BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into pricing of unbundled network elements.	DOCKET NO. 990649-TP ORDER NO. PSC-01-1407-PCO-TP ISSUED: June 29, 2001

ORDER GRANTING, IN PART, AND DENYING, IN PART, MOTIONS FOR CONTINUANCE AND EXTENSION OF TIME

On December 10, 1998, in Docket No. 981834-TP, the Florida Competitive Carriers Association (FCCA), the Telecommunications Resellers, Inc. (TRA), AT&T Communications of the Southern States, Inc. (AT&T), MCIMetro Access Transmission Services, LLC and WorldCom Technologies, Inc. (MCI WorldCom), the Competitive Telecommunications Association (Comptel), MGC Communications, Inc. (MGC), Intermedia Communications Inc. (Intermedia), Supra Telecommunications and Information Systems (Supra), Florida Digital Network, Inc. (Florida Digital Network), and Northpoint Communications, Inc. (Northpoint) (collectively, "Competitive Carriers") filed their Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory. Among other matters, the Competitive Carriers' Petition asked that this Commission set deaveraged unbundled network element (UNE) rates.

On May 26, 1999, this Commission issued Order No. PSC-99-1078-PCO-TP, granting in part and denying in part the Competitive Carriers' petition. Specifically, we granted the request to open a generic UNE pricing docket for the three major incumbent local exchange providers, BellSouth Telecommunications, Inc. (BellSouth), Sprint-Florida, Incorporated (Sprint), and GTE Florida Incorporated (GTEFL). Accordingly, this docket was opened to address the deaveraged pricing of UNEs, as well as the pricing of UNE combinations and nonrecurring charges. An administrative hearing was held on July 17, 2000, on the Part One issues identified in Order No. PSC-00-2015-PCO-TP, issued June 8, 2000. Part Two issues, also identified in Order No. PSC-00-2015-PCO-TP, were heard in an administrative hearing on September 19-22, 2000. On August 18, 2000, Order No. PSC-00-1486-PCO-TP was issued granting Verizon Florida Inc.'s (formerly GTEFL) Motion to Bifurcate and Suspend Proceedings, as well as Sprint's Motion to Bifurcate Proceedings, for a Continuance and Leave to Withdraw Cost Studies and Certain Testimony.

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Thereafter, on March 12, 2001, Order No. PSC-01-0551-PCO-TP was issued granting, in part, and denying, in part, motions for extensions of time and revising the schedule. The dates for filings and discovery responses were adjusted to give the parties additional time, while adhering to the schedule for a final decision.

On June 5, 2001, MCI WorldCom, AT&T, and Covad Communications Corporation (Covad) (collectively the Movants) filed a Motion for Continuance. In it they requested that the final hearings in Phase III of this docket, relating to Verizon and Sprint, be continued until after the conclusion of the additional Phase II proceedings involving BellSouth, with the parties to be directed to submit a specific proposal for new hearing dates and related prehearing activities within ten days of the order granting continuance.

Specifically, the Movants state that the continuance is needed because resource limitations will make it impossible for them to fully analyze and respond to the Verizon and Sprint cost studies under the current schedule. The companies cite numerous regulatory proceedings in Florida and other southeastern states in which they are currently involved. The Movants also note that Verizon does not oppose the motion, provided the Movants withdraw their pending motion regarding the use of the BellSouth Loop Model (BSTLM) in the Verizon phase of this docket, and Verizon is permitted to withdraw the cost study and testimony filed on May 18, 2001, and then refile an updated study and testimony for the rescheduled hearing. Verizon also indicates that its agreement is contingent upon the rates ultimately set in this docket to recover Verizon's non-recurring loop qualification costs (loop makeup information) being retroactive to October 2, 2001, the date of the currently scheduled Agenda Conference in Phase III of this docket. The conditions as set forth by Verizon were accepted by the Movants.

On June 12, 2001, Sprint filed its Response to Motion for Continuance. In it, Sprint objects to any further delay in the proceeding as it relates to Sprint's cost studies and supporting testimony. Sprint notes that it has filed its cost study and testimony twice, and that an untimely delay would require the studies to be re-filed, and increase the risk that subsequent federal and/or judicial intervention could change the rules yet again. Sprint also notes that the very parties who now seek a

continuance opposed Sprint's earlier request for a delay in filing its testimony. Sprint states that it is also interested in seeing the Verizon case proceed as scheduled, as it is currently in the process of developing an interconnection agreement with Verizon in Florida. Certain issues in that agreement are currently in arbitration before this Commission, and Sprint asserts that reasonable, cost-based, deaveraged prices are integral to that agreement. Sprint further alleges that any further delay in the hearing will delay the day that such prices are achieved.

On June 15, 2001, Z-Tel Communications, Inc. (Z-Tel) filed its Response to Joint Motion of WorldCom, AT&T, and Covad for a Continuance and Alternative Motion for Extension of Time. In its response, Z-Tel states that, like the Movants, its resources are severely strained by the demands of regulatory proceedings in this and other jurisdictions. Z-Tel asks for a continuance of the hearing schedule to enable Z-Tel to fully protect its interests, and for this Commission to have an adequate record on which to base a decision on this important matter. However, Z-Tel does not support a continuance until February, 2002, but asserts that a continuance of 90-120 days will be sufficient to allow the parties to prepare their cases without unduly delaying the implementation of cost-based UNE rates. Z-Tel states that its reason for opposing a greater continuance is the prohibitively high UNE rates currently being charged by Verizon. Z-Tel requests that in the event the full continuation is denied, we continue the proceeding as it relates to Verizon for a period of 90-120 days, and reschedule filing dates as recommended in its motion.

On June 18, 2001, Verizon replied to Sprint's Response to Motion for Continuance. While indicating that it does not oppose the motion of the Movants, and is indifferent to whether Sprint's case is continued or not, Verizon states that Sprint has offered no legitimate reason for this Commission to refuse to grant a continuance of Verizon's case. Verizon notes that the arbitration between itself and Sprint will make UNE rates an issue in that proceeding, and the timetable there is not tied to this UNE proceeding. Verizon asserts that had Sprint intended to wait for UNE rates to be set in this generic case, it would not have raised UNE rate levels as an issue there also. Verizon cautions us to be wary of Sprint's efforts to preserve two tracks to litigate the same issues. It is also Verizon's position that the continuance

requested increases the likelihood that the U.S. Supreme Court will have settled the issue by the time this Commission takes up Verizon's case.

Upon consideration, the Motion for Continuance filed by WorldCom, AT&T, and Covad, is granted, in part, and denied, in part. The Alternative Motion for Extension of Time filed by Z-Tel is likewise granted, in part, and denied, in part. It is in the public interest that the issues in this docket be resolved in the shortest time frame possible. The Commission is charged with enhancing competition in this state, and establishing reasonable, cost-based, deaveraged prices for unbundled network elements will forward that goal significantly. The irony of ALECs asking for a continuance in this matter is not lost on me. The Movants' inability to proceed in a timely manner is not well juxtaposed with their claim of wanting to bring competition to the market as soon as possible.

However, diminished participation by the Movants in this case is of significant concern. UNE rates that are established without a complete record do little to ensure that competition is, in fact, enhanced within the State. We must have the opportunity to examine and weigh the competing issues and testimony of the parties. By doing so, the end product UNE rates we establish will be the result of balanced deliberations, and will better serve the people of Florida through enhanced competition. The dates as established in this Order, along with a commitment by the parties involved to resolve this matter within the appointed time frame, will increase prospects of competition in Florida. As such, the Movants' Motion for Continuance is granted, in part, and the schedule shall be revised as follows:

1)	Status Conference	July 9, 2001
2)	Prehearing Conference	February 18, 2002
3)	Hearing	March 11-13, 2002

Furthermore, all filing dates currently scheduled shall be indefinitely continued. At the status conference, the parties shall have an opportunity to provide input as to the scheduling of the remainder of the filings. Whether testimony already submitted

shall be withdrawn and re-filed, or supplemented, shall also be discussed at the status conference, with an Order further modifying the procedure and filing dates to follow. Parties should also be prepared to discuss any problems or concerns they are having, including the models as currently submitted.

Additionally, Verizon conditioned its lack of opposition, and the Movant's agreed, upon the rates in this docket to recover Verizon's non-recurring loop qualification costs (loop makeup information) being retroactive to October 2, 2001. As the Movants to this motion have agreed to this condition, and no other party has come forth in opposition to this condition, I find it to be acceptable.

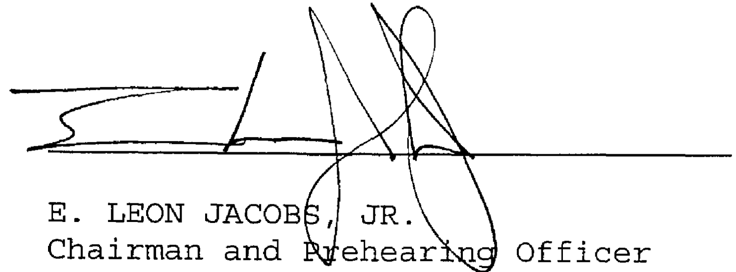
Based on the foregoing, it is

ORDERED by Chairman E. Leon Jacobs, Jr., as Prehearing Officer, that the Joint Motion for Continuance of MCI WorldCom, Inc., AT&T Communications of the Southern States, Inc., and DIECA Communications Company d/b/a Covad Communications Company is granted, in part, and denied, in part. The Alternative Motion for Extension of Time of Z-Tel Communications, Inc. is granted, in part, and denied, in part, as set forth in the body of this Order. It is further

ORDERED that the schedule and provisions pertaining to filings are modified as set forth in the body of this Order. It is further

ORDERED that the rates to recover Verizon's non-recurring loop qualification costs (loop makeup information), when determined, shall be retroactive to October 2, 2001.

By ORDER of Chairman E. Leon Jacobs, Jr. as Prehearing Officer, this 29th Day of June, 2001.



E. LEON JACOBS, JR.
Chairman and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.