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1		
2	ISSUES	
3		
4		PAGE NO.
5	Issue No. A	4
6	Issue No. B	4
	Issue No. C	4
7	Issue No. 1	5
	Issue No. 2	5
8	Issue No. 3	5
	Issue No. 3	9
9	Issue No. 4	9
	Issue No. 4	16
10	Issue No. 5	16
	Issue No. 6	26
11	Issue No. 8	26
12		
13	CERTIFICATE OF REPORTER	33
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

(Hearing convened at 10:40 a.m.)

CHAIRMAN CLARK: We'll reconvene the agenda conference. We're ready to take up Docket No. 950737, investigation into temporary local telephone number portability solutions.

MR. GREER: Commissioners, this recommendation basically deals with the main unresolved issue in the docket, which is the price that will be charged for RCF. We can go issue-by-issue. There are some motions that need to be dealt with and some other issues.

CHAIRMAN CLARK: Okay. We'll just go issue-by-issue, unless I have a different request. Is there a motion on Issue A?

COMMISSIONER JOHNSON: Move it.

COMMISSIONER DEASON: Second.

CHAIRMAN CLARK: Without objection Issue A is approved. Issue B.

COMMISSIONER KIESLING: Move it.

COMMISSIONER JOHNSON: Second.

CHAIRMAN CLARK: Without objection Issue B is approved. Issue C.

COMMISSIONER KIESLING: Move it.

COMMISSIONER JOHNSON: Second.

1 CHAIRMAN CLARK: Without objection Issue C
2 is approved. Issue No. 1.

3 MR. GREER: 1 and 2 are stipulated that the
4 Commission approved in, I believe, July.

5 COMMISSIONER DEASON: Move Issues 1 and 2.

6 CHAIRMAN CLARK: Without objection Issues 1
7 and 2 are approved. Issue No. 3.

8 MR. GREER: Issue No. 3 is the advantages
9 and disadvantages of using RCF to provide temporary
10 number portability. I'm not sure there's any dispute
11 as to what they are. I think some parties were
12 concerned with a particular disadvantage being
13 attributed to their company. I don't think any of
14 them are attributable to any company. I think it's
15 just the way the network is set up, and that's the
16 advantages and disadvantages associated with it.

17 COMMISSIONER JOHNSON: Move it.

18 COMMISSIONER DEASON: I have a question on
19 Disadvantage No. 10. Explain to me how that is a
20 disadvantage?

21 MR. GREER: Some parties, as far as the
22 revenue stream, like access charges, there's still a
23 question how access charges are going to be flowed
24 through. And I think that to them, unless it's flowed
25 through to the ALEC, that they consider that a

1 disadvantage. That's how I take it. And as far as I
2 know, there's not a mechanism in place yet to deal
3 with that.

4 CHAIRMAN DEASON: But under this mechanism,
5 the LEC is involved in terminating that call, are they
6 not?

7 MR. GREER: Under this mechanism, yes. Who
8 the revenue -- what part of the revenue, access charge
9 revenue they should receive, I don't think has been
10 determined. And I think that would go in an
11 interconnection type arrangement.

12 COMMISSIONER JOHNSON: That's something
13 that's going to have to be -- the actual split of that
14 is going to have to be determined?

15 MR. GREER: Yes, I think so. And I think
16 that's what they do in the interconnection
17 proceedings.

18 CHAIRMAN CLARK: I just had one inquiry of
19 the Staff. With respect to 911, to what extent are we
20 going to be involved to make sure that there is
21 appropriate training and that 911 operators are aware
22 of the introduction of competition and how that may
23 impact their operations?

24 MR. GREER: I expect for Staff to work with
25 DMS, which deals a lot with these 911 issues, and make

1 sure that their folks are aware of what is coming up
2 as far as supported numbers and try to correct any
3 problems that may be associated with that.

4 CHAIRMAN CLARK: I'd like to request that
5 you report back to us in internal affairs at the
6 appropriate time to let us know what you are doing and
7 how you are working with DMS and the operators to make
8 sure that that does not become a problem in emergency
9 situations.

10 MR. GREER: And the problem being is the
11 ALECs, you know, until they come in, we're not for
12 sure exactly what kind of problems we are going to
13 have, depending on what they set up, so --

14 CHAIRMAN CLARK: Okay. I had another
15 question, and I'm not sure how you intended to write
16 it into an order. I'm on Page 20. I guess it's the
17 second to the last sentence. It says, "However, Staff
18 notes if it becomes apparent that the development of a
19 permanent number portability solution will not occur
20 in Florida before January 1998, the ALEC should be
21 permitted to use remote call forwarding to provide
22 location portability." I'm uncomfortable making that
23 conclusion now.

24 MS. BARONE: We determined that since the
25 stipulation and the parties did not agree to a

1 location portability solution, that they shouldn't be
2 prevented from doing so if they wanted to. That they
3 wouldn't be ordered to do it, but if they wanted to,
4 if there wasn't a permanent solution, that they could
5 at that time.

6 CHAIRMAN CLARK: I guess I'm uncomfortable
7 making that decision.

8 MR. GREER: And I don't think our intent was
9 for that to go into the order. We originally had in
10 there "Staff recommends", or something like that, and
11 we were going to put in a recommendation statement,
12 but then we had a problem with the testimony that was
13 filed, and not necessarily much testimony filed on
14 this issue. So we said, well, this is kind of what
15 we're looking at, just to give folks notice that this
16 is what we are thinking as far from the Staff
17 perspective.

18 CHAIRMAN CLARK: Well, it needs to be worded
19 in such a way that it is clear. It's not --

20 MR. GREER: Okay.

21 CHAIRMAN CLARK: -- an authorization on
22 January 1998 to do that.

23 MS. BARONE: Yes, ma'am.

24 MR. GREER: Okay.

25 CHAIRMAN CLARK: Is there a motion on Issue

1 3?

2 COMMISSIONER DEASON: I move it as
3 clarified.

4 CHAIRMAN CLARK: Without objection Issue 3
5 is approved. Issue 4.

6 COMMISSIONER GARCIA: Madam Chairman, I'd
7 like to have us consider the possibility of not
8 deciding Issue 4 and 5, and postponing that decision
9 until Tuesday's agenda.

10 The reason being is that clearly in the
11 statute -- this was an issue to be negotiated with the
12 parties. And we've got a lot of this stipulated out,
13 but I find it as is difficult to even vote on this.
14 In all honesty, in the information that I have before
15 me I can vote on it, but I would feel much more
16 comfortable if the companies come together with
17 something, and we go from there on Tuesday's agenda.
18 I don't know, maybe we could have some discussion on
19 it. But at least, in my part, I'd certainly be much
20 more comfortable if the companies got one last crack
21 at it until Tuesday's agenda.

22 COMMISSIONER DEASON: I'm sorry, what do you
23 hope to gain by deferring it is to have a
24 comprehensive stipulation presented?

25 COMMISSIONER GARCIA: Excuse me?

1 COMMISSIONER DEASON: To have a
2 comprehensive stipulation?

3 COMMISSIONER GARCIA: I would hope, and I
4 would hope that the companies would have a little bit
5 further time to negotiate these issues.

6 Commissioner Deason, I find that going
7 through this, Staff's position, the companies'
8 position, is a bit -- at times a bit amorphous. The
9 numbers that are being drawn from are almost
10 incomparable. And I understand Staff had a difficult
11 time with this, as I must assume that everyone has had
12 a difficult time with this because they are so
13 disparate, one from the other. And I would like to
14 see if there is a possibility that we can give the
15 companies one final chance to work it out, since we do
16 have so much of this stipulated out. Because I
17 obviously think we could probably vote out 6 and 7
18 without much problem since they both stipulated to
19 those two, and just leave these outstanding issues
20 based on prices to be worked out by the companies,
21 thus giving them a little bit more opportunity.

22 MS. BARONE: Madam Chairman, Staff would
23 recommend that in this situation the record is closed
24 and you could go ahead and vote on this, on Staff's
25 recommendation, and it still does not prevent the

1 parties from negotiating a stipulation at a later
2 point.

3 CHAIRMAN CLARK: I'm sorry, Commissioner
4 Garcia, did you put that in the form of a motion?

5 COMMISSIONER GARCIA: Well, I'd like to move
6 then. Let me put it in the form of a motion. I
7 wanted to have some discussion with the rest of the
8 members. I guess I can put it in the form of a
9 motion.

10 I'd like to move that we defer voting on
11 Issues 4, 5, and I guess that would probably -- that
12 would obviously include Issue 8 until Tuesday's
13 agenda. And I guess I could move to vote Issues 6 and
14 7 out right now without any problems since those are
15 both stipulated to anyway.

16 COMMISSIONER KIESLING: Could you maybe
17 break your motion down and not add in 6 and 7 so that
18 my dissent can be appropriately recognized?

19 CHAIRMAN CLARK: 4, 5 and 8, you move to
20 defer those?

21 COMMISSIONER GARCIA: Correct.

22 CHAIRMAN CLARK: Is there any other
23 discussion on that?

24 COMMISSIONER DEASON: Well, let me ask a
25 question. Staff has just indicated that they believe

1 that we could go ahead and vote on all of these
2 issues. And to the extent that there is a
3 stipulation, it could be considered subsequently. But
4 your belief is that that would not be appropriate?

5 COMMISSIONER GARCIA: Commissioner, I
6 believe that although it's a nice suggestion by Staff,
7 I believe that -- I would probably have some
8 discrepancies that I'd want to argue out with Staff,
9 and I'd probably want to hash them out for quite a
10 while on some of these numbers.

11 I have some difficulty coming to the same
12 conclusions that Staff -- I have difficulty coming to
13 the conclusions that Staff came to, much less than
14 some of the conclusions that the companies came to.
15 And so I would probably have a lot of questions to
16 bring up to Staff. And because of that reason, I'm
17 hoping that, perhaps by giving the companies a little
18 bit more time, we come to some kind of a resolution,
19 and we could probably discuss that at Tuesday's
20 agenda. But again, I think all throughout this
21 recommendation I think Staff alludes to the fact that
22 they are making -- let me find the proper word -- they
23 are making knowledgeable guesses at where this should
24 be.

25 And I think that if the companies are in a

1 better position to know where this is, they know
2 exactly what the issues before them, and it is
3 precisely they who these decisions are in the end
4 going to result. And again, this specifically in the
5 statute calls for the companies to negotiate it up.

6 I can see universal services being our
7 direct responsibility, and we tried to give enough
8 room for that, and we close that out today. I do
9 believe that this being part of the legislation which
10 called for negotiation, that we should give every
11 possible consideration for that.

12 CHAIRMAN CLARK: Any further discussion? Is
13 there a second?

14 COMMISSIONER JOHNSON: I think that,
15 generally, I would agree with Commissioner Garcia.
16 However, in this instance, having received the letter
17 from Mr. Self stating that the settlement offer, or
18 the agreement, or whatever was put on the table has
19 been rejected by the remaining parties as
20 unacceptable, it appears as if there are no further
21 negotiations occurring at this point in time.

22 And I was very frustrated earlier this week
23 because I do believe that it is the intent of the
24 legislature that we allow the parties, to the extent
25 that they can negotiate these terms out, to negotiate

1 them out. But when you have a substantial number of
2 parties, AT&T, LDDS, MCI, Metro Fiber Systems, Inc.,
3 all saying that it is unacceptable, it's harder for me
4 to justify giving them more time when you have half
5 the parties saying they don't need more time and
6 they've already rejected the offer. And that's what
7 concerned me.

8 If there was something that suggested that
9 the parties were amenable to further negotiations and
10 that they were all -- although they hadn't reached
11 agreement, they were coming closer. But this
12 document, or this letter, seems to clearly suggest
13 that they aren't going to reach any agreement; and it
14 appears as if, perhaps, we should move forward.

15 The other issue that I had thought about was
16 the issue of whether or not the agreement, even a
17 partial agreement, could be received by this
18 Commission and considered for whatever weight we might
19 want to give it. But I met with our Staff again
20 yesterday, and it appears as if the law is clear in
21 that regard, that we can't accept or review the
22 partial settlement. So it appears to me that perhaps
23 we should just go forward, and to the extent that the
24 parties continue to negotiate and have something to
25 offer us later, that we do consider that.

1 I think that we would almost be -- it would
2 be in our best interest to consider that if they work
3 something out. But the letter appears to be clear
4 that that's not happening.

5 COMMISSIONER DEASON: Well, let me say that
6 I agree with Commissioner Garcia that we should,
7 whenever possible, have the parties reach a negotiated
8 settlement; I agree with that. But on the other side
9 of that coin is that we have statutorily imposed
10 deadlines that we have to meet. And that's where I'm
11 kind of being torn on this thing. That's what causes
12 me the problem.

13 And I know that the longer that we delay,
14 then the more pressure there is going to be on our
15 Staff and the Commission generally to meet the
16 deadline, so that causes me some problem.

17 I do find it kind of interesting that I
18 thought that this Commission had proposed an amendment
19 which was rejected in committee, and that amendment --
20 I have it right here -- saying that with the consent
21 of all of the parties, that we could extend the
22 statutorily imposed deadline. This may have been a
23 good situation where that could have been done, but
24 our limit didn't prevail. So the deadlines are the
25 deadlines, and we've got to meet them.

1 And so I'm inclined at this point to go
2 forward. If the parties, by some miracle, were to
3 reach an agreement, I think it should be presented to
4 us, and we always can reconsider the action that we
5 take today.

6 CHAIRMAN CLARK: Commissioners Johnson and
7 Deason have certainly covered any points I would make.
8 There's been a motion. Is there a second to the
9 motion? The motion dies for lack of a second.

10 Issue No. 4. Any questions? Is there a
11 motion?

12 COMMISSIONER KIESLING: I move Staff.

13 COMMISSIONER DEASON: I second that motion.

14 CHAIRMAN CLARK: Without objection Issue 4
15 is approved.

16 Issue 5. I do have a question. You
17 indicate that Southern Bell can file cost studies that
18 identify the recurring and nonrecurring cost
19 associated with remote call forwarding by March 31,
20 1997. By that date are you indicating -- they can at
21 any time come in and indicate -- give us better costs
22 in terms of what should be included in the price for
23 number portability, they can do it anytime.

24 MR. LONG: Correct. But they must do it by
25 March 31, '97, if they don't do it before then.

1 COMMISSIONER JOHNSON: I did have a
2 clarification on Issue 4 that I just wanted to have
3 some --

4 CHAIRMAN CLARK: I'm sorry, I didn't mean to
5 rush it.

6 COMMISSIONER JOHNSON: No, that was fine.
7 Once we did the other, I lost my place here. And I
8 just wanted to have it clarified for the record.

9 With respect to costs here, and I think I'm
10 in the right issue, let me make sure. Yeah. Yeah, I
11 am.

12 Staff is defining costs to not include the
13 shared costs that perhaps GTE and one other party
14 would have had us include in this particular analysis.
15 And it's my understanding that the definition that we
16 use with respect to cost is actually the definition
17 that was used in the new statute?

18 MR. LONG: That is correct. It is used to
19 determine cross-subsidy in the new statute.

20 COMMISSIONER JOHNSON: What provision of the
21 statute were we referring to?

22 MS. BARONE: 364.0516(b).

23 COMMISSIONER JOHNSON: So then as we looked
24 at this, I guess that definition of cost would
25 establish a minimal definition?

1 MR. LONG: Correct.

2 COMMISSIONER JOHNSON: But with respect to
3 our decision not to include the shared costs, what was
4 the analysis in that regard?

5 MR. LONG: The analysis in that is number
6 portability is, by definition, a barrier to
7 competition. Just having to endure having a number
8 ported through one company and into another is, to
9 some degree, a barrier to competition.

10 So I believe that what you should try to do
11 is to make it as seamless for the customer and as
12 seamless for the companies having to endure this as
13 you can. And the minimum cost standard that most
14 people agree you should use for finding out what
15 anything costs is long run incremental cost. So I
16 believe that using that as a basis for setting the
17 rate for it was appropriate because of that.

18 If you're pricing retail services or perhaps
19 even wholesale services for resale, that may not be
20 provide. Recovery of shared cost may be entirely
21 appropriate in those instances. This, I believe, is
22 somewhat peculiar in that, a) it's competitors
23 depending on you; it's something you don't have to do
24 if you're the incumbent LEC, maybe for a few customers
25 scattered around who start with them and transfer to

1 you, but it's basically something you don't have to
2 endure that they do, and they have to go through you
3 to get it. And I believe that in that instance
4 pricing at or near incremental cost is a good idea.

5 CHAIRMAN CLARK: I perhaps should clarify
6 something, too. It says, "The record shows that the
7 precise costs for providing temporary number
8 portability cannot be determined at this time." I
9 guess I felt a little more comfortable with the
10 numbers -- I mean --

11 COMMISSIONER GARCIA: Where are you reading
12 from?

13 CHAIRMAN CLARK: I'm on Page 29. I realize
14 it is Issue 4. I'm not going to change my vote on
15 Issue 4.

16 COMMISSIONER KIESLING: Page 21 is Issue 3--

17 CHAIRMAN CLARK: 29.

18 COMMISSIONER KIESLING: Page 21.

19 CHAIRMAN CLARK: 9.

20 COMMISSIONER KIESLING: 9, thank you.

21 CHAIRMAN CLARK: At least with respect to
22 GTE and Sprint, it certainly appears that they have
23 come up with a cost that is close to long run -- on
24 total service long run incremental cost. I'm not
25 uncomfortable with those figures. It appears to me

1 that certainly it leads you to question the costs that
2 Southern Bell identified, and it seemed during the
3 proceedings we were able to identify why their costs
4 were above the other companies.

5 I guess maybe I had more confidence in the
6 cost levels that were introduced and Staff analyzed
7 than what it is reflected in the recommendation.

8 MR. LONG: In part I feel the same way,
9 that, I guess, if I could have the time to pick the
10 cost studies apart, which I did not have time to do,
11 that if any of the numbers were probably going to be
12 close to where they are today, GTE's and Sprint's
13 recurring cost numbers would probably be close to what
14 they are today.

15 CHAIRMAN CLARK: And certainly they are the
16 ones who presented them as being their costs.

17 MR. LONG: Correct. However, since I did
18 not have time to pick that cost study apart like I
19 would like to, plus the fact that none of their
20 nonrecurring costs admittedly were done in a precise
21 fashion, that's what leads me to the conclusion that I
22 can't be comfortable -- I can't hang my reputation on
23 any of those costs.

24 CHAIRMAN CLARK: Are you comfortable that
25 it's more likely that it covers costs than it doesn't?

1 MR. LONG: Could you repeat that?

2 CHAIRMAN CLARK: I'm comfortable that it's
3 more likely that those figures they came up with cover
4 their costs than that they don't cover their costs.

5 MR. LONG: Yes.

6 CHAIRMAN CLARK: Certainly with respect to
7 Southern Bell, and also with respect to GTE and
8 Sprint.

9 MR. LONG: Yes.

10 CHAIRMAN CLARK: Did you have any other
11 questions on 4?

12 COMMISSIONER KIESLING: No, I'm fine.

13 CHAIRMAN CLARK: Now we're on No. 5.

14 COMMISSIONER GARCIA: You took one side of
15 GTE, and you gave credence, and then on the other
16 side, you didn't.

17 CHAIRMAN CLARK: I don't --

18 COMMISSIONER GARCIA: I'm sorry. When you
19 come with the prices -- I'm trying to remember
20 precisely where you said that you likeed GTE's numbers
21 on one side, and it was on their -- was it the 75
22 cents which you thought there -- you did not feel that
23 that number is correct.

24 MR. LONG: I'm not quite sure -- let me try
25 to rephrase that, see if I understand what we're

1 talking about.

2 The recurring cost, the per monthly costs
3 presented by GTE and Sprint, I was more comfortable
4 with than Southern Bell's. Is that your question?

5 COMMISSIONER GARCIA: Right.

6 MR. LONG: And why?

7 COMMISSIONER GARCIA: Right.

8 MR. LONG: Okay. Part of the reason was the
9 cost studies presented by GTE and Sprint were sort of
10 two-part cost studies. They sort of built up from
11 zero to their proposed cost, and both of their
12 proposed costs were over a dollar. However, in their
13 cost study there it built up to a point where they had
14 total service, long run incremental cost as a figure,
15 and that was under a dollar. Then there were some
16 shared costs and other costs that they added as
17 increments above that, that gave them the cost that
18 they presented in their testimony, is what they
19 believe their cost to be.

20 Southern Bell's cost study did not do that.
21 It had a bottom line number, and everything that it
22 included was in that bottom line number. And through
23 the testimony some of the things in that bottom line
24 number were some of the things that were not in GTE or
25 Sprint's long run incremental cost figure in their

1 studies.

2 CHAIRMAN CLARK: And if I may, are not
3 appropriate to a long run incremental cost study.

4 MR. LONG: Correct.

5 COMMISSIONER JOHNSON: Are we on Issue 5?

6 CHAIRMAN CLARK: Yeah, we're on Issue 5.

7 Any other questions?

8 COMMISSIONER DEASON: I have another
9 question on Issue 5.

10 CHAIRMAN CLARK: Go ahead.

11 COMMISSIONER DEASON: The cost study, which
12 according to your recommendation that Southern Bell
13 would be ordered to file, that would be to get, in
14 your opinion, more accurate information?

15 MR. LONG: That is correct.

16 COMMISSIONER DEASON: And I'm not opposed to
17 that. My question, I guess, is if Southern Bell is of
18 the position that they don't want to file cost study
19 and they could just live with these rates, would they
20 have that option? Or are they obligated to file the
21 cost study?

22 MR. LONG: I believe if the -- the
23 requirement for the cost study is to ensure the
24 Commission's obligation to set the rate above cost is
25 met. Because those costs are not determined at this

1 time, and the proposed rates from Staff are lower than
2 the stated costs from Southern Bell, there is a
3 supposition that at some point you better make sure
4 they are above cost. And that's why that requirement
5 is in there. I believe if Southern Bell were to send
6 us a letter, a document, something, saying, "We
7 believe these rates are above our costs. We don't
8 want to file this cost study." I believe that would
9 adequately fill --

10 CHAIRMAN CLARK: They would have that
11 flexibility.

12 MR. LONG: They would have that flexibility.

13 COMMISSIONER DEASON: I just didn't want to
14 create work if there was some easier way to achieve
15 the end. And I don't know. I mean, Southern Bell may
16 be wanting to file that cost study just as quickly as
17 possible because they believe that those rates are too
18 low. And if that's their feeling, I would certainly
19 encourage them to do so. But it may be that they
20 believe that these other rates are in the realm of
21 being reasonable and they didn't want to go to all of
22 the time and expense and bother of filing a
23 comprehensive cost study.

24 MR. LONG: I believe they could do that.

25 MS. BARONE: We just put that in there to

1 make sure that the Commission's obligations to have a
2 price in place by January 1, and also its obligation
3 to make sure that the price is not below cost are
4 covered.

5 CHAIRMAN CLARK: Any questions? Any motion
6 on Issue 5?

7 COMMISSIONER KIESLING: I move Staff.

8 COMMISSIONER JOHNSON: Second.

9 COMMISSIONER DEASON: I'm going to support
10 the motion. But I agree, obviously in the statute it
11 says we have an obligation to make sure the rates at
12 least cover costs and we've got to meet that. That's
13 true. But I think there's another side of that coin,
14 if you will, and it's throughout the statute that says
15 that there should not be any unnecessary artificial
16 barriers to competition. And I think that the higher
17 this rate is, the more of a barrier -- now it may be a
18 justified barrier, don't get me wrong, but the higher
19 the rate, the bigger the barrier to competition.

20 So I think that's something we need to be --
21 it's kind of implicit in your recommendation, that we
22 need to consider that as well. And I think on balance
23 that's where we trying to fall down is what is a
24 reasonable rate that is not going to be an unnecessary
25 hurdle to competition. So having said that I can

1 support it.

2 CHAIRMAN CLARK: All those in favor of the
3 approving Issue 5 say Aye.

4 COMMISSIONER KIESLING: Aye.

5 COMMISSIONER JOHNSON: Aye.

6 COMMISSIONER GARCIA: Aye.

7 COMMISSIONER DEASON: Aye.

8 CHAIRMAN CLARK: Aye. Opposed nay? Issue
9 6.

10 COMMISSIONER KIESLING: I believe 6 and 7
11 are stipulated and I would move Staff on 6 and 7.

12 COMMISSIONER GARCIA: I'll second.

13 CHAIRMAN CLARK: Without objection 6 and 7
14 are approved. Issue 8.

15 MR. GREER: Commissioners, Issue 8 deals
16 with closing the docket and some here housekeeping
17 matters.

18 We believe the docket ought to remain open
19 to deal with any problems that may come up. In
20 addition, we think the companies ought to let us know
21 what their procedures are for the handling of billing
22 information for RCF, 911, those type of things.

23 CHAIRMAN CLARK: Any questions? I do have a
24 question. Issue 41, you set the price that we have
25 set in this docket as a floor.

1 MR. GREER: Yes.

2 CHAIRMAN CLARK: Why should we do that? I'm
3 interested in seeing whatever they come up with.

4 MR. GREER: I'm concerned -- our obligation
5 is to set a rate, and make sure that there's not any
6 discriminatory practice involved with it. So I don't
7 know that I have a problem with them going up if they
8 are wanting to negotiate interconnection along with
9 all this type stuff, but I have a problem with having
10 discriminatory rates if they can go lower than this.
11 And that we set this at what appears to be their cost.
12 In order to stay above the statutory requirement to
13 meet their costs, then I think you have to do that.

14 CHAIRMAN CLARK: I think that may be part of
15 your recommendation as to whether or not we should
16 approve a stipulation. But I don't see any reason to
17 set the parameters of that stipulation at this time.

18 MR. GREER: That --

19 CHAIRMAN CLARK: It's out there.

20 MR. GREER: Sure, sure.

21 CHAIRMAN CLARK: If they don't negotiate,
22 they can get this price and they may choose to
23 negotiate on that.

24 MR. GREER: And if they go below that price
25 I would think they would have to do cost studies to

1 justify that in a negotiation, and if they want to do
2 that, then that's --

3 CHAIRMAN CLARK: I understand they may be
4 aware of the fact that they would be hard pressed to
5 get a recommendation for approval because of those
6 kinds of considerations. But I still think that -- I
7 don't think we should prejudge any possible
8 stipulation.

9 MR. GREER: I don't know that I have a
10 problem with that.

11 CHAIRMAN CLARK: Okay. Is there a motion --

12 COMMISSIONER DEASON: Where is that language
13 at?

14 CHAIRMAN CLARK: If you look on Page 41 it
15 says "However," it's in that first full paragraph.
16 "However, Staff does not have a problem with the
17 companies continuing to negotiate a package that
18 includes a price for remote call forwarding as a
19 temporary number portability mechanism as long as the
20 negotiated price for remote call forwarding is not
21 lower than the prices listed in Issue 5." I was
22 concerned about setting that parameter at this point.

23 COMMISSIONER DEASON: I would move Staff on
24 Issue 8 with the understanding that --

25 COMMISSIONER GARCIA: Let me ask a question

1 on that.

2 If we're certain that Staff's price is one
3 that the companies can live with comfortably -- not
4 comfortably, safely, then why would we want them to go
5 lower? I understand his concept of then the predatory
6 aspect of it. In other words, if they go lower, are
7 we not opening ourselves -- and it's just a question
8 for Staff. I mean, aren't we creating a sort of
9 bottom line where we think that is a safe price or
10 reasonable price that the company should begin with?
11 If we go lower than that are we not asking for a
12 series of problems, at least in that area, in terms of
13 funding?

14 MR. LONG: I believe that is possible.
15 However, if the price is negotiated first, all of the
16 parties would have to agree to the price, so,
17 therefore, if one of the parties was agreeing --

18 COMMISSIONER GARCIA: I assume it's there
19 for a reason. I assume it didn't appear by chance.
20 While I understand the logic of Chairman Clark, I'd
21 like you to address the position you initially had
22 here and explain to me why you had it there as opposed
23 to adopting Chairman Clark's position.

24 MR. GREER: As I said, my initial concern
25 was one, make sure we have a price above cost that

1 everybody can get. And tha if you drop below that, if
2 you allow them to negotiate below that, then I'm
3 concerned about the discriminatory practice associated
4 with that. That was the whole establishment of that
5 piece in the recommendation.

6 With the caveat that Chairman Clark
7 presented, that if they come and bring something to
8 us -- I mean we may or may not approve it, depending
9 on what kind of stuff is filed with it. I would think
10 that if they brought something lower than that for RCF
11 that that may -- we may end up changing the rate we
12 have here to match whatever is lower.

13 CHAIRMAN CLARK: Well, my only thinking is
14 that there may be other elements or services that the
15 parties that are negotiating need. And if the bottom
16 line comes out the same, does it matter what you call
17 it?

18 MR. GREER: But the bottom line --
19 unfortunately, I don't think the statute looks at the
20 bottom line. I think they look in piece parts and
21 especially for RCF, rCF has to cover its cost,
22 unfortunately. I mean, I agree, if they put them all
23 together and said, "Okay, everybody -- this is the
24 rate for the bottom line." Then okay. But,
25 unfortunately, I think the statute says that RCF as a

1 temporary number portability mechanism has to cover
2 its cost. So we've set it so near cost that I'm not
3 sure how they could file something lower and still
4 meet that requirement.

5 COMMISSIONER DEASON: Well, I agree with the
6 Chairman that I don't want to preclude anything that
7 could possibly be negotiated. Perhaps they are going
8 to have to higher hurdle to jump to show that a lower
9 price for remote call forwarding is justified. But if
10 they feel like they can justify it, and that is an
11 integral part of their negotiation with another party,
12 I don't want at this point to say that that's off
13 limits. Give them that flexibility and let them bring
14 it to the Commission and we'll review it.

15 As I understand the Chairman's concern,
16 she's not saying it would be approved or whatever.
17 She's saying let's don't make a decision today that's
18 really not necessary today to preclude that
19 possibility if the parties think it is important
20 enough to include in a negotiated settlement.

21 MS. BARONE: I would just add, they are
22 still under that obligation not to set the price below
23 cost for RCF. So whether or not we have that in the
24 order or not they still have that statutory
25 obligation.

1 COMMISSIONER KIESLING: I concur with the
2 Chairman and Commissioner Deason, that while I can
3 understand that there's not much chance they are going
4 to go lower, I don't want to tie their hands in
5 negotiations. I want them to be able to have
6 everything on the table and as long. As they come
7 back with a price that meets the statutory
8 requirements, if it's lower we'll look at it then. I
9 would move Staff as amended.

10 CHAIRMAN CLARK: All Those in favor say aye.

11 COMMISSIONER KIESLING: Aye.

12 COMMISSIONER DEASON: Aye.

13 COMMISSIONER JOHNSON: Aye.

14 COMMISSIONER GARCIA: Aye.

15 CHAIRMAN CLARK: Aye. Opposed nay.

16 That concludes number portability. Thank
17 you very much.

18 (Thereupon, the hearing concluded at 11:20 a.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

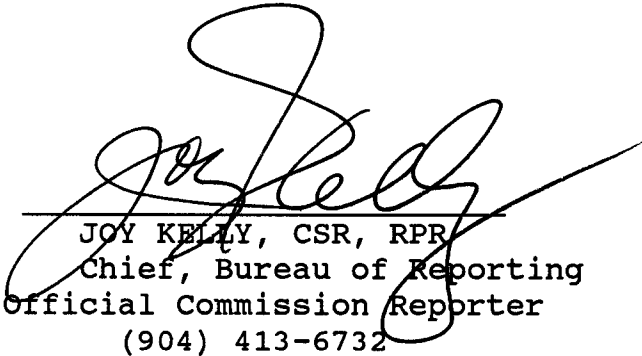
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I, JOY KELLY, CSR, RPR, Chief, Bureau of Reporting, Official Commission Reporter,

DO HEREBY CERTIFY that the Special Agenda Conference in Docket no. 950737-TP was heard by the Florida Public Service Commission at the time and place herein stated; it is further

CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript, consisting of 32 pages, constitutes a true transcription of my notes of said proceedings.

DATED this 14th day of December, 1995.


JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
Official Commission Reporter
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