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October 7, 1996

Ms. Blanca S. Bayó
Director, Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Re: Docket No. 950737-TP

Dear Ms. Bayó:

On behalf of MCI Telecommunications Corporation and MCImetro Access Transmission Services (MCI) I have enclosed for filing in the above docket the original and 15 copies of the rebuttal testimony of Elizabeth G. Kistner.

By copy of this letter this document has been provided to the parties on the attached service list.

Very truly yours,

Richard D. Melson

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cc: Parties of Record

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**REBUTTAL TESTIMONY OF ELIZABETH G. KISTNER
ON BEHALF OF MCI TELECOMMUNICATIONS CORPORATION**

DOCKET NO. 950737-TP

October 7, 1996

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME.

A. My name is Elizabeth G. Kistner.

Q. DID YOU FILE DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes, I filed direct testimony on behalf of MCI Telecommunications Corporation (“MCI”) in Docket No. 950737-TP on September 23, 1996.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to the direct testimony filed in this proceeding by witnesses for BellSouth Telecommunications, Inc. (“BellSouth”), GTE Florida Incorporated (“GTEFL”), United Telephone Company of Florida and Central Telephone Company of Florida (“Sprint”), AT&T Communications (“AT&T”), AT&T Wireless Services of Florida, Inc. (“AT&T Wireless”), Time Warner AXS of Florida (“Time Warner”), and the Florida Cable Telecommunications Association, Inc. (“FCTA”). Specifically, I will show that nearly all parties are in agreement that the Florida Public Service Commission’s

1 ("PSC's") Order No. PSC-95-1604-FOF-TP in Docket No. 950737-TP (the "*LNP*
2 *Order*") is inconsistent with the Federal Communication Commission ("FCC") First
3 Report and Order and Further Notice of Proposed Rulemaking in CC Docket No.
4 95-119 ("*FCC Order*"). I will then respond to the parties' recommendations for an
5 appropriate cost recovery mechanism for interim local number portability ("*ILNP*").
6

7 **III. CONSISTENCY OF FLORIDA *LNP ORDER* WITH *FCC ORDER***

8
9 **Q. DID THE PARTIES FILING DIRECT TESTIMONY AGREE THAT THE**
10 **FLORIDA *LNP ORDER* IS INCONSISTENT WITH THE *FCC ORDER*?**

11 A. All but one of the parties filing direct testimony were in agreement with MCI that
12 the Florida *LNP Order* is clearly inconsistent with the *FCC Order*. BellSouth (at 9),
13 Sprint (at 2), AT&T (at 3), AT&T Wireless (at 3), Time Warner (at 4), and FCTA
14 (at 1). The current cost recovery mechanism in Florida, where Alternative Local
15 Exchange Carriers ("*ALECs*") pay nearly all of the costs of interim number
16 portability, is an explicit violation of the FCC's competitively neutral cost recovery
17 criteria. Only GTEFL appears to disagree.
18

19 **Q. DOES GTEFL MAINTAIN THAT THE CURRENT COST RECOVERY**
20 **MECHANISM IN FLORIDA IS CONSISTENT WITH THE *FCC ORDER*?**

21 A. Yes. GTEFL offers two interpretations of the *FCC Order* to support its position that
22 its current *ILNP* tariffs in Florida are consistent with the *FCC Order*. First, GTEFL
23 isolates a single line of text from the *FCC Order*, where the FCC allows that states
24 may require the filing of tariffs for the provision of *ILNP* measures, and concludes

1 that Florida must be in compliance since ILNP is offered in Florida under tariffs.
2 (GTEFL at 3) Yet, as GTEFL itself acknowledges, the FCC set forth explicit
3 guidelines for competitively neutral cost recovery. No reasonable person could
4 interpret the order to mean that the mere filing of *any* tariffs (no matter what is in
5 them) satisfies those criteria.
6 Second, GTEFL later in its testimony implies that the existing tariffs in Florida are
7 in compliance with the *FCC Order*, insofar as they allow incumbent local exchange
8 carriers (“ILECs”) to charge ALECs their tariffed rates, and vice versa. GTEFL
9 asserts that this maintains competitive neutrality by allowing each carrier to recover
10 its own costs (GTEFL at 5). However, this is *precisely* the type of mechanism that
11 the FCC determined is a violation of the competitively neutral cost recovery criteria.
12 (Direct Testimony of Mike Guedel (AT&T) at 4-5; *FCC Order* at ¶¶133 and 138).
13 Thus, with the exception of GTEFL’s baseless interpretations, the parties agree that
14 the Florida *LNP Order* is inconsistent with the *FCC Order*.

15

16 **IV. APPROPRIATE COST RECOVERY MECHANISMS**

17

18 **Q. WHAT DID THE PARTIES RECOMMEND AS APPROPRIATE COST**
19 **RECOVERY MECHANISMS FOR INTERIM PORTABILITY COSTS?**

20 **A** Several parties agreed with MCI that the simplest and most efficient of the FCC-
21 recommended cost recovery mechanisms is one whereby each local carrier would
22 pay for its own costs of currently available number portability ILNP methods.
23 (AT&T at 7; AT&T Wireless at 4; Time Warner at 9; FCTA at 2-3) Currently
24 available ILNP methods include Remote Call Forwarding (“RCF”), Direct Inward

1 Dial ("DID"), and similar routing methods. As AT&T correctly points out, this
2 decision affects only interim number portability, which will begin to be phased out
3 in Florida within the next 12 months. This method does not carry with it any
4 administrative costs (Time Warner at 9) and does not require the filing and review
5 of cost support.

6

7 **Q. WHAT OTHER COST RECOVERY MECHANISMS WERE**
8 **RECOMMENDED?**

9 A. BellSouth did not offer an alternative cost recovery mechanism, recommending
10 instead that the Florida PSC do nothing about the inconsistency between orders
11 (BellSouth at 12,15). GTEFL recommended a pooling and surcharge mechanism
12 (GTEFL at 5), and Sprint recommends a cost splitting formula (Sprint at 5).

13

14 **Q. WHY DOES BELL SOUTH RECOMMEND THAT THE PSC DO NOTHING**
15 **ABOUT THE INCONSISTENCY BETWEEN THE FLORIDA AND FCC**
16 **ORDERS?**

17 A. Most of BellSouth's testimony is devoted to arguing why the FCC made the wrong
18 decision in establishing a competitively neutral cost recovery mechanism for ILNP
19 costs. (BellSouth at 6-7, 9-15) BellSouth witness Alphonso Varner states that
20 "BellSouth believes that the price of such [ILNP] services should be based on the
21 cost of providing the network elements and include a reasonable profit," and that on
22 the basis of their disagreement with the *FCC Order*, "[t]he Florida Order should
23 simply be maintained until such time as the solution for permanent number
24 portability can be implemented." (BellSouth at 12-13) Mr. Varner concludes by

1 suggesting that, pending resolution of BellSouth's Petition for Reconsideration of the
2 *FCC Order*, the Florida PSC should take a "wait and see" position. (BellSouth at
3 15)

4
5 **Q. IS A PENDING PETITION FOR RECONSIDERATION CAUSE FOR THE**
6 **FCC'S ORDER TO BE IGNORED?**

7 A No. BellSouth is free, of course, to disagree with the *FCC Order*, and it can pursue
8 appropriate administrative and judicial remedies to have the order reversed.
9 However, absent a stay of the order by the FCC or appropriate court, the regulations
10 adopted in the order are in effect *now*. The guidelines adopted by the FCC for
11 interim number portability cost recovery can not be ignored simply because
12 BellSouth doesn't like them.

13
14 **Q. WILL YOU RESPOND TO BELLSOUTH'S ARGUMENTS AGAINST THE**
15 **FCC ORDER?**

16 A. No. Although I strongly disagree with BellSouth's characterization of and
17 conclusions about the *FCC Order* and the 1996 Telecommunications Act, as stated in
18 Mr. Varner's testimony, I believe BellSouth's arguments are irrelevant in this
19 proceeding. MCI has appropriately responded to all of the same BellSouth
20 arguments in MCI's Opposition to Petitions for Reconsideration and Clarification,
21 filed September 27, 1996 in CC Docket No. 95-116, and so I will not burden the
22 record here with a reiteration of MCI's opposition.

23
24 **Q. DO YOU AGREE WITH GTEFL'S RECOMMENDATION FOR A POOLING**

1 **AND SURCHARGE MECHANISM?**

2 A. No. GTEFL recommends a highly complex and inefficient pooling and surcharge
3 mechanism. GTEFL’s proposal is a case of regulatory “overkill,” given the limited
4 costs and duration associated with interim number portability. Under GTEFL’s
5 proposal, the PSC would have to: 1) require all carriers to submit cost studies for
6 RCF and DID, and determine the appropriate incremental costs; 2) review IXC,
7 ILEC, ALEC, and commercial mobile radio service (“CMRS”) traffic information,
8 estimate the total number of local service and interexchange calls, and update data
9 on a periodic basis; 3) determine an estimated annual cost of ILNP and compute a
10 per-call cost; 4) manage the allocation of costs to IXCs, ILECs, ALECs, and CMRS
11 providers, and collect funds from those carriers; 5) require and review ILEC and
12 ALEC cost reports on a regular basis to determine the amount of RCF and DID
13 usage for reimbursement; 6) manage periodic distribution of funds to ILECs and
14 ALECs, including dispute resolution; 7) determine an end user surcharge and
15 oversee customer notification and reaction; and 8) determine and manage shortfalls
16 or excesses in the fund and reapportion as needed. GTEFL describes this system as
17 “simple” — I would call it a nightmare.

18 In addition to the obvious difficulties of managing such a system, pooling by nature
19 reduces the incentives for carriers to incur costs in the most economically efficient
20 manner, and encourages carriers to exaggerate costs in their reports to the pool.
21 Further, the costs and time associated with establishing and managing all of the
22 necessary reporting, tracking, end user billing, and auditing processes that are
23 necessary with pooling, will drain carrier and Commission resources from more
24 productive efforts to further the introduction of competition to Florida local

1 exchange customers.

2

3 **Q. IS THERE ANY REASON TO EXPECT THAT SUCH A POOLING AND**
4 **SURCHARGE MECHANISM WILL BE ADOPTED FOR RECOVERY OF**
5 **LONG-TERM LNP COSTS?**

6 A. Not at this time. Although GTEFL proposed such a pooling and surcharge system
7 in the FCC's long-term LNP cost recovery proceeding, many commenting parties —
8 including incumbent LECs, ALECs, and state regulators — opposed pooling
9 recommendations as an inefficient and undesirable way to recover costs. Similarly,
10 numerous parties oppose mandatory surcharges on end user bills as anticompetitive
11 and anti-consumer. The FCC is not expected to make a decision for several months,
12 but there is certainly no widespread support for them to adopt such a proposal.
13 Thus, in reviewing GTEFL's proposal, the Florida PSC should consider that such a
14 system may be used only for Florida, and only for recovery of interim number
15 portability costs.

16

17 **Q. DOES SPRINT'S PROPOSAL TO SET ILNP RATES AT APPROXIMATELY**
18 **HALF THEIR COST SATISFY THE FCC'S COMPETITIVELY NEUTRAL**
19 **CRITERIA?**

20 A. No. Sprint witness Ben Poag characterizes Sprint's proposal as an "approximately
21 equal sharing of the cost of interim number portability" (Sprint at 5). However,
22 "equal" does not translate to "competitively neutral" when one carrier's share of the
23 market is so substantially greater than that of its competitors. A split of ILNP costs,
24 i.e., allocating approximately half of the costs to new entrants, violates the FCC's

1 directive that costs be allocated on a *proportionate* basis. In fact, the FCC used the
2 specific example that a method that divided costs equally among four carriers,
3 including the incumbent and three new entrants, would violate its cost recovery
4 principles because the new entrants' portion of the costs could be disproportionate to
5 expected profits (*FCC Order* at ¶135). Thus, Sprint's proposal would not be
6 competitively neutral unless new entrant carriers had gained 50% of the local
7 exchange market.

8

9

VI. CONCLUSION

10

11 **Q. COULD YOU PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY?**

12 A. Yes. First, I pointed out that there is near unanimous agreement among the parties
13 filing testimony that Florida's *LNP Order* is inconsistent with the *FCC Order*. As a
14 result, most parties made recommendations for an alternative cost recovery
15 mechanism for ILNP costs. I supported the recommendation of AT&T, AT&T
16 Wireless, Time Warner and FCTA that the simplest and most efficient cost recovery
17 mechanism suggested by the FCC is one whereby each local carrier pays for its own
18 costs of providing interim portability measures. I noted that BellSouth's
19 disagreement with the *FCC Order* is irrelevant to this proceeding, and disagreed
20 with their suggestion that the Florida PSC can ignore the FCC guidelines simply
21 because BellSouth has a pending Petition for Reconsideration. I showed that
22 GTEFL's proposal for a pooling and surcharge recovery mechanism was inefficient
23 and overly complex given the limited costs and duration associated with interim
24 number portability. Finally, I explained why Sprint's proposal to split the

1 incremental costs of interim number portability among ILECs and their competitors
2 does not meet the FCC's guidelines for competitively neutral cost recovery because
3 it is not a proportionate allocation mechanism.
4

5 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

6 **A.** Yes, it does.
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