

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TALLAHASSEE, FLORIDA

IN RE: Resolution of petition(s) to establish
nondiscriminatory rates, terms, and conditions for
interconnection involving local exchange companies and
alternative local exchange companies pursuant to Section
364.162, F.S.

DOCKET NO. 950985-TP

COPY

BEFORE: CHAIRMAN SUSAN F. CLARK
COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

PROCEEDING: AGENDA CONFERENCE

ITEM NUMBER: 22

DATE: April 16, 1996

PLACE: 4075 Esplanade Way, Room 148
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Notary Public in and for the
State of Florida at Large

JANE FAUROT, RPR
P.O. BOX 10751
TALLAHASSEE, FLORIDA 32302
(904) 379-8669

BUREAU OF REPORTING

RECEIVED 4-30-96

DOCUMENT NUMBER-DATE

JANE FAUROT, RPR -- (904)379-8669

04858 APR 30 1996

FPSC-RECORDS/REPORTING

1

STAFF RECOMMENDATIONS

2 Issue 1: What are the appropriate rate structures,
 3 interconnection rates, or other compensation arrangements
 for the exchange of local and toll traffic between the
 respective ALECs and United/Centel and GTEFL?

4 Issue 2: If the Commission sets rates, terms, and
 5 conditions for interconnection between the respective ALECs
 and United/Centel and GTEFL, should United/Centel and GTEFL
 tariff the interconnection rate(s) or other arrangements?

6 Issue 3: What are the appropriate technical and financial
 7 arrangements which should govern interconnection between the
 respective ALECs and United/Centel and GTEFL for the
 8 delivery of calls originated and/or terminated from carriers
 not directly connected to the respective ALEC's network?

9 Issue 4: What are the appropriate technical and financial
 requirements for the exchange of intraLATA 800 traffic which
 terminates to an 800 number served by or through
 10 United/Centel and GTEFL?

11 Issue 5a: What are the appropriate technical arrangements
 for the interconnection of the respective ALEC's network to
 Sprint United/Centel and GTEFL's 911 provisioning network
 12 such that the respective ALEC's customers are ensured the
 same level of 911 service as they would receive as a
 13 customer of Sprint United/Centel and GTEFL?

14 Issue 5b: What procedures should be in place for the timely
 exchange and updating of the respective ALEC's customer
 information for inclusion in appropriate E911 databases?

15 Issue 6: What are the appropriate technical and financial
 requirements for operator handled traffic flowing between
 16 the respective ALEC's and United/Centel and GTEFL, including
 busy line verification and emergency interrupt services?

17 Issue 7: What are the appropriate arrangements for the
 provision of directory assistance services and data between
 18 the respective ALECs and Sprint United/Centel and GTEFL?

19 Issue 8: Under what terms and conditions should Sprint
 United/Centel and GTEFL be required to list the respective
 ALEC's customers in its white and yellow pages directories
 and to publish and distribute those directories to the
 20 respective ALEC's customers?

21 Issue 9: What are the appropriate arrangements for the
 provision of billing and collecting services between the
 22 respective ALECs and United/Centel and GTEFL, including
 billing and clearing credit card, collect, third party and
 23 audiotext calls?

24 Issue 10: What arrangements are necessary to ensure the
 provision of CLASS/LASS services between the respective
 ALECs and Sprint United/Centel and GTEFL's networks?

25 Issue 11: What are the appropriate arrangements for
 physical interconnection between the respective ALECs and

1 Sprint United/Centel and GTEFL, including trunking and
signaling arrangements?

2 Issue 12: To the extent not addressed in the number
portability docket, Docket No. 950737-TP, what are the
3 appropriate financial and operational arrangements for
interexchange calls terminated to a number that has been
4 "ported" to the respective ALECs?

5 Issue 13: What arrangements, if any, are necessary to
address other operational issues?

6 Issue 14: What arrangements, if any, are appropriate for
the assignment of NXX codes to the respective ALECs?

7 Issue 15: To what extent are the non-petitioning parties
that actively participate in this proceeding bound by the
Commission's decision in this docket as it related to
8 United/Centel?

9 Issue 16: Should this docket be closed?

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN CLARK: Item 22. Mr. Chase, or Mr. Reith, or Ms. Canzano, who is going to --

COMMISSION STAFF: Commissioners, Item Number 22 is a petition for local interconnection by Continental, Time Warner, MFS Florida with United/Centel, and MFS Florida with GTE Florida. Would you like to go issue-by-issue or just we can address questions that you have.

CHAIRMAN CLARK: Okay. Commissioners, would you like to go issue-by-issue?

COMMISSIONER JOHNSON: Yes.

CHAIRMAN CLARK: All right. Let's start with Issue 1. Questions?

COMMISSIONER JOHNSON: Are they going to present each one of them?

CHAIRMAN CLARK: Yes, we can do that to get us oriented. We are on Issue 1. Would staff go ahead and present this issue.

COMMISSION STAFF: As soon as I catch my breath. Commissioners, Issue 1 deals with the appropriate rate structures, interconnection rates, and other compensation arrangements for the exchange of local and toll traffic between ALECs and LECs. And there is a primary and alternative recommendation. I will go

1 through the primary recommendation for GTE Florida and
2 for Centel/United. They're basically the same
3 recommendation. We start out with mutual traffic
4 exchange for local compensation, but in GTE Florida's
5 case, we also have the per minute of use (inaudible)
6 quarter of a cent for purposes of local interconnection
7 if it is required by the parties, if they agree that
8 they need to go to a rate. If they can't agree when it
9 comes time to go to a rate, then they can come back to
10 the Commission, and there are several guidelines listed
11 that they would need to bring back to us. And it
12 includes monthly minute of use data, cost estimates for
13 the measuring of the usage and financial impact. For
14 Centel/United, it's basically the same recommendation
15 except for staff did not come up with the rate, only
16 because we did not feel comfortable with the cost
17 information that was provided by the company. And so
18 we recommended that they provide us additional cost
19 information within 60 days of the issuance of the order
20 in the proceeding.

21 CHAIRMAN CLARK: Is it our intention, then, to
22 develop a rate for them?

23 COMMISSION STAFF: Yes.

24 CHAIRMAN CLARK: Okay. So how do you envision
25 that proceeding, that we would review what they

1 provided us and would either go to hearing or issue a
2 PAA establishing the level of per minute of use that we
3 think is appropriate?

4 COMMISSION STAFF: Right. I would see that they
5 file the information, staff has time to review it. And
6 I'm not sure, I would have to defer to Ms. Canzano as
7 to whether we would do it as a PAA or --

8 MS. CANZANO: It just depends on what the cost
9 information looks like. You know, if we think all the
10 parties could agree to the rate, I mean, we might need
11 to meet with all the parties beforehand to decide which
12 is the most expeditious way.

13 COMMISSIONER DEASON: Well, let me ask, why are we
14 -- even in the GTE case, why are we specifying a rate
15 at this point if the rate is not going to be applied
16 unless the parties agree that the traffic is out of
17 balance? Are we saying that if they agree it's out of
18 balance this is the rate, or are they saying if you
19 agree it's out of balance you need to also agree on
20 what the rate should be?

21 MS. CANZANO: Staff is recommending what the rate
22 is if it is in balance right now.

23 COMMISSION STAFF: We would like to put a rate in
24 place so if the companies do desire to go to a minute
25 of use charge because they believe that traffic is out

1 of balance enough to require it, that the rate is there
2 and they could do it on their own. There wouldn't be a
3 need for them to come back to the Commission, because
4 we felt comfortable enough with the cost information
5 that GTE Florida provided to be able to do that.
6 However, we wanted to put some guidelines down so that
7 if they did come back to the Commission, we would be
8 able to determine if the traffic was indeed enough out
9 of balance to require the rate, if they couldn't agree.

10 COMMISSIONER DEASON: What if a situation develops
11 where the parties agree that traffic is out of balance
12 and that mutual traffic exchange is not appropriate,
13 and the parties agree to a rate that is different than
14 what we specify, are they still free to basically reach
15 an agreement on that and have that filed with the
16 Commission outside of this particular finding here?
17 How would that work?

18 MS. CANZANO: I need to think about that for a
19 second. I think part of their problem and the reason
20 we are setting the rate now is because the parties
21 could not do that. And so we feel comfortable with the
22 cost information and comfortable with setting a rate
23 now because they have not been able to do that.

24 COMMISSIONER JOHNSON: But does that answer the
25 question?

1 COMMISSIONER DEASON: I understand that, but
2 things may change in the future. And before this is
3 even triggered they are going to have to come to an
4 agreement that mutual traffic exchange is no longer
5 appropriate. That's the first hurdle that is going to
6 have to be crossed before you even get to discussing
7 what the rate should be.

8 COMMISSION STAFF: Or if one party thinks that
9 it's imbalanced, they would come to the Commission, if
10 they cannot agree that it's imbalanced, and say we want
11 to go to a rate now. We just thought it would -- I
12 think that if they could show that there were different
13 conditions, maybe they could make an argument of why
14 there should be a different rate.

15 COMMISSIONER DEASON: You're saying they are free
16 to do that. Instead of it being .025, if it should be,
17 I don't know, .003, if you think that is appropriate,
18 and are they --

19 MS. CANZANO: If they agree to it?

20 COMMISSIONER DEASON: If they agree to it, yes.

21 MS. CANZANO: I think so.

22 COMMISSIONER JOHNSON: Let me make sure I
23 understand the answer to that question, because I
24 wasn't clear. It was a great question, and the
25 question being if the parties themselves decided that,

1 yes, traffic was out of balance, but then they decided
2 on a different rate, would they have to -- could they
3 just implement that different rate, or are they bound
4 by the number that we have put in our recommendation?
5 And how would they go about implementing the different
6 rate that they may agree through mutual negotiations
7 and agreement?

8 CHAIRMAN CLARK: Would a stipulation different
9 than one we have approved have to come before the
10 Commission?

11 MS. CANZANO: They would need to file it before
12 it's effective. The question would be --

13 CHAIRMAN CLARK: What would they file, a tariff?

14 MS. CANZANO: They would have to file their
15 agreement.

16 CHAIRMAN CLARK: And we would have to approve it
17 like we have done for Intermedia?

18 COMMISSION STAFF: Yes, you would.

19 MS. CANZANO: Yes.

20 CHAIRMAN CLARK: But notwithstanding what we do
21 here, they can either choose to follow these, or if
22 they are successful in negotiating between the two of
23 them, they can come up with a different rate?

24 MS. CANZANO: Yes.

25 COMMISSION STAFF: One of the things I'm

1 hesitating about on that, and I'm going to need to be
2 double checked on this, there is a piece in the statute
3 that talks about if companies cannot negotiate then
4 they go ahead and petition us and we set a rate for
5 them. But it does allow them to come back to the
6 Commission and demonstrate to us that circumstances
7 have changed, and possibly we need to retalk about the
8 interconnection.

9 CHAIRMAN CLARK: Well, I would agree that if they
10 want to come back to us and get us to set a different
11 rate they would have to indicate changed circumstances.
12 But I don't think they would be precluded from agreeing
13 between themselves to a different rate.

14 COMMISSION STAFF: Yes. That's an interesting
15 question.

16 COMMISSION STAFF: I think we kind of brushed
17 across that when we did the temporary number
18 portability. We set the rate and we still gave them
19 the ability to negotiate, and I don't see any
20 difference here. I understand Mike's concern with if
21 we set the rate and they want to do something different
22 than use that rate, maybe. But if they want to do a
23 package of some other services and interconnection
24 happens to be one of them, I don't know that we would
25 have a problem with dealing with a stipulation or an

1 agreement just like we do with all the others.

2 MR. D'HAESELEER: Commissioners, I would disagree
3 with that. I think under the statute if it comes
4 before us, if they couldn't negotiate, then we are
5 required to set a rate.

6 COMMISSIONER JOHNSON: And, Walter, what is your
7 opinion on if we set a rate, and they then decide
8 traffic is out of balance and negotiate a different
9 rate, can they negotiate a different rate?

10 MR. D'HAESELEER: Well, I think they could come
11 back to the Commission and you might consider what they
12 have done and change the rate. There may be good
13 rationale for doing that, but I'm convinced that you
14 have to set a rate.

15 COMMISSIONER DEASON: So you're saying that the
16 policy is going to be mutual traffic exchange is not
17 setting a rate?

18 MR. D'HAESELEER: Right.

19 COMMISSIONER DEASON: So that if we say mutual
20 traffic exchange is the best approach, but we also have
21 to set a default rate in case the traffic is out of
22 balance?

23 MR. D'HAESELEER: That statute doesn't talk about
24 mutual exchange. It tells you to set a rate. And
25 obviously when this language was written, mutual

1 exchange traffic was not unknown. I mean, you know,
2 that's a term that has been used for a number of years.

3 MS. CANZANO: Well, I would like to respond that
4 the Commission has already decided and they are free to
5 decide differently today, but mutual traffic exchange
6 does meet the requirements of the statute, because it
7 is a form of compensation as payment in kind.

8 COMMISSIONER JOHNSON: So, Donna, you're
9 suggesting that we don't have to come up with a number
10 as a rate under the statute?

11 MS. CANZANO: That's correct, yes.

12 COMMISSIONER DEASON: One could argue that we do
13 establish a rate, it's just zero.

14 MR. D'HAESELEER: Well, it can't be below cost.

15 MR. GREER: Commissioners, as far as the concern
16 that we would have I think would be the concern of them
17 negotiating a rate that is lower than what we set. We
18 would have concern with that, and we expressed that
19 concern in the temporary number portability docket.
20 But, you know, if they want to agree to a rate that's
21 higher, I'm not for sure I'm concerned with that. As
22 long as everybody has the ability to choose the rate
23 that we set which is lower than what they have agreed
24 to.

25 CHAIRMAN CLARK: Well, if they set it lower then

1 they would be vulnerable to a charge of discrimination.

2 MR. GREER: Sure, and that would be our concern.

3 COMMISSIONER KIESLING: But what would be the
4 impetus for them to negotiate a rate higher than the
5 one we had set?

6 MR. GREER: They could get some other access to a
7 data base or some other package along with that, and
8 that's why they would maybe agree to a higher rate.

9 COMMISSIONER KIESLING: Only as a package, though.

10 MR. GREER: Yes.

11 COMMISSIONER KIESLING: I can't imagine them
12 negotiating for a higher rate without it being
13 something else that they are getting for that.

14 MR. GREER: Right. And I would envision that as a
15 package of services and they agreed on one piece to be
16 a little higher maybe than what we set. I agree with
17 that.

18 MS. CANZANO: I would just add there would have to
19 be some type of incentive there for them to go with a
20 higher rate.

21 COMMISSIONER JOHNSON: Speaking to the rate
22 itself, the .0025, I just wanted to better understand
23 our measure. It's not TSLRIC, and it's not LRIC, it's
24 somewhere in between. And I didn't know, are we making
25 a policy statement here, directionally are we saying

1 that we are adopting TSLRIC, LRIC, and what guidance or
2 what criteria are we going to use for United if we
3 decide that, yes, we need to establish a rate, are we
4 looking at a rate that is TSLRIC, are we looking at
5 something else? I just kind of wanted to better
6 understand the standard and the measure and the
7 statement that we are making.

8 COMMISSION STAFF: There was a lot of discussion
9 in this proceeding as to what the difference between
10 TSLRIC and LRIC really was, and there were various
11 answers depending on who you asked. But, the rate, the
12 cost figures that GTE Florida provided, a portion of
13 them were a proxy of TSLRIC for their local switching
14 part and their local transport pieces were LRIC. And
15 those were the same costs that they used in the local
16 transport docket earlier, or in late '95. GTE Florida
17 suggested in their testimony that TSLRIC -- that their
18 TSLRIC would be a little bit higher than their LRIC
19 costs. This rate that was set is above the costs that
20 they provided, and based on the record, it was part of
21 the record that their costs were less than 2/10ths of a
22 cent. I can't necessarily say what contribution this
23 rate provides, because the cost is proprietary. So
24 this rate is a combination of the two. Staff does not
25 necessarily say that we want to set it at TSLRIC or

1 LRIC, and the problem with that would be that you would
2 have a proprietary rate, would be one problem. But it
3 doesn't necessarily -- we don't say whether it -- well,
4 we don't say that it does not include any contribution,
5 because based on what we know there is a portion of
6 LRIC, a portion of TSLRIC, it may be a little bit
7 higher. We believe that it's sufficient to cover any
8 increase that would be required to take the portion to
9 TSLRIC in addition to providing some contribution.

10 COMMISSIONER JOHNSON: So was that --

11 COMMISSION STAFF: I was just going to say when we
12 look at United/Centel we would be looking at data that
13 is probably -- I'm not sure whether all of theirs is
14 TSLRIC or a portion of LRIC, we still have to look at
15 it, and we would be looking at it in the same manner as
16 trying to figure out, well, if part of it is only LRIC,
17 and if they believe that their TSLRIC are higher, I
18 mean, we would try to be consistent.

19 COMMISSIONER JOHNSON: So in that are we
20 suggesting that we are supportive of some amount of
21 contribution to common costs to be included in our
22 rates?

23 COMMISSION STAFF: If that rate includes
24 contribution, then I have no problem with that. But
25 it's an approximate of part of the TSLRIC and the LRIC,

1 and I believe it does include contribution in it.

2 CHAIRMAN CLARK: I need to have that clarified. I
3 think what the Commissioner is asking you, and what I
4 would like an answer to is do you believe it covers at
5 least marginal costs and some contribution to common
6 costs?

7 COMMISSION STAFF: Yes. Based on the costs
8 provided by the company, I believe it does.

9 CHAIRMAN CLARK: And is it your belief that our
10 policy should be in the direction of covering the
11 marginal costs plus some contribution to those common
12 costs?

13 COMMISSION STAFF: It should approximate the cost.
14 I don't have a problem with it including some
15 contribution to common costs.

16 CHAIRMAN CLARK: See, you're not answering the
17 question. Do you think it should cover it, not whether
18 you have a problem with it. Should our policy be that
19 it makes some contribution to those costs?

20 MR. GREER: Commissioners, I think the Commission
21 when they did the Bell resale piece was focusing on
22 recovering some contribution along with the cost. So,
23 in that respect, I would have to say, yes, it should
24 recover some contribution.

25 CHAIRMAN CLARK: And then we can debate the level

1 of that contribution.

2 MR. GREER: The level is the question, what level
3 is the appropriate level.

4 CHAIRMAN CLARK: Okay.

5 COMMISSIONER JOHNSON: So that with respect to the
6 United/Centel information, if they provided us -- and
7 this is just hypothetical -- but with TSLRIC with no
8 contribution, then we would have to determine the
9 amount of contribution to common costs that we deemed
10 appropriate to add?

11 COMMISSION STAFF: Yes.

12 MR. GREER: To me we would have to have something
13 in order to make it different than the confidential
14 cost information.

15 COMMISSION STAFF: I mean, that's basically what
16 was done here. We tried to ask the various witnesses
17 what level of contribution they believed would be
18 appropriate, and either got -- from two sides, from the
19 ALECs zero and from the LECs switched access charges,
20 which have to be contribution. So it really a judgment
21 call on staff's part to decide.

22 CHAIRMAN CLARK: Could you articulate to me what
23 you mean by long-run incremental costs and what you
24 mean by total service long-run incremental costs?

25 COMMISSION STAFF: The total service long-run

1 incremental cost is the change in the total output to a
2 firm and the output is the total service where the
3 long-run incremental cost is a change in increment, a
4 change --

5 CHAIRMAN CLARK: A unit as opposed to a service?

6 COMMISSION STAFF: Yes.

7 CHAIRMAN CLARK: All right. When you do total
8 service long-run incremental cost, doesn't it include
9 some contribution to joint and common costs?

10 COMMISSION STAFF: No. It includes return on
11 capital, but no contribution to joint and common costs,
12 and neither does LRIC.

13 CHAIRMAN CLARK: Okay.

14 COMMISSIONER JOHNSON: Could you say that the LRIC
15 part -- LRIC doesn't include either of those, either?

16 COMMISSION STAFF: Contribution to joint and
17 common costs, no. They do include a return on capital.

18 CHAIRMAN CLARK: Other questions, Commissioners?

19 COMMISSIONER DEASON: Yes, I have a question. In
20 the BellSouth situation, the Commission voted for
21 mutual traffic exchange, and we indicated that we
22 needed some further cost information. So we did not
23 specify a minute of use rate as you are proposing that
24 we do for GTE, is that correct?

25 COMMISSION STAFF: Right, that's correct. I would

1 add --

2 COMMISSIONER DEASON: Could we set an interim --

3 COMMISSION STAFF: No.

4 COMMISSIONER DEASON: -- suggesting for
5 United/Centel?

6 COMMISSION STAFF: No, I would add that in the
7 Southern Bell proceeding, the costs were available in
8 the record, but they came at a very late time and we
9 did not ask them to refile anything or that we would
10 set a rate. We basically said if you believe another
11 type of compensation mechanism needs to be put in
12 place, then come back.

13 COMMISSIONER DEASON: Let me express some concern.
14 You know, we voted to do mutual traffic exchange for
15 Southern Bell, and I supported that. And we didn't
16 specify a minute of use rate, and I didn't have a
17 problem doing that, and requiring some additional cost
18 information. But, now for GTE, the primary
19 recommendation is still to do mutual traffic exchange,
20 but then to specify a rate. And the problem I'm
21 having, specifying a rate it seems then when we do that
22 then, in essence, that's going to become the default
23 rate. In a sense that if someone knows that we
24 specified the .0025, they are not going to have any
25 incentive to negotiate anything higher than that. And

1 the only way it would be is if there was some type of a
2 package, as you have indicated. Now, I still believe
3 that mutual traffic exchange makes a lot of sense for a
4 lot of reasons that were thoroughly explored at the
5 hearing. But I'm uncomfortable at this point
6 specifying a minute of use rate that's basically going
7 to become the default position. You know, if parties
8 think that the mutual traffic exchange is not going to
9 work in their situation, or if they do implement it and
10 it appears that it's not working correctly, why not
11 have a clean slate and let them negotiate what they
12 think the minute of use rate should be.

13 COMMISSION STAFF: Commissioner Deason, the reason
14 I believe that going ahead and setting a rate is
15 important is for the parties to determine if the
16 traffic is actually out of balance enough to benefit
17 them to go to the minute of use rate, they need to know
18 what the rate is going to be to determine the
19 cost/benefit analysis of whether it really --

20 COMMISSIONER DEASON: What the rate is going to
21 be, let them decide that. Why do we have to put a
22 benchmark in now that basically becomes a default
23 position? Because the statute says it, Walter?

24 MR. D'HAESELEER: (Inaudible).

25 COMMISSION STAFF: I guess, I believe that, you

1 know, they had the time to negotiate and they came to
2 us, and I believe part of staff's belief was that when
3 they came to us that we needed to do what we felt was
4 the right thing. To proceed in setting the rate was
5 one of those. I mean, if they wanted to negotiate a
6 rate prior to coming to us, that would have been fine,
7 too. I just believe that once they came to us that
8 that was part of our job was to figure out what type of
9 compensation mechanism needed to be in place. And I
10 believe putting a rate in place helps them determine
11 when it is beneficial to go to that rate.

12 CHAIRMAN CLARK: Yes, because it could be -- we
13 are assuming, and I think in the -- well, let me ask
14 you. In the concern you have raised, in terms of it
15 being a default, and there is no incentive to
16 negotiate, are we assuming that the imbalance will be
17 in favor of the incumbent LEC such that they would be
18 due monies, does that make any difference in terms of
19 it becoming a default?

20 COMMISSION STAFF: I don't believe in the primary
21 recommendation staff has taken either way that we
22 believe it's going to be in favor of the ALEC or the
23 LEC.

24 COMMISSIONER DEASON: And my question was not
25 premised on a presumption that it would be the traffic

1 flow was going to be such that it would be detrimental
2 to the LEC and in the favor of the ALEC. It seems to
3 me that regardless of which direction it's going in, if
4 one person is going to benefit by having a minute of
5 use rate as opposed to mutual traffic exchange, they
6 are going to want to go to a minute of use rate, but
7 the other party is not going to be willing to go any
8 higher than what we have already specified the rate is
9 going to be, which is the benchmark rate of in this
10 case .0025.

11 COMMISSION STAFF: Right. And I would add that I
12 believe that all the parties in this proceeding, their
13 long-run view of this was to go to a minute of use
14 rate. They just believed at this time, I think, that
15 it would be faster to get started in the market using a
16 mutual traffic exchange and also that they didn't
17 believe that we would be able to analyze the cost data
18 in time to do it. So I think all of the ALECs would
19 agree that to go to a minute of use rate is what they
20 eventually want anyway, and that's obviously what the
21 LECs wanted from the beginning.

22 COMMISSIONER DEASON: Then that raises a question
23 of, in my opinion, what has got to be considered a very
24 large differential in rate between a quarter of a cent
25 and 6/10ths of a cent. I mean, not 6/10ths. Yes,

1 6/10ths.

2 COMMISSION STAFF: The Centel/United rate?

3 COMMISSIONER DEASON: Right. Which you're saying
4 what should be done, I guess, in the interim until we
5 get the data.

6 COMMISSION STAFF: Right.

7 COMMISSIONER DEASON: And it seems to me that --
8 it seems like a huge difference.

9 MR. GREER: And it is, and that's one of the
10 reasons it's an interim rate is that the information
11 used to develop the 6/10ths was basically the LTR
12 information that was in, I believe, the company filed
13 in the LTR proceeding, plus the local switching rate
14 element from the information filed at the hearing. And
15 that local switching rate element or cost, excuse me,
16 was higher than others and that is our main one that we
17 have a concern about, and that is why we put it on an
18 interim basis. Now there has been some concern of, you
19 know, the difference of the rate. But United is going
20 to have to come through and basically go through
21 another proceeding to change that. I don't think the
22 6/10ths is going to be an issue, because I'm hoping we
23 can get that changed prior to anybody ever having to
24 pay that 6/10ths. That's what I expect to happen. We
25 are expecting the cost information within 60 days, and

1 hopefully we can get it fixed and to the appropriate
2 level that we think will be comparable to the other
3 company.

4 COMMISSION STAFF: Commissioner Deason, I just
5 wanted to reiterate something Ms. Sirianni was saying,
6 and that is that in terms of the importance of having a
7 permanent rate established in the event that one is
8 needed, it really is critical, I think, in terms of the
9 parties trying to determine when it would be worth
10 their while to go to a minute of use rate. Really, in
11 order to do the benefit/cost analysis as she was
12 saying, you really can't do it without a rate, in order
13 to go through the calculations. So that's really the
14 basis of why she is suggesting setting a rate in the
15 event one is needed, because it would be necessary in
16 order to do a benefit/cost analysis to prove in that,
17 yes, it makes sense to go to that rate as opposed to
18 staying with mutual traffic exchange.

19 COMMISSIONER DEASON: Benefit and cost analysis in
20 relation to the two entities that are interconnecting
21 as to whether the minute of use rate is significant
22 enough to justify the additional cost of doing the
23 measurement and auditing?

24 COMMISSION STAFF: Yes.

25 CHAIRMAN CLARK: Other questions, Commissioners?

1 MR. D'HAESELEER: Commissioners before you vote, I
2 would like to talk about the alternative. I mean, I
3 spent a lot of time and effort in this.

4 CHAIRMAN CLARK: Go ahead, Mr. D'Haeseleer.

5 MR. D'HAESELEER: My position is basically three
6 points. One, I do not believe that the traffic will be
7 balanced. And the reason I say that is because I'm
8 looking at the companies that these ALECs will go
9 after. They are going to go after hospitals, insurance
10 companies, banks, importers, exporters, and the list
11 goes on and on. Those businesses that are probably 25
12 lines or better. And you have to think of those type
13 of entities, and you have to come up with the decision
14 that the incoming calls and the outgoing are going to
15 be equal, and that the incoming and the outgoing are in
16 the same direction. And I just don't believe because
17 of these type of customers, that that's going to be
18 true.

19 The second part of my argument is that once the
20 companies can't negotiate and they come to the
21 Commission, I think under 364.162, Paragraph 3, we have
22 to set a rate, and it has to be above cost.

23 And the third item that is troublesome to me is to
24 think that these ALECs that want to compete with the
25 large LECs or with other large ALECs, won't need the

1 same measurement capability and billing capability. I
2 think if they don't, they are really not going to get
3 the market they think they are. And I just can't
4 conceive of somebody like AT&T coming after the local
5 and toll market that that's going to be flat rated. I
6 just don't believe it. So I'm arguing that it's to
7 their benefit for them to have this capability. And I
8 threw in a provision that in case they can't do it
9 right away, that they be given 18 months to have that
10 capability so that they could get in service today.

11 CHAIRMAN CLARK: And what was your recommendation
12 what they do in the meantime?

13 MR. D'HAESELEER: Mutual compensation.

14 CHAIRMAN CLARK: It almost sounds like the
15 alternative and the primary are the same.

16 COMMISSIONER JOHNSON: Very close.

17 MR. D'HAESELEER: Well, they are not that far
18 different, it's how you get there. Philosophically, I
19 think they may be close. There are subtle differences.

20 COMMISSIONER JOHNSON: Walter, on your
21 alternative, so you're saying that we would start off
22 with the usage, and to the extent that a company can
23 demonstrate that they can't yet deal with the
24 measurement and billing, then we go to mutual
25 compensation. Once they figure out the measure and

1 billing, we go usage with the rate -- that you agree
2 with the rate. Now, what if the parties set up this
3 elaborate scheme and then they decide it's not worth
4 the cost. Could they then decide well, hey, guys,
5 between themselves let's go back to mutual
6 compensation, or would we mandate them this system on
7 them in perpetuity?

8 MR. D'HAESELEER: They would have to come in and
9 demonstrate that the decision you would make on that
10 rate is unreasonable or that there are other
11 alternatives. I mean, whatever rate you set, you know,
12 can be changed. It's not set in concrete. Nor are a
13 lot of other policies. You know, they are going to
14 change with time.

15 MR. GREER: If I may, I would like to go back a
16 little bit to Commissioner Deason's concern about if we
17 do set a rate whether the parties could negotiate a
18 different rate. And according to the statute, if we
19 set a rate, for example, for GTE, the parties are
20 allowed to negotiate another rate. However, that rate
21 would not be able to go into effect prior to July 1st
22 of 1999. But the parties are still free to come back
23 with a petition to us showing changed circumstances.
24 If they show changed circumstances, we can take it to a
25 hearing and set a new rate.

1 CHAIRMAN CLARK: So they only have one opportunity
2 to negotiate, if it fails, then we set the rate. What
3 section is that, and what does it say specifically?

4 COMMISSION STAFF: It's 364.162, Subsection 7.
5 And it reads, "Prior to July 1st, 1999, the parties may
6 negotiate a new local interconnection charge to be
7 effective not earlier than July 1st, 1999. If the
8 parties cannot satisfactorily negotiate a new local
9 interconnection charge, either party may petition the
10 Commission to resolve the matter. In the event any
11 party prior to July 1st, 1999 believes that
12 circumstances have changed substantially to warrant a
13 different price for local interconnection, that party
14 may petition the Commission for a price change, but the
15 Commission shall grant such petition only after an
16 opportunity for hearing and a compelling showing of
17 changed circumstances including that the provider's
18 customer population includes as many residential as
19 business customers." And we still have the same
20 120-day clock on such a petition.

21 CHAIRMAN CLARK: So there isn't an opportunity
22 beyond this to negotiate another rate, at least for
23 MFS, and perhaps for the others.

24 MR. GREER: Only if they show changed
25 circumstances.

1 CHAIRMAN CLARK: Okay. So setting a benchmark is
2 not going to effect negotiations, because there are no
3 further negotiations on price until after July 1, 1999,
4 unless they come and show changed circumstances.

5 MR. GREER: They can negotiate, they just can't
6 put a negotiated rate into effect until then.

7 COMMISSIONER JOHNSON: I'm very confused. How
8 will this statute work? If we don't set a rate right
9 now, a numerical rate, what happens? Could the parties
10 still negotiate one?

11 MR. GREER: If we were to go with mutual traffic
12 exchange --

13 COMMISSIONER JOHNSON: With no numbers, no rates.

14 COMMISSION STAFF: -- with no numbers or no rates,
15 I believe they would have to show a petition for
16 changed circumstances, which would be probably an
17 imbalance, that traffic was out of balance. They would
18 have to come back and show the changed circumstances.
19 They would say traffic is out of balance, these are the
20 changed circumstances that warrant a per minute of use
21 rate.

22 COMMISSIONER JOHNSON: So that's what you think
23 with respect to what we did in the Southern Bell case,
24 and that language that you read seemed to put a pretty
25 hard burden. Didn't you say about compelling something

1 something. Could you read that again.

2 MR. GREER: Substantial changed circumstances.

3 COMMISSIONER JOHNSON: Okay. I guess that's
4 somewhat flexible.

5 COMMISSION STAFF: And a showing of traffic out of
6 balance I would consider substantial changed
7 circumstances.

8 COMMISSIONER JOHNSON: Okay.

9 COMMISSIONER KIESLING: I have a problem with
10 Walter's point of view in that if I understood
11 correctly a lot of it is based on what you believe is
12 going to happen. And when I look at the record in this
13 case, I personally am more persuaded that there may be
14 a balance. I'm not as convinced that there is going to
15 be an imbalance. And I think that there was adequate
16 evidence in the record to support that. And that
17 causes me some concern if I'm persuaded over to your
18 point of view, then, you know, I can't be persuaded
19 based on what you believe, I need to be persuaded by
20 what is in the record.

21 MR. D'HAESELEER: In the record there is the
22 testimony of MFS saying that in their New York
23 operation the traffic is imbalanced or is not balanced.
24 And you have a lot of discussion from a lot of the
25 other witnesses that talk about whether it is or isn't

1 short-term/long-term, but there is no analytical result
2 other than that provided by MFS.

3 COMMISSIONER KIESLING: Okay.

4 CHAIRMAN CLARK: Further questions, Commissioners?

5 COMMISSIONER JOHNSON: How would we -- when we are
6 making our determination of whether or not something is
7 in balance or not in balance, what does the LEC --
8 wait. Stop and start over. If a LEC had negotiated or
9 we had set up rates for two separate ALECs to one LEC,
10 and the LEC could show that based on the totality of
11 the circumstances what happened with ALEC number one
12 and ALEC number two, they were out of balance, how are
13 we going to measure the balance? Is it LEC to ALEC or
14 LEC to all of the ALECs? See, they could just be a
15 little bit of out balance with this one, a little bit
16 out of balance with that one, a little bit out of
17 balance with the third one, but the totality could be
18 perhaps a substantial impact on the LEC itself. How
19 are we going to -- how do we deal with those kinds of
20 issues in this recommendation?

21 COMMISSION STAFF: I would think that you would
22 look at LEC to each ALEC.

23 COMMISSIONER JOHNSON: So that would be our
24 recommendation?

25 COMMISSION STAFF: It's not really -- I would not

1 say it's really addressed in the recommendation
2 anywhere. I don't really remember that coming up in
3 the proceeding or anybody talking about the total
4 affect on the LEC. But each petition, I mean, was made
5 individually to a LEC, so we looked at these as being
6 between a LEC and an ALEC. So I would think you would
7 look at the traffic imbalance.

8 COMMISSIONER JOHNSON: Okay. So a LEC couldn't
9 come in to us and say it's just a little bit out of
10 balance here, a little bit out of balance here, and a
11 little bit out of balance there, but on a whole, you
12 guys, this is a lot out of balance.

13 COMMISSION STAFF: It wouldn't prohibit them from
14 coming in and trying that attack. I mean, you know,
15 there is nothing in here that says that it can't be
16 done that way. I think I envisioned it as being a LEC
17 to an ALEC, but if they bring in, you know, make a
18 showing that in total and, you know, we believe it's a
19 valid showing --

20 CHAIRMAN CLARK: Well, I think if they make that
21 showing they can show that they are not being
22 compensated for the service they provide, whether it's
23 on an individual basis or as a whole.

24 COMMISSION STAFF: Right. What I'm saying is it's
25 not addressed in this recommendation. We would deal

1 with it at the time that they would make a filing or a
2 showing that that would happen.

3 COMMISSIONER JOHNSON: Uh-huh. And assuming that
4 we made a finding that they weren't being compensated
5 as a whole, what could we do if with respect to one of
6 the ALECs they were indeed imbalanced, but with respect
7 to all of them they weren't. Would we just change
8 everybody to a usage based? I'm just trying to figure
9 out where we are going to go with some of our
10 decisions.

11 COMMISSION STAFF: We might go to the usage based
12 rate for all of them, or I suppose we could make the
13 decision to continue with the mutual traffic exchange
14 for certain ones. I don't think that there is any
15 reason why we would have to have the same compensation
16 for each individual one.

17 COMMISSIONER JOHNSON: So I guess what you're
18 saying is we have adequate flexibility within this
19 decision to deal with those issues.

20 COMMISSION STAFF: I think so. I mean, the
21 statute gives them the ability to negotiate, so you
22 could conceivably negotiate something different with
23 each ALEC. So I don't see why the Commission should be
24 tied to recommending the exact same thing to each. I
25 mean, it's good to be consistent, but if that does

1 happen, and it gives us reason to have to do something
2 different, then I wouldn't think that that would be a
3 problem.

4 COMMISSIONER JOHNSON: Let me ask one other
5 question, and certainly it was a different docket and a
6 different issue, but I'm trying to just understand what
7 we are doing with respect to consistency. In the
8 BellSouth decision, we determined that we would not set
9 a rate. I understand that we got the information late,
10 but even when we were questioning whether or not we
11 should do as we had suggested in the BellSouth resale,
12 have staff look at it and come back, we said, no, let's
13 not do that unless the parties determine that it is out
14 of balance, then they come to us and then we look at
15 the cost information. What is the rationale for
16 setting this up differently, and should that rationale
17 perhaps for my edification not be applied to BellSouth,
18 too? Or are they so unique that we different schemes?

19 COMMISSION STAFF: I believe that -- and we have
20 learned a bit since we went through the BellSouth
21 proceeding, and I think that it's beneficial to the
22 parties, like I stated and Ms. Simmons stated, to set
23 the rate because then, therefore, they could determine
24 the benefit/cost analysis of having it. In my opinion,
25 I would think that you would want to go ahead and look

1 at the cost of BellSouth. I mean, you know, I'm not
2 sure, I wasn't involved in that proceeding, and I don't
3 know -- I know they filed reconsideration. I don't
4 know at what point the Commission still has status to
5 go back and look at those, but I would think that you
6 would want to go ahead and set a rate. It's going one
7 step further than you did in the BellSouth docket, and
8 it allows the companies to then determine what their
9 benefits would be to go and when they should go when
10 they hit the threshold of going to that rate. So I
11 think it's just going one step further than you did in
12 the BellSouth docket.

13 COMMISSIONER JOHNSON: Let me make sure I
14 understand what you're saying. So you would suggest
15 that to the extent that we adopted the primary
16 recommendation, that we then perhaps on our own motion
17 set up that same procedure with BellSouth, which means
18 we would have to then look at their cost information
19 and set a rate in that case, too?

20 COMMISSION STAFF: I will defer that to Legal
21 staff. I don't know if we have the authority or what
22 the authority is.

23 COMMISSIONER GARCIA: Some people are unconscious
24 in the back of the room after that statement.

25 COMMISSION STAFF: You have to remember we have

1 already been to hearing in BellSouth. At the time of
2 the Commission's vote, staff was not comfortable with
3 setting a number, because they had not had adequate
4 time to review that cost information. And so the
5 Commission made its decision, and I don't think it
6 would be appropriate to go back at this point in time
7 and set a number until the parties say that it's out of
8 balance.

9 COMMISSIONER JOHNSON: So you believe that the
10 mechanism that we have set out in the GTE primary,
11 although it differs from the mechanism that we set out
12 in the Southern Bell, that that's not a problem.

13 COMMISSION STAFF: I think we have had more
14 experience now, and staff has had more time to look at
15 the cost information provided by GTE and is comfortable
16 with those numbers.

17 CHAIRMAN CLARK: The distinction you're making is
18 that in the Southern Bell, you didn't -- BellSouth, you
19 didn't have the information in sufficient time to
20 explore whether or not you were comfortable with the
21 rate level and, therefore, declined to set the rate
22 level until it's shown that they are out of balance.
23 The difference here being that you felt there was
24 enough information that you could be comfortable with
25 the cost level, and you still afford the opportunity to

1 go to -- it's still a mutual exchange of traffic until
2 they think it's not fairly compensating everyone to do
3 it that way. In BellSouth, there was a little more
4 uncertainty because nobody knows what the charges will
5 actually be, and then may not have the basis on which
6 to determine whether it's in their interest to declare
7 it, to pursue something that's out of balance.

8 MS. CANZANO: Right.

9 COMMISSIONER JOHNSON: How does that differ from
10 Centel/United, where it appears as if we are in the
11 same predicament that we were in with Bell, but yet in
12 Centel we are saying let's get the additional
13 information and let's set a rate?

14 MS. CANZANO: I would say that it goes to staff
15 having a little more experience and believing that
16 that's the next step that needs to be taken.

17 COMMISSIONER GARCIA: So, do you believe, then,
18 that our previous decision was incomplete or not
19 well-founded? I dissented, so I'm very happy to hear
20 this.

21 COMMISSION STAFF: I would think it's a different
22 approach. I mean, you're still doing mutual traffic
23 exchange, the tail end piece is the piece that you're
24 dealing with. So, I mean, I don't think it's any
25 different. Maybe it's the way you get to the per

1 minute rate, but I think you're still doing the mutual
2 traffic exchange and then if you need to, you develop a
3 rate or you already feel comfortable with the
4 information so you set the rate now.

5 COMMISSION STAFF: I don't think that we did
6 anything wrong with BellSouth. What we are doing here
7 is simply streamlining the process. We have the
8 information, we are comfortable with the information,
9 we are saying if mutual traffic exchange does not work
10 out, go to this rate. With BellSouth, we did not have
11 that information and ability to set the rate.

12 COMMISSIONER JOHNSON: But you don't have it in
13 United.

14 COMMISSION STAFF: And we don't have it in United,
15 either.

16 COMMISSIONER JOHNSON: So how does United differ
17 from BellSouth?

18 MR. GREER: In United in the primary, the only
19 difference is is that you're asking them to provide
20 information. If you want to say when you have an
21 imbalance of traffic and you come to us, you can do
22 that. But we are trying to get ahead of the process
23 because the time frames are getting shorter,
24 competitors are going to have less time, and they may
25 start providing service at the end of the year. You

1 know, it's just starting to get closer for competitors
2 to start to provide service and we are trying to get a
3 rate in place if it's necessary as quick as we can.
4 And maybe we ought to go to Bell and say, you know,
5 give us the cost data and we will look at it. But the
6 cost data they provided are similar to what GTE has
7 provided. And, I mean, I'm not for sure that we would
8 have a great heartburn with setting a rate now with the
9 .25 for Bell. I think it covers what their stated
10 costs are.

11 COMMISSION STAFF: We are streamlining the
12 process. We are avoiding another hearing to set a rate
13 if they come back.

14 CHAIRMAN CLARK: And you are providing more
15 certainty to the parties in this market as to what
16 their costs are going to be.

17 COMMISSION STAFF: Sure.

18 COMMISSION STAFF: And the ability to judge how
19 they need to proceed if they see an imbalance of
20 traffic.

21 COMMISSIONER JOHNSON: And under the Walter
22 D'Haeseleer legal analysis, we are obligated to set a
23 rate in BellSouth. Under the Walter legal analysis,
24 not the Donna. Is that correct, Walter? If we bought
25 into your --

1 MR. D'HAESELEER: Yes.

2 MS. CANZANO: Well, if you use Mr. D'Haeseleer's
3 analysis, he couldn't do mutual traffic exchange,
4 either, for 18 months.

5 CHAIRMAN CLARK: Commissioners, are there further
6 questions? Is there a motion on Issue Number 1?

7 COMMISSIONER DEASON: I just need some further
8 clarification on the section of the statute which
9 Mr. Edmonds read to us.

10 CHAIRMAN CLARK: Go ahead.

11 COMMISSIONER DEASON: Under that section of the
12 statute, what would happen if we declined to specify a
13 minute of use rate today, and what would happen if we
14 decided that we would specify a minute of use rate
15 today?

16 COMMISSION STAFF: Okay. If the Commission
17 decided not to do a minute of use rate today, what you
18 would have basically is the same thing as we have now
19 in BellSouth, mutual traffic exchange. They would have
20 to come back in order to go to a minute of use rate,
21 come back with a petition to the Commission showing
22 substantially changed circumstances. We would have to
23 go to hearing again in order to set a rate. My guess
24 is that their changed circumstances would be that
25 traffic is out of balance. If we set a rate -- if the

1 Commission were to set a rate, you would avoid the
2 parties having to come back to do that later on if they
3 found out the traffic were out of balance.

4 COMMISSIONER DEASON: And the only available rate
5 would be the rate that we specify?

6 COMMISSION STAFF: That's correct. They are free
7 to negotiate a different rate, but they could not put
8 that negotiated rate into effect until July of 1999.
9 Or they can come back, the same way as BellSouth would
10 have to do to put in a per minute of use rate, and show
11 changed circumstances that warrant a different rate.
12 Then we would have to go to hearing.

13 COMMISSIONER DEASON: So they could show changed
14 circumstances -- to have a different rate, they would
15 have to show that their costs are different, is that
16 correct?

17 COMMISSIONER DEASON: If you decide that was the
18 basis for changed circumstances.

19 COMMISSIONER DEASON: And given our decision at
20 the hearing concerning the non-petitioning parties, and
21 the fact that they are bound by the decision, if we
22 specify a rate here today, a minute of use rate, are
23 they bound to that minute of use rate until 1999 or
24 whenever that time is within the statute?

25 COMMISSION STAFF: I believe they would be. But

1 then, again, they are also free to come and show
2 changed circumstances.

3 COMMISSIONER DEASON: Just like the petitioning
4 party.

5 COMMISSION STAFF: Exactly.

6 MS. CANZANO: And they are also free to negotiate
7 with the LEC.

8 COMMISSIONER GARCIA: Walter, you're shaking your
9 head. Did you want to add something to that?

10 MR. D'HAESELEER: It isn't magical, because rates
11 can change based on conditions. It could be cost
12 changes, technology changes. So there could be a
13 number of reasons for them to come in and saying that
14 things have changed. What you made your decision on
15 before is no longer applicable.

16 COMMISSIONER GARCIA: Especially if the rationale
17 and the price isn't even one that's clear, right?

18 MR. D'HAESELEER: Yes. That happens all the time
19 that conditions, technology, or whatever -- well, we
20 have failed to consider, or, you know, there are just a
21 number of reasons.

22 CHAIRMAN CLARK: Further questions, Commissioners?
23 If not, is there a motion on Issue Number 1?

24 COMMISSIONER KIESLING: Well, I'm willing to
25 willing to make a stab at a motion and see if it can

1 get us at least moving. I move the primary
2 recommendation on Issue 1, except that I do not want to
3 set a rate. I want to do this one the same way that we
4 did BellSouth in terms of letting them come back in and
5 show a rate if there is an imbalance.

6 COMMISSIONER DEASON: Second.

7 CHAIRMAN CLARK: Let me ask a question. What
8 about the -- do you want to move the primary on
9 United/Centel?

10 COMMISSIONER KIESLING: Yes.

11 COMMISSIONER JOHNSON: But not the rate part.

12 COMMISSIONER KIESLING: Yes. I mean, I'm moving
13 both of them for mutual traffic exchange, and with the
14 other conditions in there, but I do not want to set a
15 fall back rate at this time.

16 CHAIRMAN CLARK: Okay. We would set the same
17 conditions that we set with respect to BellSouth would
18 apply both to GTEFL and to United/Centel?

19 COMMISSIONER KIESLING: Yes.

20 CHAIRMAN CLARK: Okay. We have a motion and a
21 second on Issue Number 1. Go ahead.

22 COMMISSIONER JOHNSON: I have a question, and it
23 was for staff, because I was just trying to better
24 understand and appreciate the reason why they thought
25 there was a need to set a rate. I think Sally came up

1 and gave an explanation as to that, and what does that
2 add to the process?

3 COMMISSIONER KIESLING: Well, what I heard was
4 that it allows the companies to do a cost/benefit
5 analysis in order to determine if the amount of out of
6 balance and the affect on the revenue stream of the
7 company is enough to want to come in.

8 MR. GREER: I think it does that. In addition,
9 Commissioners, it potentially could save us a hearing
10 process on the cost information that we may get a
11 request or something like that if we just go ahead and
12 set the rate. And as I said, the time frames are
13 getting close for these folks to start to provide
14 service, and the more information we can establish and
15 set before that happens it is going to be easier for
16 them to deal with.

17 COMMISSIONER KIESLING: Well, I understand, but
18 that's my motion.

19 COMMISSIONER DEASON: Well, I think that's what
20 we're doing here today is setting a procedure, a
21 methodology that's going to facilitate them getting
22 into business and that is local traffic exchange.

23 CHAIRMAN CLARK: Okay. There has been a motion
24 and a second. Any further discussion?

25 COMMISSIONER GARCIA: I would just say that I'm

1 going to vote with Commissioner Kiesling's motion. It
2 at least, while I wasn't very pleased with the way we
3 voted on Southern Bell, at least it's consistent with
4 what we did. And I would further state to staff that
5 while I understood the rationale, I think that in the
6 end we have to leave it foggy that way. And we may end
7 up here again, but they are going to come in
8 regardless, I think. No matter what we set, some side
9 of it is not going to be pleased, and I think that the
10 parameters are best left this way.

11 CHAIRMAN CLARK: I think I would also like to
12 indicate I am in favor of the motion. I see staff's
13 point with respect to the benefits of setting the rate,
14 and I initially came in here with the idea that we need
15 to set the rate, we need to set some certainty. But I
16 am concerned with the way the limitations the statute
17 puts on us and companies to continue to negotiate to
18 their mutual benefit with regard to this issue. And
19 for that reason, I would like to leave -- and I am
20 concerned about the policy we are developing in terms
21 of what we are going to include in that rate and the
22 discrepancy between the 2.5 cents and the 6/10ths of a
23 cent, and so -- .25. I never was good at decimals.

24 COMMISSIONER KIESLING: It's .0025.

25 CHAIRMAN CLARK: So, it's .25 cents. So I would

1 like to leave some further room for negotiations on
2 that issue. And I'm just concerned that the statute
3 doesn't leave enough room on this issue for me to be
4 comfortable at this time that we can set it at whatever
5 it is, the \$.0025. And so I would be inclined to
6 support the motion.

7 COMMISSIONER GARCIA: Madam Chairman, can I ask
8 Walter a quick question? Is it your opinion --

9 CHAIRMAN CLARK: If he gives a quick answer.

10 COMMISSIONER GARCIA: Walter, you did a lot of
11 work, I'll listen as long as you want to speak. Maybe
12 the Chairman won't, though. I want to ask you, is it
13 your belief that if we went whether with your
14 alternative or primary here, that the rationale in this
15 decision would force us to go back to the previous
16 decision and implement that price?

17 MR. D'HAESELEER: No.

18 COMMISSIONER GARCIA: Okay.

19 CHAIRMAN CLARK: I think I would agree with Walter
20 on that, because I think that you have distinct
21 records, and there are always the circumstances that
22 you believe you have the requisite information to draw
23 a conclusion in one docket that you didn't have in
24 another docket. And that's the basis on which you can
25 distinguish your decision.

1 COMMISSIONER JOHNSON: But if we agreed with
2 Walter and his analysis as to why we have to do usage
3 and set a rate, because the law requires it, then we
4 would have to find on our own motion.

5 CHAIRMAN CLARK: I think we would have problems in
6 that case. Well, there has been a motion and a second.
7 All of those in favor, say aye.

8 COMMISSIONER DEASON: Aye.

9 COMMISSIONER GARCIA: Aye.

10 COMMISSIONER KIESLING: Aye.

11 CHAIRMAN CLARK: Aye. Opposed, nay.

12 COMMISSIONER JOHNSON: Nay.

13 CHAIRMAN CLARK: We have moved on, I believe, to
14 Issue 2.

15 COMMISSIONER DEASON: Well, let me -- I think so
16 we are clear, and I'm not trying to put Commissioner
17 Johnson on the spot. Are you nay because you would set
18 a rate or because you would prefer it not have mutual
19 traffic exchange and approve staff --

20 COMMISSIONER JOHNSON: No, I agree with the mutual
21 traffic exchange, but I would set a rate. And really
22 for the reasons that are articulated in the staff
23 recommendation with respect to it being out of balance
24 and giving the parties that ability to determine
25 whether or not it would be worth it to go to the usage

1 formula.

2 CHAIRMAN CLARK: I, like you, can see some merit
3 in that certainty, but I'm comfortable with what we are
4 doing here today. All right. With respect to Issue 2,
5 is there a motion, are there questions?

6 COMMISSIONER KIESLING: Can we take any of the
7 subsequent issues as a group or does everyone want to
8 do it issue-by-issue?

9 COMMISSIONER KIESLING: Are there any further
10 questions that require us to go issue-by-issue? Do we
11 need to take time just to leaf through them?

12 COMMISSION STAFF: Commissioners, I would point
13 out in Issue 2 dealing with the tariffing that we did
14 not put a specific date certain when they were to file
15 the tariffs for this, so we would like to amend and say
16 that these tariffs should be filed 60 days after the
17 day of the final order, or 60 days after the order
18 regarding motions for reconsideration, if there are
19 any.

20 COMMISSIONER KIESLING: And I will move it with
21 that caveat.

22 COMMISSIONER DEASON: Second.

23 CHAIRMAN CLARK: There has been a motion to move
24 Issues 2 through --

25 COMMISSIONER KIESLING: I would say through 14,

1 because I have a question on 15.

2 CHAIRMAN CLARK: Okay. There is a motion to
3 approve Issues 2 through 14, and there has been a
4 second.

5 COMMISSIONER JOHNSON: I've got one question on
6 Issue 4, and I know for the United/Centel we stated
7 that we would use the current tariffed rates for the
8 function there, what was that rate? We didn't have
9 that in the record, we just had we would use the
10 tariffed rates.

11 COMMISSION STAFF: Right. The company's tariff,
12 they have several rates for recording depending on
13 which way it's provided. You either have a per message
14 of .0078, or a message detail per record of 1.16. And
15 how that compares in the other, the BellSouth docket,
16 it was, I think, 1-1/2 cents.

17 COMMISSIONER JOHNSON: Okay. Thank you.

18 COMMISSION STAFF: Just the parties in this
19 proceeding, that rate was not brought up and it was not
20 in the record, and nobody had any problems with using
21 Centel/United's current rate.

22 CHAIRMAN CLARK: All right. There has been a
23 motion and a second to move Items 2 through 14.

24 COMMISSION STAFF: Commissioners, Issue 3, I think
25 we have to revisit.

1 CHAIRMAN CLARK: We haven't made a decision yet,
2 we just have a motion and a second.

3 COMMISSIONER KIESLING: Why don't we do this,
4 then.

5 CHAIRMAN CLARK: What do you need to do on Issue
6 3?

7 COMMISSION STAFF: Issue 3 involves rates, and we
8 had recommended a specific rate for GTE, but we had
9 recommended also that United needed to refile the cost
10 data in conformance with Issue 1. But since you have
11 now stated that the cost data is not required, that
12 leaves us with a new decision to make.

13 COMMISSIONER KIESLING: Perhaps I need to withdraw
14 my motion.

15 CHAIRMAN CLARK: Just a minute.

16 COMMISSIONER DEASON: Well, maybe we need to go
17 back. Did we say cost data is not required, or we are
18 saying we are not setting a rate today back on Issue 1?

19 CHAIRMAN CLARK: Commissioner Deason, I understood
20 the motion to be that it would be the same treatment
21 that we afforded in the BellSouth case, and that is not
22 a requirement that they file the data. If they feel it
23 is sufficiently out of balance that they need to come
24 in and have a rate set because it is out of balance,
25 that we would do it at that time. And that is my

1 understanding of the motion and the vote. Okay.

2 COMMISSIONER KIESLING: Now, why don't I do a
3 couple of these issue-by-issue and then we will see
4 where we are. I would move Issue 2 as amended by
5 Staff.

6 COMMISSIONER DEASON: Second.

7 CHAIRMAN CLARK: What was amended in Issue 2?

8 COMMISSIONER DEASON: 60 days.

9 CHAIRMAN CLARK: Okay. Without objection, Issue 2
10 is approved. Issue 3.

11 COMMISSIONER KIESLING: And then I would move
12 Issue 3 to be amended to read the same as what we did
13 with BellSouth.

14 CHAIRMAN CLARK: Is that clear?

15 COMMISSIONER KIESLING: Which was to not require
16 them to file cost information.

17 COMMISSION STAFF: In BellSouth there was no rate
18 recommended or voted on.

19 CHAIRMAN CLARK: I'm not clear. The appropriate
20 rate for GTEFL should be 3075, and you're saying
21 consistent with our decision in 1 you would not set a
22 rate?

23 COMMISSION STAFF: Well, the concern I had with
24 Issue 1 was not so much for GTE, but for United, since
25 we could not determine a rate. This issue addresses

1 intermediary handling of local traffic when --

2 CHAIRMAN CLARK: I understand that. But what I'm
3 asking you is should we even be setting a rate for
4 GTEFL, and if we should, then it seems to me that we
5 should require the data for United/Centel. So you need
6 to indicate to me if it is an issue that needs to be
7 decided consistently with Issue 1.

8 MS. NORTON: Commissioners, I believe that you
9 need to set a rate in this issue, even if you have not
10 set a rate for local interconnection in Issue 1.

11 CHAIRMAN CLARK: So your recommendation on Issue 3
12 remains the same.

13 MS. NORTON: Yes, except we have only got a rate
14 recommended here for GTE, and you need one for United.

15 CHAIRMAN CLARK: And that is what you have
16 recommended.

17 COMMISSION STAFF: The cost data that the question
18 was tied to Issue 1, and now you just basically need to
19 say you need to provide the cost data for the
20 intermediary rate.

21 CHAIRMAN CLARK: Okay. With that clarification --

22 COMMISSIONER KIESLING: Then I move Issue 3 as
23 clarified.

24 CHAIRMAN CLARK: -- Issue 3 as clarified is
25 approved.

1 COMMISSION STAFF: I'm sorry, if you just simply
2 state they should file the cost data for the -- I'm
3 sorry, the reason I'm confused is that for the same
4 reason as Issue 1 that we didn't like their cost data.
5 They had filed it and then they changed it, so we
6 wanted to have some more time to --

7 CHAIRMAN CLARK: But the point is you feel that we
8 need to set a rate.

9 COMMISSION STAFF: Yes, we do.

10 CHAIRMAN CLARK: Okay. So you need the data, and
11 I think the motion is consistent with your concern.

12 COMMISSIONER DEASON: Refresh my memory. What did
13 we do with BellSouth in relation to this particular
14 rate element?

15 COMMISSIONER KIESLING: We told them to file it.

16 COMMISSION STAFF: Commissioners, you did not set
17 a rate. There was none recommended, and there was none
18 set.

19 COMMISSIONER DEASON: Now, why is this record
20 different than the BellSouth record so that we need to
21 do this while we didn't do it for BellSouth?

22 COMMISSION STAFF: I don't know that I can give
23 you a satisfactory answer. I will tell you that it's a
24 point on reconsideration that you will be addressing
25 for Southern Bell. But it's staff's opinion for this

1 phase of the proceeding that the rate is necessary.

2 CHAIRMAN CLARK: Let's do this. It has been moved
3 and approved on Issue 3 that they have to file the data
4 for you to set the rate. We will go through this item,
5 if after you have had time to consider it we need to
6 come back and visit this in this agenda, we will do it.
7 Okay. And that will give you time to confer with other
8 staff as to the necessity of actually setting this
9 rate. All right. Is there a motion on Issue 4 through
10 14?

11 COMMISSIONER KIESLING: I move staff.

12 CHAIRMAN CLARK: Is there a second?

13 COMMISSIONER DEASON: Second.

14 CHAIRMAN CLARK: Without objection, Issues 4
15 through 14 are approved. Issue 15.

16 COMMISSIONER KIESLING: I just have to have some
17 clarification. I know what action we took, and I think
18 I understand the standard we are holding those
19 nonpetitioning parties to. But I just need to
20 understand now having voted on the other issues, what
21 is it that we are holding them to? I mean, we didn't
22 set a rate on Issue 1, so we are holding them -- we are
23 going to make them subject to mutual traffic exchange,
24 is that what we are doing?

25 MS. CANZANO: Except you have to remember that the

1 ALECs may negotiate with the LECs.

2 COMMISSIONER KIESLING: Absolutely.

3 MS. CANZANO: And if they fail they may petition
4 the Commission to set interconnection rates, and that
5 is the way the vote read.

6 COMMISSIONER KIESLING: Okay.

7 COMMISSIONER DEASON: But they are going to have
8 to show -- they are going to have a burden to show
9 changed circumstances different from what existed at
10 the time they participated in the hearing as a
11 nonpetitioning party.

12 COMMISSION STAFF: Right.

13 COMMISSIONER KIESLING: Right. And then I guess
14 more of a technical question, we have already made this
15 decision so, am I -- I mean, are we ratifying our
16 ruling, because we have already made a ruling?

17 CHAIRMAN CLARK: Yes, I don't think we need to
18 vote --

19 COMMISSION STAFF: It was just a ruling, it wasn't
20 a recommendation. We just noted it since it was an
21 issue --

22 CHAIRMAN CLARK: So we don't need to vote on
23 Issue 15. What about Issue 16?

24 COMMISSIONER KIESLING: I move Issue 16.

25 COMMISSIONER DEASON: Hold on. We need

1 information filed with the decision on Issue 3, so we
2 shouldn't close the docket at least as it pertains to
3 United/Centel.

4 COMMISSIONER KIESLING: Right. And I recommended
5 no, we shouldn't close it.

6 COMMISSIONER DEASON: Oh, I'm sorry.

7 CHAIRMAN CLARK: You're moving staff
8 recommendation, which is no.

9 COMMISSIONER KIESLING: Yes.

10 COMMISSIONER DEASON: Okay.

11 CHAIRMAN CLARK: Without objection, Issue 16 is
12 approved.

13 * * * * *

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

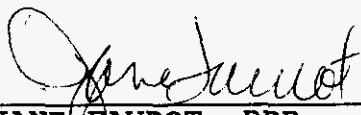
STATE OF FLORIDA)

COUNTY OF LEON)

I, JANE FAUROT, Court Reporter, do hereby certify that the foregoing proceedings was transcribed from cassette tape, and the foregoing pages numbered 1 through 54 are a true and correct record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 29th day of April, 1996.



JANE FAUROT, RPR
P.O. Box 10751
Tallahassee, Florida 32302
(904) 379-8669