BEFORE THE
FLORIDA
PUBLIC SERVICE COMMISSION

In re: Investigation Into Temporary	)	
Local Telephone Number Portability	)	Docket No. 950737-TP
Solution to Implement Competition	)	
in Local Exchange Telephone Markets	)	November 6, 1995

POST-HEARING BRIEF OF METROPOLITAN FIBER SYSTEMS OF FLORIDA, INC.

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Metropolitan Fiber Systems of Florida, Inc. ("MFS"), as an Alternative Local Exchange Company ("ALEC") authorized to provide switched local exchange service in Florida after January 1, 1996, supports the implementation of a temporary service provider number portability solution to facilitate the introduction of competition in the local exchange market. This proceeding was initiated pursuant to Florida Statute 364.16(4), which requires the Florida Public Service Commission ("Commission") to establish such an interim number portability mechanism by January 1, 1996.

Service provider number portability permits an end user at a given location to change service from a local exchange company ("LEC") to an ALEC or vice versa, or between two ALECs, without changing the end user's local telephone number. Such number portability is essential to the development of local exchange competition and is a critical precondition in order for ALECs to be economically viable in Florida. The parties to this proceeding agree that Remote Call Forwarding ("RCF"), while not an appropriate solution to the issue of permanent number portability, is a temporary service provider number portability mechanism that is currently available for implementation in most LEC central offices.

The Commission should recognize, however, that RCF is a bottleneck element of local exchange service, and thus, like other bottleneck elements, RCF should be priced at direct incremental cost with no contribution. Moreover, because the benefits of local exchange competition will accrue equally to all Florida telephone subscribers, the temporary service provider number portability solution adopted by the Commission should be funded by spreading the costs of such a mechanism evenly across Florida's entire subscriber base. The recovery of the costs of RCF in this manner is consistent with the Legislature's decision to promote local exchange competition as a matter of public policy, and accurately reflects the fact that all subscribers benefit from this competition.

BellSouth, GTEFL, and United/Centel argue that the Commission should instead permit the LECs to include both incremental costs and contribution to shared and common costs in pricing the RCF for the purposes of interim number portability. Kolb, Tr. at 67-71, 94-98, Menard, Tr. at 137, Poag, Tr. at 167. Moreover, BellSouth argues that these costs should be recovered directly from carriers or customers who use RCF to retain their numbers. Kolb, Tr. at 61. The pricing of RCF in such a manner, would impede the development of local exchange competition, eliminate any incentive for LECs to facilitate a *permanent* number portability solution, and permit customers who elect to remain with their current local exchange service provider to enjoy the benefits of competition at the expense of those customers who choose to switch to an ALEC.

INTRODUCTION AND BACKGROUND

Section 364.16(4) of the Florida Statutes requires the Commission to ensure that a temporary means of achieving telephone number portability is available by January 1, 1996. As set forth in the statute, the purpose of such a requirement is to assure that "consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number . . . ." Fla. Stat. Ann. § 364.16(4). The statute further states that in order to achieve this goal, "all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms . . . ." *Id.* This objective is consistent with the Legislature's overall focus on creating a competitive environment in local exchange services, as evidenced by Section 364.01 of the Florida Statutes, which states that:

> The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure.

Fla. Stat. Ann. § 364.01(3). Consistent with the legislative finding, MFS has demonstrated in this proceeding that customers are extremely reluctant to change telephone carriers if it means they will be required to change their telephone numbers. Devine, Tr. at 20, 43-44. As indicated in surveys conducted by MFS in New York, 92 percent of customers surveyed said they would not consider MFS services without number portability.[1/] Therefore, the lack of true number portability creates a substantial barrier to the development of local exchange competition. As the Legislature recognized by the adoption of Section 364.16(4), therefore, some form of number portability is essential to ensuring effective, if still impaired, local exchange competition in Florida.

On June 29, 1995, the Commission initiated this proceeding to investigate the implementation of a temporary number portability mechanism. As required by Section 364.16(4) of the Florida Statutes, industry participants, under the direction of the Commission, established a number portability standards group on July 26, 1995, to determine the development of the appropriate costs, parameters, and standards for temporary number portability. Workshops in conjunction with this proceeding were held on July 20, 1995, and on several occasions during the month of August.

Based on these meetings, MFS along with other industry participants entered into a Stipulation and Agreement on most, but not all, of the issues in this proceeding. The Commission approved the Stipulation and Agreement on September 12, 1995.[2/] A pre-hearing

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1/MFS conducted two series of surveys in New York. As indicated above, in its October 10, 1994 survey, 92 percent of the customers surveyed said that they would not switch telephone carriers if they could not retain their existing telephone numbers. In MFS' April 6, 1995 survey, 98 percent of the customers surveyed said that number portability was "very important" to them. Devine, Tr. at 20, Ex. 1.

2/Investigation into a Temporary Local Telephone Number Portability Solution to Implement Competition in Local Exchange Markets, Docket No. 950737-TP, Order No. PSC-95-1214-AS-TP (issued Oct. 3, 1995).

conference was held on October 9, 1995, and a hearing was held on October 20, 1995, to address the remaining issues in this proceeding.

The Stipulation and Agreement approved by the Commission resolved a number of fundamental issues in this proceeding, such as the selection of a temporary service provider number portability solution. The parties stipulated to the following:

Issue 1: What is the definition of temporary number portability pursuant to Section 364.16(4), Florida Statutes?

The parties agreed that temporary number portability is defined as "an end user's ability at a given location to change service from a local exchange company (LEC) to an alternative local exchange company (ALECs) or vice versa, or between two ALECs, without changing their local telephone number." *Stipulation* at 1-2.

Issue 2: What technical solutions will be available by January 1, 1996, to temporary provider number portability?

The parties agreed that Remote Call Forwarding is a temporary service provider number portability mechanism that can be implemented in most LEC central offices at the present time using existing switch and network technology. *Stipulation* at 2. The parties also agreed that Flexible Direct Inward Dialing is an alternative temporary number portability mechanism the terms of which the LECs will continue to negotiate with ALECs who desire to use such a mechanism. *Stipulation* at 3-4.

Issue 6: What is/are the most appropriate method(s) of providing temporary number portability?

The parties agreed that RCF is the most appropriate method to provide temporary number portability by January 1, 1996. *Stipulation* at 2. The parties also agreed that parties can continue to negotiate other feasible options for temporary number portability that may be available in the future. *Stipulation* at 4.

Issue 7: What are the appropriate parameters, costs and standards for the method(s) identified in Issue 6?

As noted above, the parties agreed that RCF is the temporary number portability mechanism that is currently available in most LEC central offices. This mechanism entails sending a call to the old telephone number through the switch of the former local service provider, and then forwarding the call to the switch of the new local service provider. *Stipulation* at 2. The parties agreed that the LECs should offer RCF to certificated ALECs as a temporary number portability mechanism, effective January 1, 1996. *Id.* The parties also agreed that ALECs must offer RCF to LECs as a temporary number portability mechanism, effective on the date the ALECs begin to provide local exchange telephone service. *Id.* With regard to reliable end user access to emergency services such as 9-1-1/E9-1-1, the parties agreed to work together and with the 9-1-1 coordinators to successfully integrate the relevant ALEC information into the existing 9-1-1/E9-1-1 systems. *Id.* The parties agreed that the use of RCF is conditioned upon it not posing a technical impediment to the availability and reliable transfer of relevant information to 9-1-1/E9-1-1 systems. *Id.* at 3. The parties also agreed that the recurring price for RCF will be charged on a per-line, per-month basis and will be uniform throughout an individual LEC's existing service territory. *Id.* The price charged by an individual LEC for RCF shall not be below the costs of that LEC to provide RCF for the purposes of providing temporary number portability. *Id.* The price charged for RCF offered by an ALEC will mirror the price charged by the LEC. *Id.*

The parties were not, however, able to reach an agreement on several remaining issues, the most fundamental being the details as to what costs should be considered in the provision of RCF for the purposes of temporary number portability and from whom these costs should be recovered. The following issues remain to be addressed:

Issue 3: What are the advantages and disadvantages of each solution identified in Issue 2?

Issue 4: What are the costs associated with providing each solution in Issue 2?

Issue 5: How should the costs identified in Issue 4 be recovered?

Issue 8: Should the Docket be closed?

In this Brief, MFS will focus primarily on Issue 4 and Issue 5, addressing what costs should be considered in analyzing the cost of RCF and how these costs should be recovered. As noted in the Stipulation and Agreement, other related compensation issues, such as compensation for termination of ported calls and the entitlement to terminating network access charges on ported calls will not be addressed here. Rather, these issues will be negotiated by the parties or resolved by the Commission, as local interconnection issues under Section 364.162. *See Stipulation* at 3.

ISSUES

ISSUE 4: What are the costs associated with providing Remote Call Forwarding?

The costs associated with providing RCF, which primarily entails the routing and switching of RCF calls over the existing network, include processing and transport costs.[3] Such costs may include nonrecurring costs for receiving the service order, transmission of the order to the switching employee and the writing of the translation. These nonrecurring costs, however, should be specific to RCF and should not include costs associated with processing other orders. Ex. 2 at 15-16. The provisioning of RCF does not create unique new costs, it merely adds more switching and transport on the already existing network. Ex. 2 at 51, 56. For example, there is an added recurring cost associated with RCF as a result of the "double routing" of forwarded calls that is required under the RCF mechanism. Each call is first routed to the switch of the former local service provider, and then forwarded (ported) to the switch of the carrier actually serving the customer. This "double routing" imposes *nominal* incremental switching costs on the

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[3]/ Engleman, Tr. at 212-213, Price, Tr. at 250, Ex. 2 at 11. *See In Re: Investigation into temporary local telephone number portability solution to implement competition in local exchange telephone markets*, Docket No. 950737-TP, Order No. PSC-95-1246-PHO-TP (issued Oct. 11, 1995)/

carrier forwarding the call.[4] Thus, the pricing of RCF for interim number portability should only include those direct incremental costs necessary to provide the service. The purpose of RCF is to eliminate a substantial barrier to local exchange competition by enabling customers to retain their existing telephone numbers. Ex. 2 at 57. The purpose is not for MFS, GTE or BellSouth to make a profit from its competitors. Ex. 2 at 57.

As MFS has previously demonstrated, customers have indicated that they are extremely reluctant to change telephone service providers if they have to change their existing telephone numbers. Devine, Tr. at 15, 43. Because interim number portability is a prerequisite for the development of local competition in Florida, the pricing of RCF also plays a critical role in the development of local competition. *See* Devine, Tr. at 44-45, Price, Tr. at 253-254. Those states that are adopting regulations aimed at introducing local exchange competition have recognized, like the Florida Legislature (Fla. Stat. Ann. (§ 364.16(4)), that number portability is an essential

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[4]/These costs will vary depending on each carrier's incremental cost of switching. Ex. 3 at 4. Central office and interoffice networking costs must be carefully scrutinized to ensure that the LECs are not subsidizing costs that would otherwise be incurred to provide currently tariffed RCF service. Given the Legislature's purpose in enacting this legislation, the Commission should closely scrutinize all costs claimed to be incurred by LECs in provisioning RCF for ALECs. For example, BellSouth in this proceeding has conducted an "incremental cost study" for RCF but, as demonstrated, this study includes costs which should not be assessed on RCF such as the capital cost of lands and buildings. Kolb, Tr. at 67-69.

component of effective local exchange competition.[5] Given the essential nature of this service, the historical LEC monopoly which is still present, and the deficiencies in this temporary mechanism, the pricing of RCF should be based on the incremental direct cost to the LEC for providing RCF. Price, Tr. at 254, Devine, Tr. at 44-46.

The Commission should reject LEC proposals to include in RCF rates a contribution to shared or common costs. Kolb, Tr. at 57, Menard, Tr. at 137, Poag, Tr. at 167. BellSouth wants to include the capital cost of lands and building in the pricing of RCF (Kolb, Tr. at 67-69) and United/Centel wants to include shared costs, such as operating systems software, billing collections and common overhead expenses. Poag, Tr. at 167. An October 31, 1995 decision by the Washington Utilities and Transportation Commission ordered the incumbent LEC to set its rates for interim number portability at the LEC's incremental costs only, finding that there was no reason for the LEC to recover common costs from this service.[6] The Michigan Public Service Commission also has found that "the incremental costs developed by MCI are appropriate for the

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[5]/*See Application of MFS Intelenet of Pennsylvania, Inc. for a certificate of public convenience and necessity*, Docket No. A-310203F0002, Opinion and Order at 54 (issued Oct. 4, 1994); *Competition 2 Proceeding, Order Requiring Interim Number Portability Directing a Study of the Feasibility of a Trial of True Number Portability and Directing Further Collaboration*, Case 94-C-0095, Order at 3 (N.Y.P.S.C. Mar. 8, 1995); *Washington Utilities and Transportation Comm'n v. U S West Communications, Inc.*, Docket No. UT-941464, Fourth Supplemental Order Rejecting Tariff Filings and Ordering Refiling at 55 (issued October 31, 1995).

[6]/*Washington Utilities and Transportation Comm'n v. U S West Communications, Inc.*, Docket No. UT-941464, Fourth Supplemental Order Rejecting Tariff Filings and Ordering Refiling at 55 (issued October 31, 1995).

pricing of . . . RCF on a transitional basis."[7] To include contribution in the RCF rate would be to include overhead costs designed to subsidize monopoly LECs and would merely serve to lock in the current inefficiencies of the LEC network. Devine, Tr. at 42-43.

There are many barriers to entry for the ALECs entering the local exchange market, including interim number portability. Many of these barriers result from the fact that ALECs are forced to utilize LEC bottleneck facilities in order to provide service to their customers. Naturally, LECs are reluctant to give up this monopoly. Therefore, it is necessary to provide incentives to the LECs to eliminate these barriers. Permitting the LECs to recover contribution to overhead in their RCF interim number portability rates would in effect be compensating the LECs for competitive losses resulting from the entry of ALECs into the local exchange market. Such contribution effectively insulates the LECs from the forces of competition and removes the LECs' incentive to increase their efficiency and improve their responsiveness in order to retain customers. Permitting the LECs to recover contribution would also eliminate any incentive for LECs to facilitate the development and implementation of a permanent number portability solution. Price, TR. at 254 & 258.

By inflating the cost to an ALEC of providing service, such a pricing approach also imposes a further competitive disadvantage on ALECs, compounding the enormous advantages the LECs already have as a result of their monopoly position. Pricing RCF to include a

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[7]*In re Application of City Signal, Inc., for an order establishing and approving interconnection arrangements with Ameritech Michigan*, Opinion and Order (M.I.P.S.C. Feb. 23, 1995).

contribution to shared and common costs would, therefore, stifle competition, not promote it. Devine, Tr. at 43, Price, Tr. at 258-259. This result is in direct contravention of the intent of the Legislature.

In determining RCF pricing, the Commission must make a close assessment of all the costs imposed by LECs on ALECs. In order to compete, ALECs will have to offer basic local exchange services at rates equal to or less than the incumbent LECs rates. If LECs are permitted to assess contributory costs above incremental cost on ALEC competitors, they will whittle away at the ALEC profit margin between incremental cost and LEC price. The Commission must therefore consider the total sum of contributory costs imposed on ALECs by LECs, through universal service, compensation for the exchange of telephone calls, unbundled loops, and other mechanisms. Consequently, an effective RCF interim number portability pricing mechanism in a competitive market requires the LECs to price RCF interim number portability, as well as all other LEC-to-ALEC charges, at incremental direct cost without contribution. Price, Tr. at 254, Devine, Tr. at 44-46.

RCF is not a "premium" service, such as "Caller ID" or "Call Trace", made available to customers merely as a convenient, supplemental feature of telephone service. Devine, Tr. at 45. RCF as the temporary number portability solution is the only current means by which customers can retain their existing telephone numbers while exercising their right to freely choose an alternative local service provider. Devine, Tr. at 25, Engleman, Tr. at 208. Given the importance potential customers place on this feature, RCF is an essential element for the provision of local exchange services in a competitive marketplace, and the Commission must ensure that the pricing of RCF is established in a manner that facilitates this competition.

The Legislature already has determined that local exchange competition is in the public interest. Fla. Stat. Ann. § 364.01(3). Without RCF priced on an economically viable basis, ALECs are largely foreclosed from attracting customers and therefore, cannot effectively compete in the provision of local exchange services. *See* Price, Tr. at 253-254, Devine, Tr. at 43-45. Consequently, without the proper pricing of RCF, the Legislature cannot achieve its goal of providing its citizens with competitive telecommunications services. Fla. Stat. Ann. § 364.01(3).

On another note, BellSouth and Teleport Communications Group ("Teleport") have signed a stipulation for remote call forwarding for temporary number portability in which the two parties have negotiated a $1.50 per number ported for one path, .75 cents for each additional path, and a $25 surcharge. Kolb, Tr. at 62-63.

This agreement should not be considered by the Commission in determining the appropriate pricing of RCF for interim number portability. Teleport was not a party to this docketed proceeding and the Commission-approved Stipulation, and BellSouth and Teleport appear to have reached their agreement without consideration of the issues in this proceeding. In fact, the signing of the BellSouth/Teleport Stipulation can be conceived as an attempt by BellSouth to impose an anticompetitive solution on the parties to this proceeding. For example, the rates established in the BellSouth/Teleport stipulation reflect no relation whatsoever to demonstrable costs of providing RCF, a subject that was one of the principal focal points of the parties' time, effort, and resources in this proceeding. Second, the BellSouth and Teleport agreement is part of a package deal that includes rates and terms governing not only interim number portability, but also universal service and interconnection. Kolb, Tr. at 96. As such, the BellSouth/Teleport stipulation cannot be analyzed on a stand-alone basis for the purposes of determining the appropriate pricing of RCF.

ISSUE 5: How should the costs identified in Issue 4 be recovered?

As required by Section 364.16(4) of the Florida Statutes and provided for in the Stipulation, the price charged for RCF must not be below the costs of providing RCF for the purposes of interim number portability. *See* Fla. Stat. Ann. § 364.16(4); *Stipulation* at 3. Under the Stipulation and Agreement entered into in this proceeding, the recurring cost of RCF will be recovered on a per-line, per-month basis and will be uniform throughout an individual LEC's existing service territory. *Stipulation* at 3. The Stipulation and statutes, however, do not determine who will be assessed the RCF costs. Devine, Tr. at 41.

In light of the Stipulation that the costs of RCF be assessed on a per-line, per-month basis, MFS recommends that the Commission adopt an RCF rate which assesses a monthly per number charge on all working telephone numbers (ported and nonported). Devine, Tr. at 32-33, Price, Tr. at 251. This surcharge would be determined by multiplying the total minutes of calls forwarded by the incremental costs of transport and switching required to provide RCF for the purposes of interim number portability. *Id.* A similar pricing mechanism has been adopted in New York State by the New York Public Service Commission, which assesses a monthly per number charge on all working telephone numbers for temporary number portability.

Competition 2 Proceeding, Order Requiring interim Number Portability Directing a Study of the Feasibility of a Trial of True Number Portability and Directing Further Collaboration, Case 94-C-0095 (N.Y.P.S.C. Mar. 8, 1995).

The recovery of the RCF costs in this manner reflects the policy that the costs of RCF, which is necessary to develop competition in local exchange services, must be borne by all who benefit from the service and from the resulting competition. Devine, Tr. at 17. The Legislature has recognized that local number portability is essential to ensure that consumers have access to the local exchange service provider of their choice without being disadvantaged by the need to give up their local telephone number. Fla. Stat. Ann. § 364.16(4). The opportunity for consumers to retain their telephone numbers when switching local telephone companies benefits not only those retaining their number but also those calling the consumer at the familiar retained number. Ex. 2 at 16-17. In addition, since RCF is essential to the development of competition, it ensures the benefits of competition to all consumers in terms of provider choice, increased quality and better prices. Therefore, the cost of such a benefit should be spread evenly across the entire subscriber base. Devine, Tr. at 17, 31-32, Price, Tr. at 251-252. Spreading this cost across all users, whether they utilize RCF or not, is similar to the way in which consumers pay for a variety of telephone services. Perhaps the best example is 9-1-1. While an individual consumer may never have to use it, the consumer benefits from its availability.

BellSouth's recommended cost recovery mechanism for RCF, ignores the fact that the benefits of competition, such as lower prices, higher quality services, and increased innovative service offerings, are enjoyed by all subscribers. BellSouth suggests that the "long run incremental costs of the RCF arrangement for temporary number portability . . . be recovered directly from the carriers or customers who make use of these arrangements." Kolb, Tr. at 57. If the costs of RCF are only imposed on customers that utilize RCF, then those subscribers that choose not to switch to an ALEC, will, nonetheless, receive the benefits of competition without paying the associated costs. The Commission should not permit these customers to free-ride at the expense of those customers that first choose to purchase ALEC services. Moreover, as with many LEC proposals, the BellSouth approach will impose costs on ALEC customers only, making the feasibility of offering a competitive price that much more difficult.

ISSUE 3: What are the advantages and disadvantages of Remote Call Forwarding?

As an interim number portability solution, MFS and the other parties agree that RCF is the best solution currently available. *Stipulation* at 2. RCF can be implemented at the present time in most LEC Central Offices using existing switch and network technology. *Id.* Moreover, the signaling can be either in-band or out-of-band SS7 and the Automatic Number Identification ("ANI") that is out-pulsed when the customer places a call is the new number which is transparent to the customer. Devine, Tr. at 28.

While RCF is sufficient as an *interim* number portability solution, RCF should not be implemented as a permanent solution due to certain deficiencies. Devine, Tr. at 28-30, Price, Tr. at 247-248, Engleman, Tr. at 210-213. RCF requires all calls to be routed to the incumbent LEC switch before they can be forwarded to MFS, resulting in additional transmission and switching expense and additional call set-up time. Devine, Tr. at 28. It also appears that RCF does not permit the utilization of BLV/I and certain CLASS features. *Id.* These deficiencies underscore the fact that ALECs will be operating at a significant competitive disadvantage until permanent number portability arrangements are established. LECs, which of necessity must play an integral role in implementing permanent number portability solutions, currently have a strong disincentive to implement such solutions. Any interim number portability funding mechanism should, therefore, create an incentive for LECs to take the initiative in establishing permanent number portability. Price, Tr. at 258.

ISSUE 8: Should the Docket be closed?

Based on its experiences in other states, MFS anticipates that there will be additional problems associated with the implementation of interim number portability. Devine, Tr. at 45-46. Moreover, this Docket should remain open to the extent that there are additional operational aspects to the provisioning of RCF that extend beyond basic retail service that still need to be addressed. Ex. 2 at 28. For example, an RCF interim number portability mechanism that emulates true number portability may include consolidated billing arrangements that contain collect calls, calling cards, and third-party billed calls. *Id.* In addition, such RCF arrangements will require updates to the LIDB data base. Id. Therefore, the Commission should keep this docket open to ensure that implementation problems can be dealt with efficiently and effectively by the Commission. *Id.*

CONCLUSION

MFS agrees that RCF is at the present time the best available option for providing temporary number portability in the State of Florida. It is clear, as the Legislature has recognized with the implementation of 364.16(4) and as demonstrated by MFS customer surveys, that number portability is essential to meet consumer needs in a competitive local exchange market. In order for RCF to be economically viable to ALECs in a competitive market, however, the pricing of RCF must reflect the direct incremental cost to the LEC to provide RCF, with no contribution. Moreover, these costs should be spread evenly across the entire subscriber base, thereby distributing the costs of number portability across all those who will reap the benefits of RCF and the substantial benefits of competition. The recovery of the costs of RCF in this manner is consistent with the Legislature's intent to promote competition in local exchange services.

Respectfully submitted,

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