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Ms. Blanca S. Bayo
Director, Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 950737-TP

Dear Ms. Bayo:

Enclosed are an original and fifteen copies of the Testimony of Alex J. Harris On Behalf of MFS Communications Company, Inc. in the above-referenced docket.

Also enclosed is an extra copy to date stamp and return in the enclosed self-addressed, stamped envelope.

Sincerely,

Antony R. Petrilla

Antony R. Petrilla

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into temporary local number portability solution to implement competition in local exchange telephone markets.	)	Docket No. 950737-TP

TESTIMONY OF
ALEX J. HARRIS
ON BEHALF OF
MFS COMMUNICATIONS COMPANY, INC.

September 23, 1996

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DIRECT TESTIMONY OF
ALEX J. HARRIS
ON BEHALF OF
MFS COMMUNICATIONS COMPANY, INC.

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Alex J. Harris. My business address is MFS Communications Company, Inc. ("MFS"), 33 Whitehall Street, 15th Floor, New York, NY 10004.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT ARE YOUR RESPONSIBILITIES?

A. I am the Vice President of Regulatory Affairs for MFS. I am responsible for directing state regulatory activities for MFS. In this capacity, I have been responsible for overseeing interconnection negotiations with incumbent local exchange carriers ("LECs") across the country pursuant to the Telecommunications Act of 1996 ("1996 Act"). At various points during my tenure with MFS, I have also had supervisory responsibilities relating to industry affairs, line cost management, and pricing.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. Prior to joining MFS in 1993, I was employed by Teleport Communications Group in that company's regulatory affairs department. From 1990 to 1991, I served as Executive Assistant to then-Commissioner and former Chairman Ellen C. Craig of the Illinois Commerce Commission, advising her on telecommunications and transportation issues. From 1986 to 1989, I served as an Analyst in the Illinois Commerce Commission's Policy Analysis and Research Division's Telecommunications Program. I was an intern with the Commission staff from 1984 to 1986. I received Bachelor of Arts degrees in Philosophy and Political Science from the University of Illinois at Urbana-Champaign in 1984. At present, I am a student in the Executive MBA Program at New York University's Stern School of Business.

Q. PLEASE DESCRIBE THE OPERATIONS OF MFS AND ITS SUBSIDIARIES.

A. MFS is a diversified telecommunications holding company with operations throughout the country, as well as in Europe. MFS Telecom, Inc., an MFS subsidiary, through its operating affiliates, is the largest competitive access provider in the United States. MFS Telecom, Inc.'s subsidiaries provide non-switched, dedicated private line and special access services.

The operating subsidiaries of MFS Intelenet, Inc. ("MFSI"), an MFS subsidiary, collectively are authorized to provide switched interexchange telecommunications services in 48 states and have applications to offer such service pending in the remaining two states. Where so authorized, MFSI's operating subsidiaries offer end users a single source for local and long distance telecommunications services with quality and pricing levels comparable to those achieved by larger communications users. Apart from Florida, MFS subsidiaries have been authorized to provide competitive local exchange service in twelve states. Since July 1993, MFS Intelenet of New York, Inc. has offered local exchange services in competition with New York Telephone Company. MFS Intelenet of Maryland, Inc. was authorized to provide local exchange services in competition with Bell Atlantic-Maryland, Inc. in April 1994 and is offering competitive local exchange services. On June 22, 1994, MFS Intelenet of Washington, Inc. was authorized to provide local exchange services in competition with US West Communications, Inc. On July 20, 1994, MFS Intelenet of Illinois, Inc. was certificated to provide local exchange services in competition with Illinois Bell Telephone Company and Central Telephone Company of Illinois and is providing such services. MFS Intelenet of Ohio was certificated to provide competitive local exchange service in competition with Ohio Bell on August 3, 1995. MFS Intelenet of Michigan, on May 9, 1995, was certificated to provide competitive local exchange service in competition with Ameritech-Michigan. MFS Intelenet of Connecticut was certificated to provide local exchange service in competition with Southern New England Telephone Company on June 28, 1995. MFS Intelenet of Texas, Inc. was authorized to resell local exchange service in Houston and Dallas in competition with Southwestern Bell Telephone

Company by Order signed on October 25, 1995. Subsequently, Metropolitan Fiber Systems of Dallas and Metropolitan Fiber Systems of Houston were certified to provide resale and facilities-based local exchange service. MFS Intelenet of Georgia, Inc. was authorized to provide competitive local exchange service in Georgia on October 27, 1995. MFS Intelenet of Pennsylvania, Inc. was authorized to provide local exchange service in Pennsylvania by Order entered October 4, 1995. MFS Intelenet of Oregon, Inc. was authorized to provide local exchange service in Oregon on January 12, 1996. MFS Intelenet of Massachusetts was certificated on March 9, 1994 to operate as a reseller of both interexchange and local exchange services in the Boston Metropolitan Area in competition with New England Telephone and is providing such services. MFS Intelenet of New Jersey was certificated in June 1996 to provide competitive local exchange services in that state.

Metropolitan Fiber Systems of Florida, Inc. ("MFS-FL") was granted authority by this Commission to provide switched local exchange service effective January 1, 1996.

INTRODUCTION AND SUMMARY OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony is designed to address MFS's position on cost recovery issues associated with currently available number portability (which I simply refer to as "portability" throughout this testimony). The Federal Communications Commission's ("FCC") Portability Order in CC Docket No. 95-116,[1/] which is binding on the states, requires the Commission to reevaluate its resolution of portability issues in Order No. PSC-95-1604-FOF-TP (released December 28, 1995). Specifically, the Commission must revisit such issues as what recurring portability costs are properly recoverable under federal law, from which carriers and in what manner. I begin my testimony proposing that the Commission require parties to absorb their own costs of providing portability. Alternatively, if the Commission desires to create a formal cost recovery mechanism, my testimony sets forth the proper method for calculating incremental costs of providing portability and for spreading these costs among contributing carriers. I first explain that the Commission should permit carriers to recover only the total element long run incremental costs

1/ *In the Matter of Telephone Number Portability*, First Report and Order, CC Docket No. 95-116 (released July 2, 1996) (hereinafter "Portability Order").

("TELRIC") of portability. Next, I deal with the need to create a competitively-neutral mechanism for recovering portability costs to comply with the Portability Order and the 1996 Act. I argue that the Commission should require all telecommunications carriers within the State of Florida to contribute to a portability fund in direct proportion to their total revenues from intrastate telecommunications operations (though with an offset for payments to other carriers for intermediate telecommunications services employed in the delivery of revenue-generating retail services).

Q. HOW SHOULD THE COSTS OF PROVIDING PORTABILITY BE RECOVERED CONSISTENT WITH THE 1996 ACT AND THE ORDER?

A. MFS believes that carriers should absorb their own costs of providing portability arrangements. The FCC has explicitly endorsed this approach as meeting its standard for competitive neutrality. Portability Order, at ¶ 136 ("we believe that a mechanism that requires each carrier to pay for its own costs of currently available number portability measures would also be permissible"). MFS supports the concept because it would considerably ease the burden of administering the portability cost recovery mechanism and alleviate the need for most regulatory oversight. If, however, the Commission is not inclined to accept this proposal, it should consider MFS's alternative proposal presented below. The next two sections discuss how the incremental costs of providing portability should be measured and recovered in a competitively neutral manner.

MEASURING PORTABILITY COSTS

Q. WHAT ARE THE COSTS OF PROVIDING PORTABILITY?

A. When a telephone user switches LECs, but retains its telephone number, calls are forwarded to the customer through the new LEC's network via Remote Call Forwarding ("RCF"), Direct Inward Dial ("DID") or other similar arrangements.[2] The original LEC incurs the recurring costs of forwarding these calls.

Q. HOW DO YOU MEASURE PORTABILITY COSTS?

A. In the Portability Order, the FCC declared that:

> The costs of currently available number portability are the *incremental costs* incurred by a LEC to transfer numbers initially and subsequently forward calls to new service providers using existing RCF, DID, or other comparable measures.

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[2] The Commission approved a stipulation of the parties in Docket No. 950737-TP to use RCF as a "temporary number portability mechanism." Order No. PSC-95-1604-FOF-TP, at Attachment A. The FCC ruled that LECs must provide portability through DID as well. Portability Order, at ¶ 121. MFS therefore requests that the Commission clarify that DID arrangements must be made available for portability purposes.

Id., at ¶ 129 (emphasis added). Incremental cost is the benchmark for measuring portability costs.

One month after issuing the Portability Order, the FCC elaborated upon the definition of "incremental cost" in its Interconnection Order.[3] The FCC stated that the incremental cost of interconnection, unbundled network elements, and collocation should be calculated according to the TELRIC methodology.

Q. DID THE FCC EXPLICITLY APPLY TELRIC TO PORTABILITY COSTS?

A. No, not in so many words. The Portability Order, however, preceded the Interconnection Order by approximately six weeks. Although the FCC simply used the term "incremental costs" in the Portability Order, TELRIC is the incremental costing methodology that the FCC has adopted for establishing the rates for interconnection and network elements. Section 153(29) of the 1996 Act defines network element to include "features, functions, and capabilities that are provided by means of such facility or equipment,

[3] *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98 & 95-185, First Report and Order (released August 8, 1996) (hereinafter "Interconnection Order").

including *subscriber numbers* . . . ." (Emphasis added). Thus, portability falls squarely within the definition of a network element under the 1996 Act. Given that the FCC selected TELRIC as the proper methodology for calculating the incremental costs" of network elements, the Commission should apply TELRIC to determine the level of portability costs that are subject to recovery.

Q. PLEASE EXPLAIN THE HOW THE TELRIC METHODOLOGY WORKS.

A. TELRIC are the forward-looking costs over the long run of the facilities and functions that are directly attributable to providing a particular element — in this case, portability. TELRIC has three major components: operating expenses, depreciation cost and the appropriate risk-adjusted cost of capital associated with the assets used to provide portability.[4] In addition, the FCC specified several aspects of TELRIC, including:

- ***Efficient Network Configuration.*** TELRIC is properly estimated assuming a reconstructed network using the most efficient telecommunications technology available and the least-cost network

[4] Interconnection Order, at ¶703.

configuration, given the existing location of the incumbent LEC's wire centers.[5]

- ***Forward-Looking Cost of Capital.*** TELRIC is calculated using a forward-looking cost of capital that presumably projects market growth, increased competition and other factors that affect risk and return. The cost of capital in TELRIC is what investors must be paid to induce them to invest in the assets used to provide the unbundled network element. In a sense, it is the profit or return associated with the unbundled network element.[6]

- ***Depreciation.*** TELRIC is calculated using forward-looking economic depreciation rates. Depreciation in a TELRIC study is economic depreciation which measures the expected change in the economic value of assets used to provide the unbundled network element.[7]

- ***Directly Attributable Costs.*** TELRIC would include all costs and only those costs that are directly attributable to or caused by portability. Retailing costs, marketing expenses, billing and collection costs, and all other costs associated with retail offerings cannot be included in the

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[5] Interconnection Order, at ¶682.

[6] Interconnection Order, at ¶¶699-700.

[7] Interconnection Order, at ¶703.

directly attributable costs of an unbundled network element. The FCC also requires that an incumbent LEC's cost study must explain why or how a specific function included in a TELRIC estimate is necessary to provide a particular element.[8]

- ***No Embedded Costs, Universal Service Support or Opportunity Costs***. The FCC expressly prohibits the use of embedded costs or costs incurred by the incumbent carrier in the past as the basis for TELRIC.[9] The FCC also prohibits the inclusion of universal service subsidies or opportunity costs (*i.e.*, the revenues the incumbent carrier expected to earn but for offering a particular unbundled network element).[10]

Q. WHAT ARE THE ADVANTAGES OF MEASURING PORTABILITY COSTS ACCORDING TO TELRIC?

A. Portability costs are most likely to be competitively neutral if they are based on TELRIC. Because TELRIC estimates incremental costs using a reconstructed, hypothetical network (constrained only by existing locations of the incumbent LEC's wire centers), TELRIC portability costs should not vary

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[8] Interconnection Order, at ¶¶682, 691 and 47 C.F.R. §51.505(d).

[9] Interconnection Order, at ¶¶ 704-707.

[10] Interconnection Order, at ¶¶ 708-711, 713.

with the identity of the carrier forwarding calls to the customer's new service provider. TELRIC provides a competitively neutral assessment of portability costs that could not be achieved by a cost study of portability functions within the incumbent LEC's existing network. Under a TELRIC framework, new entrants would not be disadvantaged by having to contribute to portability costs inflated because of inefficiencies inherent in the incumbent LEC's existing network.

COMPETITIVELY NEUTRAL COST RECOVERY MECHANISMS

Q. WHAT PRINCIPLE SHOULD UNDERLIE ANY COST RECOVERY MECHANISM FOR PORTABILITY?

A. Clearly, that principle is competitive neutrality. The 1996 Act expressly provides that the costs of portability must be shared by all telecommunications carriers. Specifically, Section 252(e) states that:

> The costs of establishing . . . number portability ***shall be borne by all telecommunications carriers on a competitively neutral basis*** as determined by the [FCC].

(Emphasis added).

Q. IS IT PERMISSIBLE UNDER THE 1996 ACT AND FCC RULES TO REQUIRE ONLY CARRIERS SUBSCRIBING TO PORTABILITY TO PAY THE COSTS OF PROVIDING IT?

A. No. The FCC has concluded that Section 251(e)(2) of the 1996 Act mandates a departure from general cost causation principles, pursuant to which the purchaser of a service would be required to pay the cost of providing the service. Portability Order, at ¶ 131. Moreover, the FCC ruled that any cost recovery mechanism that requires new entrants to bear all of the costs of portability does not comply with Section 252(e) of the 1996 Act. Portability Order, at ¶ 138 ("imposing the full incremental cost of number portability solely on new entrants would contravene the statutory mandate that all carriers share the cost of number portability"). The tariffed charges currently imposed by incumbent LECs on purchasers of portability are inconsistent with the Act and must be suspended immediately.

Q. HAS THE FCC PLACED THIS POLICY IN THE CONTEXT OF TRADITIONAL COST CAUSATION PRINCIPLES?

A. Yes, the FCC expressly declared that a competitively-neutral recovery mechanism for portability costs represents a departure from traditional cost causation principles:

> With respect to number portability, Congress has directed that we depart from cost causation principles if necessary in order to adopt a "competitively neutral" standard, because number portability is a network function that is required for a carrier to compete with the carrier that is already serving a customer. Depending on the technology used, to price number portability on a cost causative basis could defeat the purpose for which it was mandated.

Portability Order, at ¶ 131.

Q. WHAT CARRIERS SHOULD BE REQUIRED TO CONTRIBUTE TO THE COSTS OF PORTABILITY?

A. Consistent with Section 251(e) of the 1996 Act, all carriers providing intrastate telecommunications services in Florida shall contribute to the costs of portability. This would include incumbent LECs, new LECs, Commercial Mobile Radio Service providers and interexchange carriers.

Q. DID THE FCC ENUNCIATE ANY CRITERIA FOR APPLYING THE COMPETITIVELY-NEUTRAL STANDARD?

A. Yes, the FCC's Order establishes two criteria that shall govern state commission determinations of whether or not recovery mechanisms for portability costs are competitively neutral. First, recovery mechanisms "should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber." Order, at ¶ 132. In other words, new entrants cannot be saddled with the full costs of portability. Spreading TELRIC portability costs among all telecommunications carriers would meet this criteria.

Second, recovery mechanisms must be proportional so that portability is affordable for all carriers, large and small. The Commission cannot implement a recovery mechanism that would grant large carriers a competitive advantage over small carriers. The following type of recovery mechanism would be proscribed under the Portability Order:

> If, for example, the total costs of currently available number portability are to be divided equally among four competing local exchange carriers, including both the incumbent LEC and three new entrants, within a specific service area, the new entrant's share of the costs may be so large, relative to its expected profits, that the entrant would decide not to enter the market.

Portability Order, at ¶ 135. Proper recovery mechanisms should assess contributing carriers proportional shares of the total portability cost fund based on some competitively neutral allocator that is related to the size of each contributor.

Q. **PLEASE DESCRIBE MFS'S PROPOSAL FOR RECOVERING THE COSTS OF PORTABILITY IN A COMPETITIVELY NEUTRAL MANNER.**

A. MFS proposes recovering portability costs from all telecommunications carriers in Florida, in direct proportion to each company's total revenues from intrastate telecommunications operations, but with an offset for payments made to other carriers for intermediate telecommunications services that are used in the delivery of revenue-generating retail services.[11] I will call MFS's proposed cost recovery mechanism the "net revenue approach."

Q. HOW WOULD THE COMMISSION IMPLEMENT THE NET REVENUE APPROACH?

A. The Commission would begin by determining, on a forward-looking basis, the amount of funds necessary to pay for portability costs throughout the state of Florida. This task would involve multiplying the incremental cost of portability arrangements (i.e. TELRIC portability costs) by a prediction of the demand for portability among LECs in Florida. In assessing demand for portability, the Commission should use its own expertise in local competition as well as consultations with representatives of the industry.

Once the Commission has ascertained the size of the portability cost fund, next it should calculate a uniform contribution factor to be applied to all carriers providing intrastate telecommunications services. The contribution factor should be derived by dividing the portability cost fund by the total gross intrastate revenues of all carriers providing service in Florida net of payments

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[11] Such payments include those for switched access, interconnection, unbundled network elements, reciprocal compensation, and resold bundled services.

made to other carriers. For example, if the portability cost fund is $1000 and the total net intrastate revenues of all carriers in Florida is $10 million, the contribution factor would be 0.0001 or 0.01%.[12]

The Commission should compute the exact amount that individual carriers will contribute to the fund by multiplying the contribution factor (in the example, 0.01%) by the net revenues of a particular carrier. Thus, if a certain carrier has $100,000 in net intrastate revenue and the contribution factor is 0.01%, it will have to contribute $10 to the portability cost fund.

As carriers provide portability to other requesting carriers, they would draw from the fund an amount equal to the number of portability arrangements they provide times the incremental cost the Commission deems appropriate for recovery.

Q. PLEASE EXPLAIN HOW THE NET REVENUE APPROACH MEETS FCC CRITERIA FOR COST RECOVERY MECHANISMS.

A. The net revenue approach is competitively neutral within the parameters set forth by the FCC. It does not saddle new entrants — or incumbent LECs for that matter — with the entire burden of funding portability and provides

[12] These numbers do not reflect any attempt on MFS's part to estimate the actual costs of providing portability in Florida and have been provided for illustrative purposes only.

neither with a competitive advantage. The net revenue approach also ensures that all carriers will make a proportionate contribution to the costs of providing portability to end users.

Q. WHY IS IT IMPORTANT TO BASE CONTRIBUTIONS TO THE PORTABILITY FUND ON NET REVENUE, RATHER THAN GROSS REVENUE, OF TELECOMMUNICATIONS CARRIERS?

A. An offset for payments to intermediate telecommunications service providers is necessary to avoid multiple assessments on services that are components of final end user services or services that are resold one or more times. Pursuant to MFS's proposal, each carrier's contribution to the portability cost fund will be based proportionately on the added value it brings to the telecommunications marketplace, as measured by the net revenue it derives. Economists have long favored value-added assessment mechanisms because they ensure maximum neutrality and impose minimal distortions on competitive market dynamics.

Q. HAS THE FCC ENDORSED MFS'S NET REVENUE APPROACH?

A. Yes, it has. In the Portability Order, the FCC approvingly cited MFS's revenue-based cost recovery proposal. *Id.*, at ¶ 136.

Q. WOULD THE NET REVENUE APPROACH BE BURDENSOME FOR FLORIDA TELECOMMUNICATIONS CARRIERS?

A. No. Telecommunications carriers are thoroughly familiar with revenue reporting requirements. On the federal level, the FCC itself adopted a net revenue approach for recovering regulatory fees[13/] and cited it favorably in the Portability Order (at ¶ 136, n. 384). In Florida, the law requires interexchange carriers to report gross revenues less payments for access charges under Sections 350.113, 364.336, and 364.337, Florida Statutes.

Q. WHAT RULES SHOULD GOVERN HOW CARRIERS RECOVER FROM THEIR CUSTOMERS THEIR CONTRIBUTIONS TO THE PORTABILITY COST FUND?

A. The Commission should not regulate how new entrants and other non-dominant carriers gather their contribution to the portability cost fund.

The Commission could allow incumbent LECs to treat their share of portability costs as exogenous for purposes of adjusting price caps. To the extent that portability costs are allocated to general end user services, such allocations should not be considered "avoided" costs when wholesale rates are set pursuant to Sections 251(c)(4) and 252(d)(3) of the 1996 Act.

13/ *Assessment and Collection of Regulatory Fees for Fiscal Year 1995, Price Cap Treatment of Regulatory Fees Imposed by Section 9 of the Act,* Report and Order, 10 FCC Rcd 13512, 13558-59 (1995).

The Commission should not permit incumbent LECs to collect their contribution to the portability cost fund from customers through a discrete line item or surcharge on customers' bills. Nor should the Commission tolerate the inclusion of an incumbent LEC's share of portability costs in the prices for interconnection and unbundled network elements.

Q. SHOULD THE PRINCIPLES FOR RECOVERING INTERIM PORTABILITY COSTS THAT MFS ADVOCATES HERE APPLY TO THE RECOVERY OF PERMANENT NUMBER PORTABILITY COSTS?

A. Most certainly. MFS's proposal is designed to satisfy the overall requirement, contained in both the 1996 Act and the Portability Order, for competitively neutral recovery of costs associated with all forms of portability. Thus, when permanent number portability becomes a reality, the Commission should implement MFS's proposal in the context of recovering costs incurred for developing and maintaining the industry-wide portability database. I note, however, that carriers should be responsible for the costs of their own internal updates and adjustments to software and other equipment necessary to use the portability database.

Q. SHOULD THE COMMISSION TAKE ANY ACTION ON PORTABILITY COST RECOVERY ISSUES IMMEDIATELY?

A. Yes, it should suspend current tariffs that establish charges for portability arrangements. Carriers providing portability should book their costs to a deferred account. Once the Commission determines the level of costs permitted to be recovered and implements an appropriate cost recovery mechanism, carriers may recover any costs booked to the deferred account in accordance with the Commission's ruling in this proceeding.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

CERTIFICATE OF SERVICE
DOCKET NO. 950737-TP

I hereby certify that on this 20th day of September 1996, copies of Testimony of Alex J. Harris On Behalf Of MFS Communications Company, Inc. were served by first class mail, postage prepaid, on the following:

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I hereby certify that on this 20th day of September 1996, copies of Testimony of Alex J. Harris On Behalf Of MFS Communications Company, Inc. were served by first class mail, postage prepaid, on the following:

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