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October 21, 1993

Steve Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

Re: Docket No. 921074-TP

Dear Mr. Tribble:

Enclosed for filing in the above docket is an original and fifteen (15) copies of the Posthearing Brief of Teleport Communications Group Inc.

A copy of this letter is enclosed. Please date-stamp the copy to indicate the original was received and return it to me.

Please call me at 718-983-2939 if you have any questions. Thank you for processing this filing.

Sincerely,

Jodie L. Donovan
Jodie L. Donovan
Regulatory Counsel

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Intermedia)
Communications of Florida, Inc.)
for expanded interconnection for)
AAVs within LEC central offices.)

Docket No. 921074-T

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POSTHEARING BRIEF OF TELEPORT COMMUNICATIONS GROUP INC.

Teleport Communications Group Inc. ("TCG"), pursuant to Rule 25-22.056(3), Florida Administrative Code, respectfully submits the following Posthearing Brief to the Commission in the above docket.

A. BASIC POSITION

TCG adopts and incorporates by reference its basic position as set forth in the Prehearing Order No. PSC-93-1274-PHO-TL ("Prehearing Order").

B. ISSUES AND POSITIONS

Issue 1: Is expanded interconnection for special access and/or private line in the Public Interest?

Yes. Central office interconnection will provide significant benefits to consumers in Florida.

TCG asserts that the record absolutely supports a grant of Intermedia's petition for expanded interconnection for AAVs for private line and special access services. In fact, nearly all parties agree that expanded interconnection is in the public interest but merely disagree about the terms of interconnection.¹

¹ See, e.g., AT&T Witness Guedel, Hearing Transcript at p. 194, lines 9-24; Intermedia Witness Canis, Hearing Transcript at p. 22, lines 11-17; United Witness Poag, Hearing Transcript at p. 560, lines 20-25; GTE Florida Witness Beauvais, Hearing

TCG therefore believes that the Commission can most expeditiously implement an intrastate expanded interconnection policy by virtually mirroring the Federal Communications Commission's ("FCC") special access expanded interconnection orders.²

The Florida Commission should not, however, make the same mistake the FCC made in excluding subscribers in non-Tier I LEC territories from gaining the benefits of competition. Although Alltel's Witness Study testified to the loss of revenues that expanded interconnection might possibly cause non-Tier I LECs, TCG believes Alltel's fears are misplaced.

The needs of telecommunications customers are diversifying and it is becoming more difficult for one phone company to adequately serve all of these needs.³ Large customers served by non Tier I LECs have available to them the option of using

Transcript at p. 330, lines 9-10; Southern Bell Witness Denton, Hearing Transcript at p. 390, lines 4-8.

² Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369 (1992) (FCC Special Access Order), appeal pending sub nom. Bell Atlantic Corp. v. FCC, No. 92-1619 (D.C. Cir., filed Nov. 25, 1992); Memorandum Opinion and Order, 8 FCC Rcd 127 (1992) (FCC First Reconsideration Order), Second Memorandum Opinion and Order on Reconsideration, FCC 93-378 (rel. Sept. 2, 1993) (FCC Second Reconsideration Order). As discussed *infra*, the Florida Commission should not follow the FCC's implementation of premature pricing flexibility for the LECs.

³ See Southern Bell First Set of Interrogatories, No. 46 stating, "Florida's long term intrastate telecommunications needs include the need for a highly advanced, widely available telecommunications infrastructure...The Commission's telecommunications policies should foster an environment that will encourage the introducing of a diverse array of services to the marketplace."

private networks to meet their needs if the serving LEC cannot. When a customer uses a private network, the serving LEC forgoes all revenues from that customer, resulting in stranded investment. On the other hand, when a customer supplements its network by using the facilities of a LEC and an interconnector, the LEC receives revenue from the interconnector for both the collocation arrangement and for the LEC services the interconnector accesses through the collocation arrangement, all while continuing to receive revenue from the customer. Interconnectors will help to keep large customers on the public switched network for the benefit of all carriers, and it is in the public interest for the Commission to require all LECs to offer expanded interconnection to AAVs.

Expanded interconnection for special access and private line services is also in the public interest because it will not lead to an increase in residential rates.⁴ Southern Bell Witness Denton testified that there is a contribution that intrastate special access and private line services provide to residential local exchange service.⁵ According to statistics from his own industry, Mr. Denton is incorrect. The recent United States Telephone Association report on the potential impact of competition discussed the subsidies allegedly contained in current local exchange carrier rates and the possible effect of

⁴ Contra Alltel Witness Eudy, Hearing Transcript at p. 681.

⁵ Hearing Transcript at p. 390, lines 8-10.

rate deaveraging on rural customers.⁶ The report provided information on revenues and costs for intrastate private line services. This information disclosed that the LECs are providing intrastate private line services substantially below cost and therefore these services could not possibly provide any support for residential rates or universal services.⁷

Issue 2: How does the FCC's order on expanded interconnection impact the Commission's ability to impose forms and conditions of expanded interconnection that are different from those imposed by the FCC's order?

TCG agrees with the proposed stipulation set out in the Prehearing Order.

As TCG indicated in its direct testimony, Florida can extend the benefits of the FCC's order by requiring interconnection at a DS1, DS3 and DS0 level to bring the benefits of collocation to all special access customers. The FCC order required interconnection for DS1 and DS3 only.

TCG also suggests that the Commission officially recognize the FCC's Second Reconsideration Order in which the FCC concluded that LEC contracts for terms of three years or longer should be eligible for fresh look.⁸

Issue 3: Deleted in Prehearing Order.

⁶ Monson and Rohlf, USTA-Potential Impact of Competition on residential and Rural Telephone Service, rel. July 16, 1993 ("USTA Report").

⁷ USTA Report at Appendix, "Contribution Analysis."

⁸ FCC Second Reconsideration Order at para. 21.

Issue 4: Does Chapter 364 of the Florida Statutes allow the Commission to require expanded interconnection?

Yes.

Chapter 364 focuses on serving the public interest. As described in Issue No. 1 above, authorization of expanded interconnection will advance the public interest in significant ways.

Issue 5: Does a physical collocation mandate raise federal and/or state constitutional questions about the taking or confiscation of property?

***No.** The key to the fairness of interconnection to all parties is that the interconnectors compensate the LECs for the use of LEC facilities. Furthermore, the Commission is ordering interconnection for the public purpose of promoting a modern, efficient telecommunications infrastructure. Therefore, a physical collocation mandate does not constitute a taking.*

The FCC has already determined that giving interconnectors a right to mandatory physical collocation is not a taking, but is instead lawful governmental public utility regulation. Even if it were determined by a court to be a taking, the Florida Commission has the same authority as the FCC to order collocation for a public purpose and to order that the LECs receive just compensation for the use of their property.'

Issue 6: Should the Commission require physical and/or virtual collocation?

***Florida should require LECs to offer physical collocation.** Physical collocation ensures that interconnectors are provided interconnection on the same terms and conditions as the LECs interconnect their own high capacity networks. A physical requirement would also allow for uniformity between state and

' FCC Special Access Order, 7 FCC Rcd at 7476-83.

federal requirements.*

The record clearly supports a Commission mandate of physical collocation for AAVs. TCG has argued extensively that physical collocation provides the most efficient form of interconnection for all parties and promotes uniformity between state and federal requirements.¹⁰ Intermedia Witness Canis thoroughly described the benefits of physical collocation at the hearing. He explained that by permitting a LEC to choose either physical or virtual collocation or mandating virtual collocation, the Commission would be requiring a duplication of facilities.¹¹ Mr. Canis also listed the disadvantages of virtual collocation including the lack of control an AAV has over a virtual collocation arrangement, which translates into less efficient service for AAV customers.¹²

The Commission can ensure that physical collocation is painless for all parties. It should simply mandate physical collocation with a condition that if a LEC truly has limited central office space, it can offer an interconnector a virtual collocation arrangement. Interconnectors and LECs should naturally be free to negotiate a virtual arrangement if it desired by both parties.

¹⁰ See TCG Witness Paul Kouroupas, Direct Testimony at pp. 13-18; TCG's Response to Staff's First and Second Set of Interrogatories, Response No. 2.

¹¹ Hearing Transcript at p. 24, lines 3-12.

¹² Hearing Transcript at pp. 33-37.

Issue 7: What LECs, if any, should be required to provide expanded interconnection?

All LECs, including non-Tier I LECs (those with less than \$100 million in annual revenues from regulated service), should be included in an intrastate interconnection policy in Florida so that all consumers may benefit from the improved telecommunications infrastructure brought about by competition.

As TCG Witness Kouroupas stated in his testimony at the hearing, the Commission should require non Tier I LECs to offer physical collocation to AAVs upon a good faith, bona fide request.¹³ As explained above, expanded interconnection with all LECs in Florida will benefit all telecommunications users in the state, instead of just the users living in the large LEC's territories. The Commission should apply the same standards it adopts for the Tier I LECs to the non Tier I LECs in order to avoid a future docketed proceeding addressing the same issues all over again.

Issue 8: Where should expanded interconnection be offered?

Expanded interconnection should be available at all central offices of Tier I and non-Tier I LECs. TCG agrees that the Commission should mirror the FCC's rule¹⁴ in which a LEC initially would tariff the top 10 percent of central offices within a service area as long as AAVs can request the tariffing of additional central offices.

TCG asserts that United's proposal to tariff expanded interconnection at offices where it is "likely to occur" was not clarified in the record and should not be adopted as a tariffing

¹³ Hearing Transcript at p. 273, lines 10-15.

¹⁴ See FCC First Reconsideration Order, 8 FCC Rcd at 127.

standard.¹⁵ To promote uniformity, the Commission should simply mirror the FCC's rule for Tier I LECs. The non Tier I LECs should only be required to file a tariff for expanded interconnection after a bona fide request for interconnection in a certain central office.

Issue 9: Who should be allowed to interconnect?

TCG agrees with the proposed stipulation in the Prehearing Order that any entity be allowed to interconnect on an intrastate basis its own basic transmission facilities associated with terminating equipment and multiplexers. The Commission should clarify in its Order that the issue should be designated as who is allowed to interconnect in a LEC central office.

Issue 10: Should the same terms and conditions of expanded interconnection apply to AT&T as apply to other interconnectors?

TCG does not have a position on this issue.

Issue 11: Should the Commission require standards for physical and/or virtual collocation? If so, what should they be?

The interconnection standard must provide AAVs with the same capability to connect its high capacity fiber optic network to the LEC's services in a manner which is technically, operationally and economically comparable to the way that the LEC connects its own high capacity facilities to the LEC network.

Contrary to the position of GTE Florida,¹⁶ the record supports a finding that the Commission must promulgate standards for useful expanded interconnection. Again, the Commission

¹⁵ See United's position in Prehearing Order, Issue 8.

¹⁶ Prehearing Order at p. 36.

should follow the FCC's standards for expanded interconnection for special access and private line services, including its methods for space allocation, point of interconnection, and points of entry into central offices.¹⁷

Issue 12: Should collocators be required to allow LECs and other parties to interconnect with their networks?

No. The Commission must require LECs, as monopoly providers of essential bottleneck facilities, to provide physical collocation to interconnectors. However, non-dominant, competitive carriers need no such requirement.

As indicated in the record by AT&T, it is unnecessary for the Commission to require collocators to allow LECs and other parties to interconnect with their networks.¹⁸ The LECs have the bottleneck facilities. The LECs are the ones challenging state and federal interconnection policies. TCG knows of no instance in which a competitive access provider has refused to offer a LEC a collocation arrangement and there is no reason why it would refuse in the future.

The Commission can safely allow the market to motivate the decisions of a competitive carrier like TCG, while concentrating its attention on ensuring that monopoly carriers properly provide expanded interconnection arrangements to permit the development of competition.

The Commission should follow the FCC's policy. Although the idea of mandating that collocators provide expanded

¹⁷ FCC Special Access Order, 7 FCC Rcd at 7406-12.

¹⁸ AT&T Witness Guedel, Hearing Transcript at p. 200, lines 3-20.

interconnection for other parties was discussed in the FCC Special Access Order, the FCC did not require it. It stated that competitive access providers should be willing to provide interconnection arrangements to LECs on a voluntary basis, but saw no reason to mandate such a requirement since they do not control bottleneck facilities.¹⁹ An interconnection policy is necessary to require monopoly providers to offer collocation to permit the development of competition.

As competition for private line services develops, a competitor would be foolish to reject a collocation request and the associated revenues. The potential interconnector will simply move on to the next provider.

Issue 13: What standards should be established for the LECs to allocate space for collocators?

TCG agrees with the FCC's method of requiring LECs to provide space for physical collocation on a first come, first served basis.

Issue 14: Should the Commission allow expanded interconnection for non-fiber optic technology?

TCG has no position on this issue.

¹⁹ Id. at 7403, n.167.

Issue 15: If the Commission permits expanded interconnection, what pricing flexibility should the LECs be granted for special access and private line services?

The presence of AAV competitors does not mean a fully competitive market exists. The Commission should not grant pricing flexibility to the LECs until full and effective competition has developed.

The record indicates that the LECs already have substantial pricing flexibility.²⁰ They can establish customer specific contracts for special access services and can offer volume and term discounts to the largest customers. The LECs simply do not need any other tools to lower their special access rates. Zone density pricing is therefore unnecessary.

Issue 16: If the Commission permits collocation, what rates, terms, and conditions should be tariffed by the LEC.

To promote uniformity and facilitate effective interconnections, LECs should tariff the following non-recurring rate elements: cage construction, power cabling and racking, and the cable pull. Interconnectors should have the option to complete these tasks themselves. LECs should also tariff the following recurring rate elements: cable space, cross-connect, floor space and electric power.

Again, the Commission should mandate that the LECs tariff the same elements as required by the FCC special access

²⁰ Intermedia Witness Canis, Hearing Transcript at 614-15; Positions of FCTA, FIXCA, IAC, MCI in Prehearing Order at pp. 44-45.

collocation tariffs.²¹ In addition, it is critical that the Commission ensure that LECs indicate in their tariffs that they will abide by the following terms and conditions. Rearrangement charges must be non-discriminatory. Interconnectors must be given channel assignment control. Many customers of interconnectors insist that they be allowed to order and bill for end user circuits under a letter of agency authorization, therefore interconnectors must be permitted to use letters of agency. Escort and eviction terms must be limited to prevent LECs from using these mechanisms as a way to invalidate the usefulness of a central office interconnection arrangement. LECs should only force an interconnector to relocate within a central office under extreme circumstances and must give reasonable notice to the interconnector.

Reasonable installation time frames should be tariffed. Interconnectors should be allowed to self-insure. There should be no restrictions placed on interconnectors by LECs regarding the types of equipment that can be installed as long as it can be used to terminate basic transmission facilities. Finally, the Commission should ensure that the LECs' liability language for interconnections is reasonable.

Issue 17: Should all special access and private line providers be required to file tariffs?

No. The Commission should continue to exempt AAVs from a tariff filing requirement as it did in Order No. 24877.

²¹ See Intermedia Witness Canis, Hearing Transcript at p. 610, lines 8-18.

Issue 18: What separations impact will expanded interconnection have on the LECs?

TCG has no position on this issue.

Issue 19: Deleted

Issue 20: How would ratepayers be financially affected by expanded interconnection?

Ratepayers will benefit financially from expanded interconnection. To the extent that expanded interconnection leads to increased competition for access services, ratepayers will benefit from LEC efforts to increase efficiency and lower costs. The LEC should flow through these efficiencies and cost reductions to consumers.

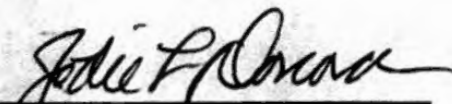
Issue 21: Should the Commission grant ICI's petition?

Yes.

The record supports a grant of Intermedia's petition for expanded interconnection for intrastate special access and private line services. An intrastate interconnection policy is in the public interest and will foster competition in these services.

WHEREFORE, TCG requests that the Commission grant Intermedia's petition.

Respectfully submitted,

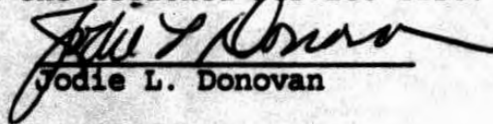


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Dated: October 22, 1993

CERTIFICATE OF SERVICE
Docket No. 921074-TP

I HEREBY CERTIFY that a copy of the foregoing Posthearing Brief has been mailed first class, postage prepaid this 22nd day of October 1993 to the parties on the attached service list.


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