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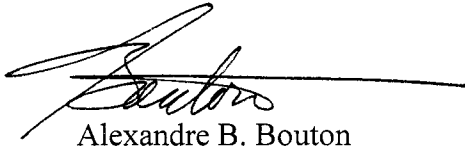
RE: Docket No. 950737-TP

Dear Ms. Bayo:

Enclosed please find an original and fifteen (15) copies of the REBUTTAL TESTIMONY OF ALEX J. HARRIS ON BEHALF OF MFS COMMUNICATIONS COMPANY, INC., and the PREHEARING STATEMENT OF MFS COMMUNICATIONS COMPANY, INC.

Please date-stamp the enclosed extra copy of this letter and return it in the self-addressed, stamped envelope.

Sincerely,


Alexandre B. Bouton

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Enclosures

Prehearing Statement
DOCUMENT NUMBER - DATE
10757 OCT -8 96
FPSC-RECORDS/REPORTING

testimony
DOCUMENT NUMBER - DATE

7/10/96

**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

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

October 7, 1996

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DOCUMENT NUMBER-DATE

10756 OCT-8 88

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

1 **I. INTRODUCTION AND SUMMARY OF TESTIMONY**

2 **Q. PLEASE STATE YOUR NAME.**

3 A. Alex J. Harris

4 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS**
5 **PROCEEDING**

6 A. Yes. I filed direct testimony.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. My rebuttal testimony seeks to address issues raised in the direct testimony of
9 various parties filed before the Commission on the appropriate cost recovery
10 mechanism for currently available number portability. As I discussed in my
11 direct testimony the Federal Communications Commission's ("FCC") Portability
12 Order in CC Docket No. 95-116,^{1/} requires that the recovery method selected
13 must be competitively neutral.

14 **Q. WHAT MECHANISM IS MOST WIDELY RECOMMENDED?**

15 A. Almost all of the parties who filed direct testimony in this proceeding proposed
16 as their first choice the same approach proposed by MFS namely that the
17 Commission should require all parties to absorb their own costs of providing

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

1 portability. This approach not only fully complies with the “competitive
2 neutrality” requirement of the Telecommunications Act of 1996 and the
3 Portability Order, but is by far the easiest method to administer and most efficient
4 and cost-effective alternative. The widespread recommendation of this approach
5 by other parties strongly supports the adoption of this approach, as the one most
6 consistent with the Portability Order and the Telecommunication Act.

7 **Q. IF THE COMMISSION DOES NOT ADOPT THIS APPROACH WHAT**
8 **DOES MFS RECOMMEND?**

9 A. If the Commission decides to adopt an alternate cost recovery mechanism for
10 portability, MFS urges the adoption of the “net revenue” approach as described
11 more fully in my Direct Testimony. The other cost recovery mechanisms
12 suggested by the witnesses -- i.e., allocating costs on the basis of “working
13 numbers” or “active lines” -- simply do not comply with the Telecommunications
14 Act and the Portability Order. MFS believes that the only appropriate cost
15 recovery mechanism for portability, other than each carrier bearing its own costs,
16 is an approach whereby the Commission allocates portability costs on the basis
17 of the net revenues of all carriers operating in Florida. Under this approach, the
18 Commission would require all telecommunications carriers within the State of
19 Florida to contribute to a portability fund in direct proportion to their total
20 revenues from intrastate telecommunications operations (though with an offset

1 for payments to other carriers for intermediate telecommunications services
2 employed in the delivery of revenue-generating retail services). This mechanism
3 is the only one which fully complies with the Telecommunications Act because
4 it applies equally to all telecommunications carriers, is competitively neutral, and
5 other than each carrier bearing their own cost, is the most simple and efficient to
6 implement.

7 **II. COMPETITIVE NEUTRALITY IS THE FUNDAMENTAL**
8 **CONSIDERATION IN SELECTING A PORTABILITY COST**
9 **RECOVERY MECHANISM**

10 **Q. WHAT PRINCIPLE SHOULD GUIDE THE SELECTION OF ANY COST**
11 **RECOVERY MECHANISM FOR PORTABILITY?**

12 A. Both the Telecommunications Act and the Portability Order establish competitive
13 neutrality as the fundamental principle in the selection of the appropriate cost
14 recovery mechanism. The Telecommunications Act expressly provides that the

1 costs of portability -- calculated using TELRIC^{2/} -- must be shared by all
2 telecommunications carriers. Specifically, Section 252(e) states that:

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

6 (Emphasis added). Thus, consistent with the Act, all carriers providing intrastate
7 telecommunications services in Florida should contribute to the costs of
8 portability. This would include incumbent LECs, new LECs, Commercial
9 Mobile Radio Service providers and Interexchange Carriers.

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

^{2/} TELRIC ensures that portability costs are competitively neutral. TELRIC portability costs do not vary with the identity of the carrier forwarding calls to the customer's new service provider because TELRIC estimates incremental costs using a reconstructed, hypothetical network (constrained only by existing locations of the incumbent LEC's wire centers). Such a competitively neutral assessment of portability costs cannot be achieved by a cost study of portability functions within the incumbent LEC's existing network. With TELRIC, new entrants are not disadvantaged by having to contribute to portability costs inflated because of inefficiencies inherent in the incumbent LEC's existing network.

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

12 **Q. WHAT WOULD BE ANOTHER COMPETITIVELY NEUTRAL BASIS**
13 **UPON WHICH TO ALLOCATE PORTABILITY COSTS?**

14 A. A competitively neutral cost recovery mechanism cannot “give one service
15 provider an appreciable, incremental cost advantage over another service
16 provider, when competing for a specific subscriber.” *Portability Order* ¶ 132.
17 New entrants, therefore, cannot be saddled with the full costs of portability.
18 Rather, portability costs must be allocated among all telecommunications
19 carriers.

1 Consequently, MFS submits that competitive neutrality cannot be
2 achieved unless portability costs are recovered from all telecommunications
3 carriers in Florida, in direct proportion to each company's total revenues from
4 intrastate telecommunications operations, but with an offset for payments made
5 to other carriers for intermediate telecommunications services that are used in the
6 delivery of revenue-generating retail services.^{2/} The way in which this "net
7 revenue " approach would be implemented is explained in detail in my Direct
8 Testimony.

9 As described, this approach is competitively neutral because it does not
10 saddle new entrants — or incumbent LECs for that matter — with the entire
11 burden of funding portability and provides neither with a competitive advantage.
12 The net revenue approach also ensures that all carriers will make a proportionate
13 contribution to the costs of providing portability to end users. This approach is
14 approvingly cited in the FCC's Portability Order. *Portability Order* ¶ 136.

15 **III. THE ALTERNATE RECOVERY MECHANISMS SUGGESTED**
16 **ARE NEITHER COMPETITIVELY NEUTRAL NOR COMPLIANT**
17 **WITH APPLICABLE LAW**

^{2/} Such payments include those for switched access, interconnection, unbundled network elements, reciprocal compensation, and resold bundled services.

1 **Q. WHILE MOST PARTIES FAVOR THE APPROACH OF EACH**
2 **CARRIER BEARING ITS OWN COSTS, ARE THE ALTERNATE COST**
3 **RECOVERY APPROACHES SUGGESTED BY OTHER PARTIES TO**
4 **THIS PROCEEDING COMPETITIVELY NEUTRAL?**

5 A. No. Each of the portability cost recovery methods proposed as alternatives --
6 i.e., allocating costs on the basis of "working numbers" or "active lines" -- in the
7 event the Commission does not adopt their preferred approach, simply do not
8 comply with the Telecommunications Act and the Portability Order. Each of
9 these methods would operate to exclude certain carriers from the obligation to
10 contribute to the cost of portability. The Act unambiguously mandates that all
11 carriers must contribute to such costs. The net revenue approach advocated by
12 MFS is the only method which insures contribution by all carriers on a
13 competitively neutral basis. While the alternate approach advocated by GTE is
14 consistent with that of MFS, it is far too complicated to offer a viable alternative.
15 Of all alternate recovery methods proposed, the net revenue approach is certainly
16 the most efficient and simple to administer.

17 **Q. CAN YOU BE MORE SPECIFIC?**

18 A. Yes. The allocation of costs on the basis of the numbers each carrier has would
19 operate to exclude IXCs and CMRSs from the obligation to contribute to the
20 costs of portability as numbers are assigned only to local carriers. A similar

1 result is obtained if the basis of allocation is a carrier's number of active lines.
2 In either case, certain carriers are impermissibly excused from participating in the
3 costs of portability. Thus, while Time Warner's first choice is for each company
4 to bear its own costs, its alternate approach would exclude CMRSs and IXCs.
5 ATT Wireless, which also recommends that each carrier bears its own costs,
6 proposes an alternate that would improperly exclude CMRSs. ATT, while also
7 favoring the approach of each carrier bearing its own costs, proposes as an
8 alternate the model adopted prior to the Portability Order in New York that
9 would conveniently excuse ATT from the obligation to share portability costs.
10 MCI metre, which also supports each carrier bearing its own costs, proposes an
11 alternate which would limit cost recovery to CLECs and LECs, a result
12 inconsistent with the requirement that all carriers bear the costs of portability.
13 These alternate cost recovery mechanisms fail to satisfy the competitive
14 neutrality requirement, and, in fact, are inconsistent with the explicit language
15 of the Act. The Commission must reject any cost recovery method that fails to
16 impose contribution obligations equally on all carriers.

17 **Q. DO YOU AGREE WITH SPRINT'S PROPOSED METHOD OF COST**
18 **RECOVERY?**

19 A. No. Sprint's proposal is cumbersome requiring that the Commission at this time
20 undertake a TELRIC study of the costs of number portability. Sprint's proposal

1 is apparently based on TSLRIC and not TELRIC. Because TELRIC costs are
2 based on the costs of a forward-looking network and not Sprint's, Sprint's cost
3 studies cannot be used. Moreover, Sprint's proposal would exclude Sprint's long
4 distance company from any obligation to bear a proportionate share of the
5 number portability costs. An approach which does not include all carriers is not
6 competitively neutral and fails to recognize that all carriers and all end users
7 benefit from the availability of number portability as a part of the network.

8 **IV. CURRENT TARIFFS CANNOT BE PRESERVED UNDER THE**
9 **TELECOMMUNICATIONS ACT AND PORTABILITY ORDER**

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

12 A. Yes, it should suspend current tariffs that establish charges for portability
13 arrangements. Indeed, the FCC has explicitly ruled that any cost recovery
14 mechanism that requires new entrants to bear all of the costs of portability does
15 not comply with Section 252(e) of the 1996 Act. *Portability Order* ¶ 138. Thus,
16 maintaining the current tariffed charges imposed by incumbent LECs on
17 purchasers of portability violates the Act. The current tariffs must be suspended,
18 and the Commission must adopt a cost recovery mechanism as mandated by the
19 Act and the Portability Order. BellSouth's suggestion that the current tariff s
20 should be maintained is an approach that would have the Commission disregard

1 the applicable law, and, as such, must be dismissed out of hand. The fact that
2 BellSouth has sought reconsideration of the Portability Order does not change the
3 fact that it is a currently effective order which this Commission may not ignore.

4 **V. RETROACTIVE APPLICATION OF COST RECOVERY IS**
5 **PERMISSIBLE**

6 **Q. DOES THE TELECOMMUNICATIONS ACT OR THE PORTABILITY**
7 **ORDER PRECLUDE THE RETROACTIVE APPLICATION OF THE**
8 **COMMISSION'S DECISION?**

9 A. MFS believes that under the Portability Order and the Telecommunications Act
10 it is permissible for the Commission to apply its decision retroactively. Nothing
11 in either the Telecommunications Act or the Portability Order precludes such an
12 application. Indeed, none of the testimony filed with the Commission in this
13 matter argues the contrary. The Commission will need to resolve the effect of
14 such action under Florida law. To the extent it may not retroactively change the
15 number portability rates, as BellSouth argues, it clearly undermines BellSouth's
16 proposal that the Commission leave the tariffs in place when they clearly violate
17 the Portability Order.

18 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

19 A. Yes.

**CERTIFICATE OF SERVICE
DOCKET NO. 950737-TP**

I hereby certify that on the 7th day of October 1996, copies of Rebuttal Testimony of Alex J. Harris On Behalf Of MFS Communications Company, Inc., and the Prehearing Statement of MFS Communications Company, Inc. were served by first class mail, postage prepaid, on the following:

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