent source of information about the state of service in the marketplace. However, Sprint states that carriers which do not have monopoly power should not be required to comply with rules that are only appropriate for monopoly providers.

Intermedia argues that only the incumbent LECs, with dominant market power, should be required to file tariffs for switched access services. Intermedia also notes that we determined in Phase I that AAVs and other interconnectors need not file tariffs for

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special access and private line services and that we advocated less, not more, regulation.

Teleport contends that only LEC providers which have control over bottleneck facilities should be required to file tariffs. Even with the advent of local transport competition, LECs will possess a dominant market share for the foreseeable future; therefore, it is appropriate to continue tariffing their switched access services. Teleport argues that AAVs are not presently required to file tariffs in Florida.

Time Warner and FCTA assert that only incumbent LECs should be required to file tariffs because competitive pressures generally will prevent competitors from pricing services higher than the LEC.

About half of the parties are in favor of tariffing by all providers of switched access transport, while the others contend that only the LECs should file tariffs for switched access transport. Generally, the LECs state that all switched access transport providers should file tariffs because they are required to and it is an information source for consumers. The AAVs generally believe that tariffs are unnecessary, because they would not have any incentive to price above the LECs. Further, we have previously held that AAVs shall not be required to file tariffs. (AAV Order, Phase I Order)

Parties such as GTEFL and United/Centel believe that the tariffs are necessary, but also benefit the consumer. IAC also adds that tariffs are the only means to detect and prevent pricing discrimination. However, we find that these arguments are not necessary, because the purchasers of switched access are IXCs who are very knowledgeable of the market. We believe the IXC would choose to remain with the LEC or choose another AAV if its current AAV attempts to price drastically different than other AAVs or the LEC. In addition, IXCs might choose to seek an AAV certificate and provide their own transport.

We agree with Teleport's argument that AAV rates are constrained by the rates of the LECs, and thus by regulating the prices of LECs, we are indirectly regulating the prices of AAVs. In addition, Intermedia and Time Warner also state LEC tariffs will establish a price ceiling the way ATT-C has established a price ceiling for long distance services. Because tariffing by the LEC creates a price ceiling, we believe that AAVs would have the incentive to underprice the LECs and possibly to discriminate against IXCs. However, we do not believe that the AAVs have the



ability to discriminate against the IXCs because of the limited size of AAV networks, differing costs than the LEC, and the IXCs' knowledge of the access market.

In addition, we recognize that in some markets and for some services, AAVs will be able to acquire the LECs' business. However, we believe that AAVs will not be able to take all of the LECs' business by underpricing them. First, for some transport services, the LEC will still be able to provide the lowest price. Second, zone density pricing, discussed elsewhere in this Order, allows the LECs to respond to the competitive pricing by the AAVs.

Because we have decided to encourage rather than require reciprocal interconnection, we must be consistent with our decision. AAVs and other interconnectors are not required to file tariffs for expanded interconnection. If they were, then we would essentially be ordering reciprocal interconnection, because tariffing forces a company to provide the service at the same prices, terms, and conditions to all similarly situated customers.

Upon consideration, we shall not change our policy regarding tariffing for AAVs. At this time, only LECs shall be required to file tariffs for switched access transport. We can revisit the issue of who should be required to file tariffs if necessary. Moreover, if at a later date, we find that the market becomes more competitive, we may give the LECs more pricing flexibility or in the extreme case, detariff switched access transport. However, if we find, through complaints, that AAVs are practicing pricing discrimination and LECs are unable to compete with AAVs because of the LEC tariffing requirement, then we may consider requiring tariffs for all providers.

## XII. INTRASTATE TARIFFS

Because the Tier 1 LECs had not yet filed actual interstate tariffs, they were required to file illustrative switched access interconnection tariffs based on a mandatory physical collocation requirement. GTEFL, United/Centel, and Southern Bell filed illustrative switched access interconnection tariffs which we will review.

All parties state that the switched access interconnection tariffs should either mirror the interstate tariff and be consistent with all other decisions reached in this docket, or they take no position.



The terms and conditions of the illustrative switched access interconnection tariffs filed by the LECs are for generally appropriate. However, the mandatory physical collocation requirement must be revised to reflect a mandatory virtual collocation requirement. In addition, several of the terms and conditions for special access and private line are under reconsideration. These include checkerboarding, warehousing, and tariffing at the DSO level. These Phase I issues must become final before the Phase II tariffs can be approved because the terms and conditions for special and switched should be comparative.

The FCC's Remand Order discusses standards that the new virtual collocation tariff for switched access interconnection must contain. Most of the standards are the same as what was originally ordered under mandatory physical collocation. See FCC Report & Order, Released 7/25/94. The FCC also ordered that if a LEC offers both interstate and intrastate expanded interconnection, it should do so in a manner that satisfies both federal and state requirements to the extent possible, and should provide mechanisms to avoid double payment for facilities used for both interstate and intrastate collocation. See FCC Report & Order, Released 7/25/94, Par. 75. We adopt this policy as well.

Upon review, we find that the following standards, terms, and conditions contained in FCC Docket No. 91-141, FCC Report and Order, Released July 25, 1994, shall be mirrored in the intrastate filings:

1. Equipment Designations;
2. Virtual Collocation Through Generally Available Tariffs;
3. Installation, Maintenance and Repair Standards;
4. Cross-connect element must be tariffed at study-area-wide average rate for both physical and virtual collocation (Must only tariff physical if LEC chooses to offer physical);
5. Virtual collocation arrangements do not involve the reservation of segregated central office space for the use of interconnectors;
6. First-come, first-served space allocation for voluntary physical collocation;
7. If space is exhausted under voluntary physical collocation, virtual collocation must be offered;

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8. Charges for central office space, power, environmental conditioning, and labor and materials for installing voluntary physical collocation must be uniform for all interconnectors in each individual central office; and
9. There are no liability insurance requirements for virtual collocation, unless LECs make a compelling case otherwise.

Another aspect of this issue is how the switched access interconnection tariffs relate to the restructure of the local transport tariffs. GTEFL states that it is imperative that we allow the restructuring of the LEC's local transport services in accordance with the FCC's LTR methodology; otherwise, the LECs would be on an unlevel playing field in which they could not compete fairly with entities like AAVs. United/Centel agrees with GTEFL that if switched access interconnection is approved, local transport must also be restructured. We agree that local transport restructure should be approved to allow the LECs to offer transport on a flat-rate dedicated basis. Therefore, we find that the expanded interconnection tariffs for switched access shall not become effective until the restructured local transport tariffs become effective.

Because of the change in policy at the FCC, we find that the provisions in the illustrative intrastate switched access expanded interconnection tariffs shall not be approved in their current form. Instead, because we have approved mandatory virtual collocation, all Tier 1 LECs shall file actual tariffs which mirror the interstate switched access interconnection tariffs on file with the FCC as of January 1, 1995. However, the standards, terms and conditions that we will adopt in Phase I that are different than those adopted by the FCC shall be included in the tariff. Several of the terms and conditions for special access and private line are under reconsideration. These include checkerboarding, warehousing, and tariffing at the DSO level. These Phase I issues must become final before the Phase II tariffs can be approved because the terms and conditions for special and switched should essentially be the same.

The LEC-specific switched access interconnection tariffs containing mandatory virtual collocation requirements shall be filed 60 days after the Phase I and Phase II Orders are final and all outstanding motions for reconsideration have been decided. In addition, these tariffs shall become effective on or after the date the LEC's local transport restructure tariffs become effective.

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The switched access interconnection tariffs will be reviewed by Commission staff according to our standard tariff review process and brought back for approval.

### XIII. PRICING FLEXIBILITY

A major point of contention was whether pricing flexibility is appropriate for LEC switched local transport services, and if so, in what form.

The LECs argue that pricing flexibility is needed to compete with the AAVs. Without it, they claim there will be major negative revenue impacts. GTEFL asserts that by delaying implementation of flexible pricing options, erosion of LEC revenues will continue and LECs will not be able to recoup these losses once they occur. This will place upward pressure on the rates of other services to make up the difference.

United/Centel argues that if the LECs are not allowed to have pricing flexibility to respond to the competition, the benefits of competition will not flow through to the customers. In addition, competitors will take customers away from the LECs, not necessarily because they are more efficient, but because there is an artificial barrier that keeps the LEC from competing with the competition.

However, as discussed earlier, there may be little short term impact on LEC revenues as a result of expanded switched interconnection. Further, only a small part of the intrastate switched access market may be opened to competition as a result of implementation of expanded interconnection for switched access at this time.

Intermedia argues that since no revenue shortfall is imminent, the present pricing scheme best serves the public interest. Intermedia adds that allowing additional pricing flexibility now will have the long-term result of eliminating competing AAVs or keeping them out of the arena.

IAC argues that the relevant question is not whether pricing flexibility should be allowed, rather, what form it should take. IAC states that the key objective should be pricing flexibility which allows the LEC to move its access rates closer to cost in a non-discriminatory manner for all access customers. This means, according to IAC, that we should allow the LECs to have zone pricing where they can reduce their prices in areas and regions to get them closer to cost, so long as they cannot discriminate between interexchange carriers within those zones.



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While negative revenue impacts may be limited, nevertheless, we must strike a balance which is workable for all the parties, including the LECs, their competitors, and the customers. The FCC seemed to sum up the situation best:

...excessive constraints on LEC pricing and rate structure flexibility during a time of increasing competition will deprive customers of the benefits of competition and give the new entrants false economic signals. At the same time, we recognize that inadequate restrictions on LEC pricing and rate structure could permit competitive abuses that would stifle economic competitive entry and place excessive cost burdens on customers of less competitive services. (para 146, p. 273253) Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, FCC 94-190.

#### A. Types of Pricing Flexibility

The LECs have proposed three types of pricing flexibility: 1) zone density pricing, 2) Contract Service Arrangements (CSAs), and 3) the Switched Access Discount Plan (SADP).

The FCC permitted LECs with operational switched transport interconnection arrangements in a study area to implement zone density pricing for switched transport in that study area. It also allowed LECs to offer volume and term discounts on switched transport services after interconnectors have subscribed to a certain number of switched expanded interconnection cross-connects. (Para 138, p. 473250) Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, FCC 94-190

Each of these pricing flexibility options is discussed below.

#### B. Zone Density Pricing

Zone density pricing allows the LECs to base their switched access rates on the density of DS1s in a given central office. Thus, rates would vary from central office to central office. However, all interconnectors in a given office would pay the same rates.

The density pricing zones were determined by converting existing special access facilities and switched traffic within an exchange to DS1 equivalents. The DS1 equivalents were then totalled by central office or exchange and placed in descending order based on the number of equivalent circuits, with break points to group offices into one of three zones.

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According to Southern Bell, there will be different rates in each of the zones which will be based on market pressures. In the zone density pricing plan Southern Bell filed at the federal level, there are three zones which are based on DSIs. Zone 1 is the most dense, with 500 DSIs or greater. Zone 2 would include offices with 100 to 500 DSIs. Zone 3 is comprised of offices with fewer than 100 DSIs. In Florida, Southern Bell has 17 offices that would fall in Zone 1, 60 offices in Zone 2, and 136 in Zone 3. The illustrative tariff Southern Bell filed with us was the same plan and structure that was filed at the federal level, and was intended to introduce the plan and the structure.

GTEFL's density breakpoints differed slightly from Southern Bell's. GTEFL stated that Zone 1 would be the most competitive market, and Zone 3 would be the least competitive. The switched access zone density tariff filed by GTEFL is also an illustrative tariff, to define the structure of the tariff and demonstrate the terms and conditions. Pricing was not included. GTEFL anticipates that there will be higher prices for Zone 2 and Zone 3 than for Zone 1, because Zone 1 is the most competitive market.

Neither Southern Bell nor GTEFL were able to state whether the filings would be revenue neutral. GTEFL conceded that ultimately rates for Zone 2 and Zone 3 would be higher than for Zone 1 and agreed that a rate decrease for Zone 1 with Zones 2 and 3 remaining revenue neutral was one option. OPC's position is that no price increases should be pre-approved in rural areas as a result of this docket. We find, however, that these concerns should be addressed on a LEC-specific basis at the time the LECs file their intrastate zone density pricing plans and tariffs.

Southern Bell advocates approval of the same rates for both interstate and intrastate because it helps customers in trying to reconcile their bills. Additionally, Southern Bell asserts that it could eliminate a problem that the companies have in the reporting of the percent interstate usage (PIU). Most important, Southern Bell states that it will promote efficient use of the services that it provides to its customers.

IAC recommends that a single form of pricing flexibility, zone pricing, be granted for the local telephone companies to respond to competition, subject to a requirement that price reductions apply on a non-discriminatory basis to all transport customers within a zone. IAC argues that zone pricing recognizes that in a particular region, costs might be lower than in less dense region. By allowing different prices in these regions, the LEC is able to meet competition and reflect its underlying costs in a non-discriminatory manner.

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Teleport recommends that we grant the LECs pricing flexibility only to the extent granted by the FCC for interstate switched access services. This would include both zone density pricing and volume and term discounts.

ATT-C does not oppose approval of zone pricing plans consistent with plans approved by the FCC, provided that the LECs meet all of the other requirements for expanded interconnection and collocation as prescribed by the FCC.

The FCC permitted LECs to implement zone density pricing of interstate switched transport in a study area after at least one interconnector has taken a switched cross-connect element. (para 149, p. 473254) Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, FCC 94-190. We note that in Phase I there was no requirement that the LECs subscribe a certain number of cross-connects. (Order No. PSC-94-0285-FOF-TP, issued March 10, 1994)

Zone density pricing appears to be the proposal most accepted by the parties. Its implementation would be consistent with the initial Phase I order in this docket and with the plans approved by the FCC. Additionally, it allows pricing flexibility that is based on density of DSIs in a particular central office, not on individual customer characteristics. Because zone-density pricing relies on cost-differentials, we find that this plan has less potential to be discriminatory than CSAs and the SADP. Accordingly, we find that zone density pricing flexibility for local transport elements of switched access shall be approved on a conceptual basis for the LECs.

### C. Contract Service Arrangements

CSAs allow contracts between the LECs and end-users to be negotiated on an individual case basis in situations where there is reasonable potential for economic bypass of a company's service. Additionally, a customer must have a pending competitive offer before the LEC can respond with a CSA. Since the contracts are negotiated, the use of CSAs may result in different users paying different rates for the same services.

In support of CSAs, GTEFL argues that the CSA allows LECs to use off-tariff pricing when there is a reasonable potential for uneconomic bypass of the Company's services. CSAs already apply for private line and special access services; therefore, GTEFL contends there is no reason to deny this tool to the LECs for switched access services, which will become even more competitive with the advent of expanded interconnection. GTEFL also suggests



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that, since CSAs were approved for special access in the Phase I, they should be approved for switched access in Phase II to be consistent. However, we believe this does not take into consideration the fact that the LECs already had CSAs for private line and special access services but that is not the case for switched access.

United/Centel argues that CSAs are clearly not the most effective alternative to meet the competitive challenges posed by the AAVs. United/Centel asserts that zone density pricing is more effective, because it recognizes cost and market differences. In addition, it states that the CSA process could be improved by eliminating the current requirement that the customer have a pending competitive offer before the LEC can respond with a CSA.

Some parties contend that CSA authority should not be extended for LEC switched access service. The pricing flexibility afforded the LECs at the interstate level is more than adequate. Granting CSA authority in addition to zone density pricing will afford too much pricing flexibility at the intrastate level given the overwhelming market dominance of the LECs. Long term, too much pricing flexibility could thwart the development of competition which could result in fewer choices for end users. Further, no pricing flexibility should be permitted until after the successful negotiation and implementation of expanded interconnection arrangements.

IAC also argues against allowing CSAs for switched access services. IAC asserts that the contract service arrangement is a type of pricing flexibility that is inappropriate to this marketplace: it is an anathema to interexchange competition, because it presupposes discrimination on a customer-by-customer basis. Because access service really does not have unique characteristics, the CSA process is not well suited to it.

While there is some support for CSA authority for switched access services, generally the parties prefer zone density pricing. Although CSA authority was allowed for special access in Phase I, we note that the LECs already had this authority for special access. The LECs' primary argument for pricing flexibility is competition, which we believe will be limited for the foreseeable future. Approval of additional pricing flexibility in the form of CSAs would be premature. Accordingly, we hold that CSAs for switched access services shall not be approved at this time. If at a later date, however, the LECs believe they need CSAs to meet competitive needs, they may come before the Commission with a request.

**D. Switched Access Discount Plans**

GTEFL filed its Switched Access Discount Plan (SADP) on May 16, 1994. This is an illustrative tariff filing which details volume and term discounts for switched access. There are two types of discounts: 1) a term plan, and 2) a growth plan. The term plan would provide savings on the monthly recurring charge based on the length of term and the usage levels to which the customer commits. The longer the time commitment and the higher the usage level, the greater the discount would be. The growth plan would link a customer's savings to usage growth over a one-year time period as compared to prior access usage; the greater the percentage of growth, the greater the discount to the customer. The percentage is tailored for the individual customer and can be based on total state usage or on as small an area as an individual end-office. No other LECs filed a similar plan in this docket.

Some of the parties did not favor the SADP, particularly the growth portion. The primary complaint was the concern that the pricing would not be based on costs, and thus could be discriminatory. GTEFL agreed that the proposal was not cost-based at this time, because it has not developed specific rates or prices. GTEFL did not indicate whether it would endeavor to base the rates on cost if the SADP were approved conceptually.

IAC is also opposed to the SADP proposal. IAC asserts that the plan would allow for GTEFL to selectively price virtually every combination of term and volume commitment without cost justification. IAC maintains that nondiscrimination, the threshold criteria for access pricing, cannot be maintained under this structure.

Sprint agrees with IAC and ATT-C that pricing should be cost-based. Sprint states that it generally cannot support the SADP since it is not supported by cost data. Sprint cautions that any proposals for LEC pricing flexibility must be based only on underlying cost differentials. Sprint also states that the result of SADP and CSAs would be that some IXCs would contribute more to the recovery of the LEC common costs than other IXCs.

Teleport was not opposed to the SADP and recommends that we grant the LECs pricing flexibility only to the extent granted by the FCC for interstate switched access services. This would include both zone density pricing and volume and term discounts.

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We note that the FCC has approved the concept of term and discount pricing for switched access transport, but only with considerable restrictions. In the Switched Transport Expanded Interconnection Order, the FCC

permitted the LECs to begin offering switched transport with volume and term discounts in any particular study area only after one of the following conditions is met: (1) 100 DS1-equivalent switched cross-connects are operational in the Zone 1 offices in the study area; or, (2) an average of 25 DS1-equivalent switched cross-connects per Zone 1 office are operational. (Zone 1 refers to the LEC's density pricing zone with the greatest traffic density.) In study areas with no Zone 1 offices, the LECs may implement volume and term discounts once five DS1-equivalent switched cross-connects have been taken in the study area. LECs that have not implemented density zone pricing may implement volume and term discounts in a study area after customers have subscribed to 100 DS1-equivalent switched cross-connects in the study area. (para 177, p. 473266, see Switched trans order para 118 and nn. 263-265) Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, FCC 94-190 Satisfaction of either of these conditions will provide marketplace evidence that the LECs' expanded interconnection tariffs provide a viable competitive opportunity. (Order 93-379, para 118) Expanded Interconnection with Local Telephone Company Facilities, etc. CC Docket No. 191-141, CC Docket No. 80-286, FCC 93-379

GTEFL also argues that the switched access pricing flexibility granted by the FCC for volume/term discounts puts significant restrictions and a burden of proof on the LECs which rendered this type of pricing flexibility unworkable for the most part.

The FCC clearly had some concerns to impose restrictions which have been characterized by the parties as unworkable. Additionally, the parties generally agree that, at least in the short term, competition will be limited in switched access collocation on the intrastate level. Thus, it appears that competition in this state initially will be more limited than that which may occur in the interstate jurisdiction. In our view that would render the need for intrastate pricing flexibility less pressing than that found by the FCC.



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We also have some concerns about the SADP. We agree with the parties that there appears to be no cost basis for the growth portion of the SADP, nor can we discern exactly what the point of it is. Term discounts, though, are more practicable.

However, our main concerns are not so much with the details of the plan as with the question of whether it is too much, too soon. Although the LECs argue that pricing flexibility is needed to protect them from competition, we cannot deduce from the evidence of record that there will be dire effects from the implementation of expanded interconnection for switched access. As discussed previously, any impact on LEC revenues will be minimal. Accordingly, we do not approve SADP at this time.

In consideration of the foregoing, we approve zone density pricing flexibility for the local transport elements of switched access on a conceptual basis for the LECs. This is consistent with Phase I of this docket and with the FCC's decision. The FCC's zone density pricing flexibility concept, which allows for the establishment of three density pricing zones and requires that rates be averaged within each zone but allowing that rates may differ between pricing zones, shall be used as a guide. Within 90 days following the issuance of this Order or the Order on reconsideration of this Order, whichever is later, the LECs shall be required to file their zone density pricing tariffs, including supporting incremental cost data. In addition, to the extent possible, each LEC shall identify the amount of any costs such as groups specific costs that, while not directly attributable to one of these elements, is associated with this service. As with the special access tariffs, if a LEC desires to deviate from the FCC parameters, it shall identify the variation and provide justification for the change. However, neither Contract Service Arrangements nor Switched Access Discount Pricing shall be allowed at this time. If at a later date, the LECs believe CSAs are needed to meet competition, they are free to demonstrate that need to the Commission and seek relief.

#### XIV. FLEXIBLE PRICING PLANS FOR PHASE I

The issue of whether the proposed LEC flexible pricing plans for private line and special access services should be approved was to be considered in this portion of the proceeding.

In Phase I we approved, in concept, zone pricing flexibility for the LECs and ordered Tier 1 LECs to file proposed zone density pricing tariffs. LEC-specific approval was held in abeyance until review of each LEC's zone density pricing flexibility plan and

associated tariff. These plans and tariffs were to be reviewed in Phase II. No party challenged the specific plans or tariffs.

Although the Phase I Order approved, in concept, zone pricing flexibility, this issue has essentially not been finalized at this time because the pricing flexibility issue in Phase I is under reconsideration and the Phase I Order has been stayed. Therefore, we find that the decision regarding the LEC proposed intrastate flexible pricing plans for private line and special access services shall be deferred until the Phase I Order on Expanded Interconnection for Special Access and Private Line Services becomes final.

#### XV. INTRASTATE TARIFFS FOR PHASE I

In Phase I we ordered all Tier 1 LECs to file expanded interconnection tariffs which, at a minimum, mirrored the interstate tariffs with the exception of those standards, terms and conditions adopted in the Phase I Order that are different from those adopted by the FCC. GTEFL, Southern Bell, and United/Centel filed proposed intrastate expanded interconnection tariffs for private line and special access based on a physical collocation mandate. Currently, the Phase I order is stayed. The issue before us is whether we should approve the LECs' proposed special access and private line expanded interconnection tariffs.

We have decided to implement a mandatory virtual collocation policy which is generally consistent with the FCC's decision. We believe that it makes sense, because both interstate and intrastate traffic will be carried over the same facilities. This rationale should also be used to ensure the private line and special access expanded interconnection and the switched access expanded interconnection tariffs are consistent. Since the tariffs filed for private line and special access contain terms and conditions for mandatory physical collocation, we hold that they shall be revised to remove the mandatory physical collocation requirements.

Generally, the parties did not address the LEC-specific tariffs. However, Teleport does argue that Southern Bell omitted its DSO interconnection element from its tariff. In addition, Teleport states that its concerns regarding Southern Bell's warehousing provisions in the tariff. The issues of whether LECs should be required to provide interconnection at the DSO level as well as the warehousing of space were essentially determined in Phase I. These issues raised by Teleport appear to be valid;

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however, the Phase I Order is stayed and under reconsideration, and aspects of the order which affect these tariffs have not yet been resolved.

Even though the LEC intrastate special access and private line expanded interconnection tariffs appear, for the most part, to be appropriate, except Southern Bell's tariff which does not contain interconnection at the DSO level, they are based on what was initially ordered at the FCC and in Phase I of this docket. The FCC has changed its original order from mandatory physical collocation to mandatory virtual collocation. Moreover, the Phase I Order is stayed and certain issues from Phase I are under reconsideration. Consequently, the decision regarding the LECs' private line and special access tariffs cannot be made at this time.

Therefore, the decision regarding the LEC proposed intrastate private line and special access expanded interconnection tariffs is hereby deferred until the Phase I Order on Expanded Interconnection for Special Access and Private Line becomes final.

#### XVI. MODIFICATION OF THE PHASE I ORDER

Most parties assert that the Phase I Order should be modified in light of the decision by the United States Court of Appeals. FCTA argues that the Phase I Order should not be modified.

ATT-C asserts that we should continue to encourage physical collocation because it most closely duplicates the connecting arrangements of the incumbent, and it offers the most hope for the development of competition.

GTEFL, Southern Bell, and United/Centel also argue that the Phase I Order should be modified. Southern Bell argues that we should modify the order to provide for the LEC to choose the form of collocation to offer in each case. In addition, Southern Bell and United/Centel state that it is important that there is consistency between the interstate and intrastate jurisdictions as to expanded interconnection.

Teleport asserts that the Court's decision does not materially affect the Phase I policy which we determined to be in the public interest. Teleport argues that we should mandate in Phase II that the LECs offer virtual collocation for special access and switched access which is technically, economically, and operationally equivalent to physical collocation.



Upon review, we find it is appropriate to modify the Phase I Order. Since the same facilities will be used to carry both interstate and intrastate traffic, it is practical to mirror the FCC. We hold that, generally, the Phase I Order shall mirror the decisions made in Phase II, but specifically these Phase I decisions shall not be made until after the reconsideration of the Phase I Order.

**XVII. LOCAL TRANSPORT RESTRUCTURE - BACKGROUND**

Switched Access Service is provided by LECs to IXC's, and provides a communications path between an IXC's point of presence (POP) and an end-user's premises. There are currently four major rate elements associated with the provision of Switched Access: Carrier Common Line, Local Switching, Local Transport, and Busy Hour Minute of Capacity (BHMOC).

Expanded interconnection, as defined in this docket, only allows for competition among carriers to provide Local Transport. Although the potential for competition exists for all switched access rate elements, this proceeding addresses only the Local Transport rate element.

The major elements of local transport include the Entrance Facility, which connects the IXC POP to the LEC Serving Wire Center. One or more Interoffice Channels provide a path between the Serving Wire Center and the Local Central Office serving the end user. The Interoffice Channel can be a direct link over a dedicated facility, where traffic volumes warrant, or part of a common facility connected via the Access Tandem where traffic from multiple IXC's is aggregated.

**A. History of Federal Policy**

In the original MFJ, an "Equal charge per unit of traffic" rule was imposed, according to the terms of Appendix B, entitled Phased-In BOC Provision of Equal Exchange Access. Specifically, this provision required that for a period of time that was originally scheduled to end September 1, 1991,

... the charges for delivery or receipt of traffic of the same type between and offices and facilities of interexchange carriers within an exchange area, or within reasonable subzones of an exchange area, shall be equal, per unit of traffic delivered or received, for all interexchange carriers; ...

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This "Equal Charge" rule of the MFJ was designed to allow new IXCs an opportunity to compete with ATT-C in an effort to gain some market share. By requiring that all Local Transport traffic be charged at the same rate per minute of use, the rule precluded ATT-C from taking advantage of efficiencies that would accrue by virtue of the volumes of tariffs, its market share size and location of its facilities.

FCC Docket 91-213, In the Matter of Transport Rate Structure and Pricing, was initiated to determine the new rate structure for Local Transport. An FCC order released in October 1992 established an interim Local Transport structure that is set to expire at the end of 1995. That order identified and set rates for the different types of transport configurations, and granted limited pricing flexibility to the Regional Bell Operating Companies (RBOCs). A subsequent order, issued October 1992, required Non-Recurring Charge (NRC) waivers to allow IXCs to reconfigure their trunking arrangements. The NRC waivers, which have currently been extended through 1994, have enabled IXCs to adapt to the new Local Transport rate structure approved by the FCC, without incurring all the expenses typically associated with such reconfiguration.

In FCC Docket 91-141, on Expanded Interconnection, in an August 3, 1993 order, the FCC adopted rules for switched transport collocation by AAVs, allowing interconnection into LEC Central Offices, Serving Wire Centers, tandems, and remote switches. That order facilitates the ability of AAVs to compete with LECs for the provision of switched transport services provided to IXCs. The NRC waivers discussed above are designed to encourage IXCs to continue to use the RBOC networks in the face of competitive alternatives.

#### B. History of Florida Policy

Florida's Local Transport rate element was originally designed as a minute-of-use rate like the FCC's rate. However, unlike the federal rate structure, Florida's usage rate was not distance sensitive. The purpose of establishing a non-distance sensitive rate structure for all access traffic within an Equal Access Exchange Area (EAEA) was to encourage IXCs to serve both urban and rural communities. Thus, in Florida each LEC currently assesses Local Transport at the same rate per minute although rates vary by LEC. The minute-of-use rate applies whether the traffic is transported over dedicated or common facilities.

The rest of Florida's intrastate switched access rate elements mirrored the FCC rate levels at the beginning. Rate levels were initially uniform statewide but diverged as a result of our decisions in Orders Nos. 18589 and 19677 to allow LEC's inter Alia

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to set its own specific rate level for recovery of non-traffic sensitive costs to be recovered from access charges.

**XVII. MODIFICATION OF PRICING AND RATE STRUCTURE**

The current intrastate Local Transport rate structure is a single Minute-of-Use (MOU) charge assessed to every carrier no matter what kind of trunking capacities or configurations they use or their volume of usage. This LEC rate structure still matches the expired MFJ requirement that LECs charge an "equal rate per minute of use." Non-LEC competitive providers of local transport, when authorized to offer this service in Florida, will charge customers, IXCs, closer to the actual cost of providing service. Expanded interconnection and the restructure of Local Transport have already been authorized on the interstate level. Now both LECs and their competitors offer flat-rated transport options for interstate switched access.

Since we have approved expanded interconnection for switched access subject to the filing of appropriate tariffs, we therefore approve the restructure of Local Transport rates to allow the LECs to offer transport options more in line with cost causation and network design. We agree with the parties that the LECs' proposals constitute a better, more accurate rate design.

**XIX. BASIS OF NEW POLICY**

Some parties assert that the rate structure adopted by the FCC should also be adopted. Other parties acknowledge that their proposals or positions incorporated elements of mirroring, market-based pricing, and cost-based pricing, stating or inferring that these policy choices are not necessarily mutually exclusive.

The consensus of the parties is that the structure adopted at the interstate level, which includes both tandem and dedicated switched transport options as well as a separate usage based charge designed to ensure revenue neutrality, is the appropriate rate design to adopt. Those parties who prefer the interstate structure maintain that it is more closely related to the way the network is designed and the manner in which costs are incurred.

With respect to rate levels, the LECs advocate a policy of allowing them to set their own market-based rates. Teleport is the only party to advocate mirroring interstate rates as a permanent policy. The LECs, however, have proposed that current interstate rate levels be adopted as a starting point. ATT-C, as well as



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FCTA, IAC, Sprint, Time Warner and Intermedia, advocate the adoption of a policy of cost-based rates. However, ATT-C, like the LECs, has proposed that, except for the Residual Interconnection charge, the FCC rate levels should be used as a starting point.

#### A. Policy on Rate Structure

The rate structure, as proposed in the LECs' tariffs, was designed to assess charges in a manner similar to the way in which costs are incurred, and the way traffic is routed through the network. Although an IXC orders trunking facilities of various capacities depending on how much traffic it expects to transport, the current rate structure, as noted previously, provides that the same rate be charged, per MOU.

The LECs have proposed to mirror the rate structure approved by the FCC for interstate traffic. The rate elements consist of the following:

1. Entrance Facility - is the Switched Local Channel facility between the IXC POP and the LEC Serving Wire Center (SWC). It also provides the network facility interface at the IXC POP.
2. Direct Trunked Transport - consists of the Switched Dedicated Interoffice Channel facility that provides interoffice transmission, dedicated to a single customer, between a Serving Wire Center and an end office, or between a Serving Wire Center and an access tandem.
3. Tandem Switched Transport - provides the switching functions and a Switched Common Interoffice Channel between the Serving Wire Center and the Access Tandem, or between the Access Tandem and the LEC end office, over common facilities.
4. Residual Interconnection Charge (RIC) - is a charge assessed per minute to all switched access users whether served by the LECs or some other vendor. The purpose of the element is to maintain LEC revenue neutrality with respect to local transport revenues. It is a residual element that would comprise approximately 80% of the total revenues for Local Transport under the restructure.

An IXC may select different capacities for each path depending on the projected amount of traffic it expects to receive from or send to a particular location. In that way, the variety of facility offerings encourages IXCs to use the LEC network more efficiently than does the current uniform minute-of-use rate structure. Using the same rate structure for both interstate and

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intrastate traffic would provide some efficiencies since the traffic itself is not segregated by jurisdiction during routing. A similar structure would serve to facilitate accurate reporting of PIU as well. Therefore, we adopt the Direct Trunked/Tandem Switched rate structure proposed by the LECs and currently in use on the interstate level.

**B. Policy on Rate Levels**

**1. Mirroring**

Of all the proponents of mirroring the LECs' current interstate rates, only Teleport advocates mirroring rates as a policy. The LECs advocate using their interstate rates as a starting point, and then allow rates to fluctuate based on market factors such as demand, competitive conditions, and number of available substitute services.

Predictably, the opponents of mirroring were primarily opposed to the rate levels approved by the FCC. For example, IAC argues that the rate levels proposed by Southern Bell are unduly discriminatory because the contribution levels for Tandem Switched Transport users are dramatically inflated relative to contribution levels for Direct Trunked Transport users. IAC contends that a strategy of discriminatory contribution among the different transport options is equivalent to favoring large carriers over small and favoring urban areas over secondary markets.

No party effectively addressed the concept of mirroring rate levels separately from the actual interstate rates in effect. However, we do not believe that mirroring for the sake of mirroring has any merit in this case. Although the LECs argue that the rate levels should mirror the interstate for purposes of administrative ease and PIU reporting, they do not want to be bound to the interstate rates as a policy requirement.

Intrastate switched access rate levels have been and are currently different from their interstate counterparts. Even if we decided to adopt the interstate rates for Local Transport, the Carrier Common Line and the Local Switching rate elements would still be different. Local Transport consists of only about 16% of Southern Bell's intrastate switched access revenues and about 3% of GTEFL's. Thus, the remaining revenues would continue to be recovered under rates that are different from those set by the FCC.

## 2. Market-based Pricing

Appropriate market rates, according to GTEFL, exceed Long Run Incremental Costs (LRIC) and provide contribution towards recovery of the company's common costs. The amount of contribution for each separate service option should be driven by specific market conditions for each. Southern Bell argues that if it were forced to a certain rate level and to set rates based on certain formulas other than just covering costs, then it will not be able to compete with other transport providers in the marketplace. Southern Bell argues that it would only be able to effectively compete if the Company were allowed to set its rates based on what competitors are charging.

There appears to be an implicit assumption by the LECs that the current interstate rates are to a certain extent market-based. However, the FCC set the interstate rates based on rates and rate relationships in High Capacity tariffs in effect in 1992, which the LECs propose to mirror now. We are not sure that this evidences actual market-based pricing. At least, the pricing in question would not necessarily be based on current market conditions. None of the non-LEC intervenors advocate the use of market-based pricing.

IAC's primary concern is that the LECs could selectively reduce the contribution levels for only some access customer(s), while maintaining higher levels on captive interexchange carriers that have no, or fewer choices. IAC argues that there will be substantial differences in the relative degrees of competition among the various transport options. DS-3 service, a high capacity form of Direct Trunked Transport, according to IAC, would be the most competitive since it represents a high concentration of traffic between two points. DS-1 service, a lower capacity dedicated offering, would be less competitive, and the Tandem Switched traffic represents very unconcentrated demand that would not have competitive alternatives. Thus, IAC's concern is that the lack of competitive alternatives would enable the LECs to market price the Tandem Switched Transport to recover much higher levels of contribution relative to the rates of the other transport options, a practice which IAC labels discriminatory.

## 3. Cost-based Pricing

Parties interpreted the term "cost-based rates" in different ways. For example, IAC's approach requires determining the difference in cost between a stand alone DS1 and 1/28th of a DS3 facility, and setting rates that vary only by the difference in those costs. The effect of this approach is that the amount of



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contribution per DS1 equivalent, above cost, would be identical between DS1 and DS3 services. Similarly, Sprint states that cost-based rates would result in a price relationship for DS1 and DS3 direct trunked transport which is the same as the cost relationship between the two services.

GTEFL, however, defines the term differently. GTEFL defines cost-based rates as rates that are supported by and are above LRIC. GTEFL further states that LRIC is appropriate to use as a price floor, not for setting rates. Neither Southern Bell nor United/Centel offers a definition of cost-based pricing although the discussions at the hearing comport with the meaning proffered by GTEFL. The other parties who endorse the concept, ATT-C and Intermedia, do not define the term.

IAC focuses on rate relationships in its analysis of what constitutes appropriate pricing. For example, the point at which a Tandem Switched transport customer converts to DS1 Service, or a DS1 customer converts to DS3 Service, should be when it is most economical and efficient for the LEC to transport the traffic that way. For that to occur, the LEC prices for each of those options should encourage carriers to choose the appropriate option and to convert at the optimum time. We agree with IAC's analysis on this point.

Although we do not agree with IAC that contribution levels must be identical across services to prevent discrimination, they must be reasonably close. LECs should have a certain amount of flexibility to respond to competitive realities, but LEC prices should not distort economic demand for the various service options.

Finally, if a given market is reasonably competitive, market-based prices should not differ significantly from cost-based prices. Because in a truly competitive market, prices are driven towards costs. To the extent that an entity can sustain prices substantially above costs, the market is not effectively competitive.

Upon consideration, we find that the intrastate pricing and rate structure must reflect the underlying costs and should be designed to encourage efficient utilization of the LEC network. The following guidelines will be used to evaluate LEC Local Transport tariff proposals:

- 1) The intrastate pricing and structure of Local Transport should accurately reflect the underlying cost structure. Prices should recover incremental costs and provide a contribution to joint and common costs;

- 2) The relationship between prices for various transport options should encourage the optimal and most efficient utilization of the LEC network;
- 3) It is not necessary that contribution levels between the three types of switched transport be identical. However, contribution levels should not be so disparate as to be unreasonably discriminatory or as to distort demand;

We reject the establishment of a policy of "market-based" pricing since we cannot effectively monitor or evaluate such a policy. Further, we find that mirroring interstate rate levels is neither necessary nor desirable as a rate design policy.

**XX. LECs' PROPOSED LOCAL TRANSPORT TARIFFS**

The rate structures of the proposed LEC tariffs match their interstate tariffs. The rate levels also match their respective interstate rates with a few exceptions that are discussed below. All of the LECs have proposed basically identical rate structures. The rate elements, as discussed in greater detail in the preceding section, consist of:

- 1) Entrance Facility - The proposed rate for this Switched Local Channel is a flat rated monthly recurring charge per local channel. It is provided at Voice Grade, DS1, or DS3 transmission capacities.
- 2) Direct-Trunked Transport (DTT) - The proposed rate for this dedicated interoffice channel has two components: a flat monthly rate per mile and a flat monthly fixed rate that recovers costs for the termination points into the switches. It is also provided at the Voice Grade, DS1, and DS3 transmission capacities.
- 3) Tandem-Switched Transport (TST) - It is composed of three major rate elements:
  - a) Facility rate, assessed per minute, per mile;
  - b) Facility Termination rate, assessed per minute; and
  - c) Tandem Switching rate, assessed per minutes.
- 4) Residual Interconnection Charge (RIC) - It is a charge assessed per minute to all switched access users whether served by the LECs or some other vendor. The purpose of the element is to maintain LEC revenue neutrality with respect to local transport revenues.

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The LECs advocate the adoption of their proposed tariffs. Teleport also appears to endorse them since it believes we should mirror the interstate. ATT-C endorses Southern Bell's tariff since the demand estimates for calculation of the RIC were based on its current network configuration. Since the other LECs assumed reconfigured networks to develop the RIC demand, ATT-C maintains that they should be required to recalculate their RICs based on current configurations.

IAC proposes that the rates must reflect the LECs' underlying costs, and that rate relationships must send correct economic signals. IAC asserts that rates for Tandem Switched, DS1 and DS3 services should be based on the difference in incremental costs basis only, and that the level of contribution on a per DS1 equivalent should be the same. IAC contends that the rates proposed by the LECs are discriminatory and should not be approved.

The remaining parties do not endorse the LEC proposed tariffs. However, they do not propose different rates or specific guidelines. Intermedia states that rates should reflect the underlying costs and cost relationships. FCTA and Time Warner make generalizations advocating conformity with other decisions reached in this docket.

Sprint concentrates on the DS3:DS1 rate relationship which it maintains should have a "cross-over" ratio of 22:1. This means that when an IXC has sufficient traffic such that it requires 22 DS1s, it should cross-over to a DS3 at that point. Sprint developed this proposed ratio by assuming that LECs operate their DS3 transmission systems at approximately 79% capacity. Since there are the equivalent of 28 DS1 circuits in a DS3, 79% of 28 is 22, which is Sprint's proposed cross-over ratio. A ratio of 22:1, Sprint contends, is closer to a cost-based relationship and avoids "discriminatory volume based pricing." Sprint argues that this relationship reflects current fiber optic technology and the shared use nature of the transmission network.

We will address first, the underlying costs of the transport service options, and second, the rate relationships between the Tandem Switched and Direct Trunked (DS1 and DS3) offerings.

Since the LECs argue that Local Transport rates should not be required to be more than marginally supported by costs, their filings did not include cost data. Southern Bell provided, upon request, such cost data that had some relation to the intrastate rate elements that it filed. Neither GTEFL nor United/Centel had applicable cost data available.



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Southern Bell, GTEFL, and United/Centel submitted as late-filed exhibits, an analysis of the cost data that IAC developed for the DS1 and DS3 services. They also submitted what they believe were the appropriate costs to use as the basis for cost-based rates. The data provided is incomplete and not reasonably comparable, which, given the timeframe, was perhaps unavoidable. However, the costs as provided by the LECs do not appear to relate significantly to the rates proposed in the tariff, nor do rate relationships resemble the cost relationships.

We find that LECs shall be required to develop estimates of their costs for their Entrance Facilities, Tandem Switched, and Direct Trunked transport rate elements to serve as benchmarks against which to measure their pricing proposals. The LECs shall provide incremental cost estimates for each of these elements. In addition, to the extent possible, the LEC shall identify the amount of any costs that, while not directly attributable to one of these elements, is associated with this service, and which they believe should be recovered in the rates.

With respect to rate relationships, the FCC concluded that cross-over points greater than or equal to 9.6 times the rate for DS1 were appropriate. The FCC made that determination based simply on the existing rate relationships in interstate Special Access tariffs that had already been approved. A cross-over point of 9.6 represents a capacity utilization of 34%. This appears too low.

The majority of the DS1-to-DS3 cross-over points appear to be quite low, indicating low capacity utilization at the cross-over points. The DS1-to-DS3 cross-over points for interoffice mileage are much lower than the DS1-to-DS3 cross-over points for the Entrance Facilities, except for GTEFL. GTEFL's cross-over points appear to be uniformly quite low.

With respect to cross-over points from Tandem Switched transport to DS1, at longer distances, the LECs' proposed interoffice mileage prices are such that it would never be a rational economic choice for an IXC to "cross-over" from Tandem Switched transport to a DS1, regardless of its volume of traffic. For example, at 30 miles in GTEFL's territory, an IXC would have to carry 157% of a DS1's maximum capacity, in minutes of use, to make it worthwhile to cross over to a DS1. Since this is impossible, it is never worthwhile for a GTEFL IXC customer to cross over. This situation sends very distorted price signals.

A reasonable cross-over point allows room for growth, so it should occur at less than 100% capacity. Also, the network is not engineered to have circuits operate at 100% capacity on a normal

basis. Appropriate cross-over points probably vary by LEC, because of the different ways in which networks are engineered and the costs to serve each network.

We do not think it is appropriate to arbitrarily set a single cross-over point to be applied uniformly to all LECs for all transport services. However, LECs shall in their tariff filings make a showing that explains why the cross-over points achieved in their pricing proposals are appropriate for their network or for their competitive situation. We expect efficient cross-over points to fall in ranges between 14 and 21, which is approximately 50-75% capacity utilization at the economic cross-over point. We expect any proposals that substantially differed from that range to be thoroughly supported.

On the same basis, there is no scientific method to determine the appropriate level of contribution for all services for all LECs. Contribution shall be sufficient to recover some portion of the joint and common costs of the firm. In highly competitive markets, prices are driven downwards towards incremental or marginal costs. This is because potential competitors will enter a market where profit margins are high, and attempt to capture market share by offering the service at a lower price. The incumbent will tend to respond by lowering its price, and this process continues until prices reach a level below which it is not worth it to stay in business. Conversely, to the extent that a market does not experience much competition, the incumbent can maintain higher prices; hence, greater contribution levels.

As discussed above, we do not believe that a single criterion is sufficient by itself upon which to set a rate. Rather, all relevant factors should be considered in setting prices for Local Transport rate elements.

Finally, as explained previously, the Residual Interconnection Charge (RIC) is a residual rate element designed to ensure that the LECs remain revenue neutral under the Local Transport restructure. No party objected to this concept, and absent a full revenue requirements rate proceeding, we find that maintaining revenue neutrality is reasonable in this case. Revenues from the restructured rate elements are expected to produce only about 20% of the overall revenues from Local Transport, and the remainder will be derived from the RIC.

We note that the LECs are aware that the level of the RIC provides an incentive to bypass the switched network. Therefore, the LECs generally plan to reduce the RIC both on the interstate

and intrastate level as soon as possible. This process will be very similar to the approach the LECs took with respect to the BHMOC.

ATT-C, the largest IXC, generally stands to benefit under the proposed LEC tariffs. It is concerned, however, that a RIC calculated based on a reconfigured network serves to increase the RIC. The issue of whether it is appropriate to use reconfigured network versus a current network configuration arises from the assumptions used by the LECs in developing their demand estimates based on a reconfigured network. ATT-C and IAC argue that the LECs should not be allowed to assume that the IXCs have reconfigured their interoffice trunking arrangements to accommodate the restructure. The purpose of reconfiguring would presumably be to reduce the IXCs' costs by ordering the optimum transport options. Since the RIC would be designed to maintain revenue neutrality, any reduction in revenues from the transport elements would therefore increase the level of the RIC.

In any event, the emergence of competitive alternatives is of greater importance on the level of the RIC than any other single factor. The LECs usually target their current Local Transport rates when they file tariffs to reduce switched access, because they want to make the RIC as low as possible if and when the restructure is approved.

Upon review, we find that the rate structure proposed by the LECs in their tariffs shall be approved for use in Florida. Since the rate structure reflects the way the service is actually provided, it is an improvement over the current rate structure.

We also find that Local Transport rates shall relate to each other and to costs such that they provide the appropriate incentives for customers to order and load their facilities efficiently. The LECs shall revise and refile their transport rates tariffs to comport with the guidelines set forth in the previous section. In connection with those filings, each LEC shall also comply with the following:

- 1) LECs shall develop estimates of their costs for their Entrance Facilities, Tandem Switched, and Direct Trunked transport rate elements to serve as benchmarks against which to measure their pricing proposals. The LECs shall provide incremental cost estimates for each of these elements. Also, to the extent possible, the LEC shall identify the amount of any costs that, while not directly attributable to one of these elements, is associated with this service;



- 2) LECs shall provide an analysis justifying the contribution levels which they incorporate into their proposed rates;
- 3) LECs shall include a cross-over point analysis in their filings. The cross-over point analysis shall cover different mileage distances, and cross-over points shall be calculated for Entrance Facilities separately from interoffice channels. The RIC shall not be included; and
- 4) The LECS may use of demand estimates for the RIC based on currently configured networks. The NRC waiver has been in effect for almost two years now and is scheduled to expire at the end of 1994. It was designed to encourage more efficient trunking configurations on the part of the IXCs. Therefore, the LECs shall use 1994 demand using as much actual data as is available in the timeframe allowed so that the results will be more accurate.

Revised tariffs shall be filed, along with the reconfigured support, no later than 90 days following the issuance of the final order in this phase of the case or the Order on reconsideration of this Order, whichever is later.

#### XXI. MODIFIED ACCESS BASED COMPENSATION PLAN

The Modified Access Based Compensation (MABC) Plan is a mechanism by which LECs compensate each other for terminating intraLATA interLEC toll calls. Current rate levels are the same as terminating access charges. The question arises whether the corresponding rates that LECS pay for transport and termination of their interLEC toll traffic should be changed if the Local Transport Rates or changed.

ATT-C and IAC are the only parties that advocate revising the MABC rates now. GTEFL, who does not participate in the MABC plan since its is the only LEC within the Tampa Market Area, and the non-LEC parties took no position.

The other LECs prefer to wait until Local Transport rates are permanent before implementing changes to the MABC plan tariffs. These LECs do not object to modifying their MABC rates. Their concern is that the billing and programming changes are too cumbersome and expensive to have to do more than once.

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Those LECs that do not have their own access tariffs concur with those of Southern Bell. These LECs will continue to concur with all the rates and terms of Southern Bell's restructured Local Transport tariff with the exception of the RIC. Thus, this restructure will be implemented for all LECs at the same time. The small LECs that concur in Southern Bell's tariff must calculate the level of the RIC for their respective companies and inform Southern Bell. These rates will then become part of Southern Bell's tariff filing.

ATT-C and IAC take the position that LECs should have to charge the same rates to each other that they charge the IXCs. They believe that LECs should be required to pay MABC rates under the new transport structure, based upon actual network routing and facilities used.

Upon review, we believe that it is appropriate that the rates the LECs charge for terminating other LECs' traffic should be no different from what they charge IXCs for the same service. In addition, the LECs have not shown any undue hardship that would be imposed if they had to do the calculations and programming for a restructured Local Transport rate in the MABC tariff within a reasonable time frame following implementation of the new structure.

LEC rates under the Modified Access Based Compensation plan for intraLATA LEC toll shall continue to mirror the corresponding switched access rates. Therefore, we find that the LECs shall file tariff revisions to their MABC tariffs to incorporate the rate structure and levels approved by us for local transport no later than 90 days following the effective date of new local transport restructure tariffs. They shall also delete the provision in their tariffs that eliminated the need for the MABC rate structure to match switched access. Until new tariffs are approved, the LECs shall continue to charge the current Local Transport rates in their MABC tariffs.

**XXII. IMPUTATION GUIDELINES**

By Order No. PSC-92-0146-FOF-TL, we established a list of guidelines for LECs to impute their switched access charges in the setting of their intraLATA toll rates. The purpose was to ensure that LECs' own toll rates were at least covering the wholesale

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access charges assessed to their competitors. The established guidelines are as follows:

- 1) Toll revenues should cover aggregate access charges by service and for the business and residential market segments individually within a service.... Note that under this guideline, the test is aggregate access charges within each market.
- 2) Access charges should be calculated with originating access including a non-conversation time factor that accounts for holding time.
- 3) Originating access charges should reflect the time-of-day distribution of the service or market segment under consideration.
- 4) The BHMOC rate should be the average BHMOC per minute of use rate realized using the most recent annual data available.
- 5) Access costs may be calculated using the most economic network configuration associated with the targeted market segment.
- 6) The price floor for LEC toll services shall include the LEC's incremental cost of providing billing and collection service.

ATT-C proposes that a surrogate per minute rate for local transport would have to be developed for each LEC based upon its approved transport rates and the actual utilization of its own network. IAC agrees and adds that until the LECs justify otherwise, they should be required to impute Tandem Switching transport rates to their own toll rates. In addition, IAC asserts that we should initiate workshops to impute, at a minimum, the unavoidable rate elements for collocation to reflect the least cost charges for the entrance facility loops.

Teleport suggests that LECs should be required to impute to their end-to-end service the costs they impose on interconnectors to collocate in their bottleneck facilities. This would include rates assessed to interconnectors under the expanded interconnection tariffs such as floor space, cross-connect and multiplexing service.



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FCTA, GTEFL, Southern Bell, ALLTEL, Time Warner, and United/Centel, however, state that this issue should be addressed in a separate proceeding. FCTA and Time Warner agree with Teleport that LECs should impute to their end-to-end service the costs that they impose on interconnectors to collocate. However, they contend that we should address the subject of imputation in a broader context after this proceeding is concluded.

The non-LEC parties that took a position, advocate making the imputation requirements stronger. The LECs, however, question whether imputation should be required at all. At minimum, the LECs believe that the existing guidelines are outdated and that the policy needs to be completely readdressed, something that IAC would like to avoid.

Intermedia, Sprint, and OPC took no position.

We agree that any modifications to the existing imputation policy should be treated in a separate proceeding. Imputation involves setting minimum LEC toll rates while the instant proceeding addresses switched access. No party has stated or implied that the LECs have an advantage if they do or do not modify their imputation guidelines if Local Transport is restructured. Furthermore, since we have approved expanded interconnection, a question arises as to whether the current imputation requirements should continue.

Therefore, the issue of whether we should continue to require imputation of LEC switched access rates in their toll rates shall be addressed in a separate proceeding. The LECs shall continue to use the current Local Transport rate element for purposes of access imputation until we address the broader policy issues.

It is therefore

ORDERED by the Florida Public Service Commission that we each and all of the specific findings of fact and conclusions of law set forth herein be and the same are approved in every respect. It is further

ORDERED that we find expanded interconnection for switched access is in the public interest. It is further

ORDERED that the stipulations by the parties as set forth in the body of this Order are hereby approved. It is further

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ORDERED that we find that the offering of dedicated and switched services between non-affiliated entities by non-local exchange companies is in the public interest. It is further

ORDERED that we find there is nothing in Chapter 364 that prohibits expanded interconnection for switched access. It is further

ORDERED that alternative access vendors are prohibited from interconnecting with the local exchange company switch for the provision of switched access as discussed within the body of this Order. Alternative access vendors can provide transport of switched traffic between a single interexchange carrier's points of presence. It is further

ORDERED that the local exchange companies shall be required to provide virtual collocation for switched access expanded interconnection to all interconnectors upon request. The local exchange companies shall be exempted from this requirement in offices where they opt to provide physical collocation; once space for physical collocation is exhausted, the local exchange company must provide virtual collocation. It is further

ORDERED that collocators shall not be required to allow local exchange companies and other parties to interconnect with their networks at this time. We encourage the collocators to allow local exchange companies and other parties to interconnect with their networks. If a dispute arises, we shall review the request to interconnect on a case-by-case basis. It is further

ORDERED that only local exchange companies shall file tariffs for switched access transport. It is further

ORDERED that the local exchange companies' proposed intrastate switched access interconnection tariffs are not approved as filed. It is further

ORDERED that all Tier 1 local exchange companies shall file intrastate switched access tariffs which mirror the interstate switched access interconnection tariffs on file with the Federal Communications Commission as of January 1, 1995. However, those standards, terms and conditions that will be adopted in the Phase I final order that are different than those adopted by the Federal Communications Commission shall be included in the tariff. It is further

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ORDERED that the local exchange company-specific switched access interconnection tariffs containing mandatory virtual collocation requirements shall be filed 60 days after the Phase I and Phase II Orders are final and all outstanding motions for reconsideration have been decided. These tariffs shall become effective on or after the date the local exchange company's local transport tariffs become effective. It is further

ORDERED that the concept of zone density pricing for the local transport elements of switched access is approved. The Federal Communications Commission's zone density pricing concept shall be used as a guide. It is further

ORDERED that no later than 90 days following the issuance of the final order in this phase of the proceedings, the local exchange companies shall file their zone density pricing tariffs, including supporting incremental cost data. In addition, the local exchange companies shall identify the amount of any costs that, while not directly attributable to one of these elements, is associated with this service. It is further

ORDERED that if a local exchange company seeks to deviate from the Federal Communications Commission's parameters, it shall identify the variation and provide justification for the change. It is further

ORDERED that Contract Service Arrangements and Switched Access Discount Pricing shall not be allowed at this time. If at a later date the local exchange companies believe they need Contract Service Arrangements to meet competitive needs, they may come to the Commission with a request. It is further

ORDERED that the proposed local exchange companies' flexible pricing plans for private line and special access services for Phase I shall be deferred until the Phase I Order on Expanded Interconnection for Special Access and Private Line Services becomes final. It is further

ORDERED that the decision regarding the local exchange companies' proposed intrastate private line and special access expanded interconnection tariffs shall be deferred until the Phase I Order on Expanded Interconnection for Special Access and Private Line Services becomes final. It is further

ORDERED that the Phase I Order shall be modified for the reasons set forth in the body of this Order. It is further



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ORDERED that we shall proceed with the restructure of Local Transport. It is further

ORDERED that the intrastate pricing and rate structure of switched transport service shall reflect the underlying costs and shall encourage efficient utilization of the local exchange companies network. The guidelines set forth in the body of this Order will be used to evaluate local exchange companies' Local Transport tariff proposals. It is further

ORDERED that the locals exchange companies' proposed local transport restructure tariffs are hereby denied. No later than 90 days following the issuance of the final order in this phase of the proceedings, the local exchange companies shall refile their Local Transport tariffs according to the pricing guidelines. In addition, the following items shall be included in support of the revised tariffs:

- 1) Incremental cost estimates for Entrance Facilities, Tandem Switched, and Direct Trunked transport rate elements to serve as benchmarks against which to measure pricing proposals. In addition, the local exchange companies shall identify the amount of any costs that, while not directly attributable to one of these elements, is associated with this service;
- 2) An analysis justifying the contribution levels which they incorporate into their proposed rates;
- 3) A cross-over point analysis in their filings. The cross-over point analysis shall cover different mileage distances, and cross-over points shall be calculated for Entrance Facilities separately from interoffice channels. The Residual Interconnection Charge should not be included; and
- 4) We allow the use of demand estimates for the Residual Interconnection Charge based on networks as currently configured. The local exchange companies shall use 1994 demand estimates using as much actual data as is available in the timeframe allowed. It is further

ORDERED that the Modified Access Based Compensation agreement shall be modified to incorporate a revised transport structure for intraLATA toll traffic between local exchange companies, and the local exchange companies rates shall continue to mirror the corresponding switched access rates. It is further

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ORDERED that the local exchange companies shall file tariff revisions to their Modified Access Based Compensation tariffs to incorporate the rate structure and levels approved for Local Transport, no later than 90 days following the effective date of the new local transport restructure tariffs. It is further

ORDERED that the local exchange companies shall also delete the provision in their Modified Access Based Compensation tariffs that eliminated the need for the Modified Access Based Compensation rate structure to match switched access. It is further

ORDERED that until new Modified Access Based Compensation tariffs are approved, the local exchange companies shall continue to charge the current Local Transport rate under the Modified Access Based Compensation Plan. It is further

ORDERED that the policy issue of whether we should continue to require imputation of local exchange companies switched access rates in their toll rates shall be addressed in a separate docket. Local exchange companies shall continue to use the current Local Transport rate element for purposes of access imputation until the broader policy issues have been addressed. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 2th day of JANUARY, 1995.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Wilson  
Chief, Bureau of Records

( S E A L )

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**NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW**

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.