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Florida Cable Telecommunications Association

Steve Wilkerson, President

VIA HAND DELIVERY

March 28, 2002

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

RE: Docket No. 000075-TP

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and 15 copies of the Florida Cable Telecommunications Association's Prehearing Statement.

Copies of the Prehearing Statement have been served on the parties of record pursuant to the attached certificate of service. Please acknowledge receipt of filing of the above by stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing. Please contact me with any questions.

Sincerely,

Michael A. Gross
Vice President, Regulatory Affairs &
Regulatory Counsel

AUS ___
CAF ___ MAG/mj
CMP ___
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CTR ___
ECR ___
GCL ___ cc: All Parties of Record
OPC ___
MMS ___
SEC 1
OTH ___

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Cable Telecommunications Association's Prehearing Statement in Docket 000075-TP has been furnished by U.S. Mail delivery this 25th day of March, 2002:

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Michael A. Gross

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996	)))))	**Docket No. 000075-TP** **Filed: March 28, 2002**

PREHEARING STATEMENT OF THE FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION

Florida Cable Telecommunications Association (FCTA), pursuant to Order No. PSC-02-0139-PCO-TP, issued on January 31, 2002, of the Florida Public Service Commission, files its Prehearing Statement and states:

A. WITNESSES

The FCTA will present the following witnesses to offer testimony on the issues in this docket:

Witness	Proffered by	Issues #
William J. Barta	FCTA	17(a), 17(b), 17(c), 17(d)
Dr. Lee Selwyn*	FCTA	13 and 17

* The FCTA, jointly with AT&T Communications of the Southern States, Inc., TCG of South Florida, Global NAPS, Inc., MediaOne Florida Telecommunications, Inc., Time Warner Telecom of Florida, L.P., and the Florida Competitive Carriers Association, sponsors the excerpts of Dr. Lee Selwyn's previously filed testimony refiled on March 1, 2002. To the extent that Dr. Selwyn's refiled testimony incorporates portions of his Phase I direct testimony, the FCTA supports his testimony only with respect to his comments and recommendations regarding Issue Nos. 13 and 17.

B. EXHIBITS

Witness	Proffered by	I.D. No.	Description
William J. Barta	FCTA	WJB-1	Qualifications

C. BASIC POSTION

The Commission is seeking to establish the most appropriate compensation mechanism to govern the transport and delivery of traffic subject to Section 251 of the Telecommunications Act of 1996 ("the 1996 Act") in the event that carriers cannot successfully negotiate an agreement. In its Order on Remand and Report and Order ("ISP Remand Order") released on April 27, 2001, the Federal Communications Commission ("the FCC"), asserted its jurisdiction over ISP-bound traffic by declaring such traffic to be interstate information access traffic under Section 251(g) of the 1996 Act. Since the ISP Remand Order is currently on appeal but still legally effective, it is not necessary for the Florida Public Service Commission to address the issue of the appropriate compensation mechanism for ISP-bound traffic at this time.

The Commission should require that a reciprocal compensation mechanism be used to govern intercarrier compensation of the local exchange traffic that remains under its jurisdiction. The reciprocal compensation, using symmetrical rates, should be based upon the forward-looking costs of the incumbent local exchange carriers ("the ILECs") as approved by the Commission.

The benefits of implementing reciprocal compensation as a default mechanism far outweigh the consideration of bill and keep regime as an alternative. Bill and keep may be a suitable arrangement only in limited circumstances; namely where the traffic flow between carriers is approximately even and the cost structures are essentially the same. The potential pitfalls of bill and keep are numerous. The introduction of bill and keep can foster market uncertainty as the financial impact upon alternative local exchange carriers ("ALECs") remains unknown until it is in effect. Bill and keep may also encourage new forms of regulatory gamesmanship in the form of network configuration and in the attempt to disguise the nature of traffic.

Most significantly, the use of bill and keep as a default compensation mechanism allows the ILECs to exercise their superior bargaining strength. The establishment of bill and keep as a default mechanism provides the ILECs the opportunity to capitalize upon their strong preference for bill and keep. The arms-length negotiations that should characterize the agreements between ILECs and ALECs will be undermined as the ILECs can hold steadfast, secure in the knowledge that a bill and keep regime is the ultimate regulatory remedy to resolve any impasse between the parties.

Perhaps the most prudent course of action for the Commission to follow is to await the outcome of ISP Remand Order appeal and the federal rulemaking investigating the merits of a uniform intercarrier compensation mechanism. Each of the ILECs refers to the deliberations at the federal level and supports a wait and see approach. Sprint has also pointed out that when an ILEC has adopted the FCC's interim compensation mechanism for ISP traffic, it must apply reciprocal compensation to the rest of the local traffic by default. Thus, the need for a default billing mechanism in this proceeding may be moot.

D.-F. POSITIONS ON THE ISSUES

ISSUE 17

Should the Commission establish compensation mechanisms governing the transport and delivery or termination of traffic subject to Section 251 of the Act to be used in the absence of the parties reaching agreement or negotiating a compensation mechanism? If so, what should be the mechanism?

FCTA Position

The Commission should continue its policy of requiring reciprocal compensation for the local traffic (i.e. non-ISP-bound traffic) that remains under its jurisdiction. The Commission's current rules require that symmetrical rates, based upon the ILECs' Commission-approved forward-looking costs, serve as the default reciprocal compensation mechanism.

As an alternative, the Commission could await the outcome of the ISP Remand Order appeal and the federal rulemaking investigating the merits of a uniform intercarrier compensation mechanism. This position is consistent with the recommendation of the ILECs that the Commission adopt a wait and see approach based upon the proceeding at the federal level.

ISSUE 17(a)

Does the Commission have jurisdiction to establish bill and keep?

FCTA Position

The Commission has jurisdiction to establish bill and keep for non-ISP-bound local traffic under certain circumstances. The Commission can establish bill and keep if neither carrier has rebutted the presumption of symmetrical rates and if the flow of traffic between the carriers' networks is approximately equal. Furthermore, as Sprint has pointed out, if an ILEC has opted-in to the FCC's intercarrier reciprocal compensation mechanism for ISP-bound traffic, then reciprocal compensation must be applied to the remaining local traffic by default.

ISSUE 17(b)

What is the potential financial impact, if any, on ILECs and ALECs of bill and keep arrangements?

FCTA Position

The ILECs should receive an immediate and substantial stream of cash flow, because they no longer have the obligation to compensate the ALECs for terminating calls that are originated on their networks. On the other side of the coin, the ALECs will not recover the revenue earned for transporting and terminating the local traffic that is originated by the ILECs' customers.

ISSUE 17(c)

If the Commission imposes bill and keep as a default mechanism, will the Commission need to define generically "roughly balanced?" If so, how should the Commission define "roughly balanced?"

FCTA Position

If bill and keep is imposed by the Florida Public Service Commission as a default mechanism, then the carriers' non-ISP-bound local traffic must be measured for "roughly balanced" traffic loads. A percentage or dollar threshold could be established where a carrier would not be obligated to compensate the interconnecting carrier unless the net minutes-of-use for terminating traffic resulted in an amount that exceeded the prescribed threshold. The non-ISP-bound local traffic flows between interconnecting carriers should be measured as accurately as possible for each six-month period the interconnection agreement remains in effect.

ISSUE 17(d)

What potential advantages or disadvantages would result from the imposition of bill and keep arrangements as a default mechanism, particularly in comparison to other mechanisms already presented in Phase II of this docket?

FCTA Position

Several disadvantages are likely to result from a Commission decision to impose a bill and keep arrangement. New administrative and marketing costs will be borne by both the ILECs and the ALECs. In addition, the market uncertainty that may accompany a shift to bill and keep carries its own set of cost burdens.

Bill and keep is also likely to promote new forms of regulatory gamesmanship. Most importantly, bill and keep arrangements play right into the hands of the superior bargaining power that the ILECs hold. The ILECs strongly support a bill and keep regime. Thus, if bill and keep is imposed as the default mechanism, then one can expect the ILECs to rely upon this regulatory tool to resolve impasses that would be more equitably dealt with in true arms-length negotiations.

G. STIPULATED ISSUES

The FCTA entered into a Stipulation on January 25, 2002. The Stipulation declared that in light of the ISP Remand Order, the Florida Public Service Commission should decline to rule on the issues presented in Docket No. 000075-TP, Phase I, and should suspend any further activity in this docket pertaining to Phase I issues. Because the ISP Remand Order is currently subject to court review, however, the record from the Phase I hearing conducted on March 7-9, 2001, should be preserved.

H. PENDING MOTIONS

The FCTA has no pending motions or other matters it seeks action upon.

I. CONFIDENTIALITY CLAIMS

The FCTA has no pending requests or claims for confidentiality of any material filed.

J. COMPLIANCE WITH REQUIREMENTS OF ORDER NO.PSC-02-0139-PCO-TP

There are no requirements of Order No. PSC-02-0139-PCO-TP with which FCTA cannot comply.

K. IMPACT OF PENDING DECISIONS OF THE FCC OR ANY COURT

As noted above, the FCC's ISP Remand Order is currently under court review and the outcome of the appeal may affect many of the issues being deliberated by the Florida Commission. In addition, the FCC rulemaking on uniform intercarrier compensation (Notice of Proposed Rulemaking, CC Docket No. 01-92, April 27, 2001) may ultimately affect the extent of the Commission's authority in this area.

L. OBJECTIONS TO ANY WITNESS'S QUALIFICATIONS AS AN EXPERT

The FCTA has no objections to any witness's qualifications as an expert in this docket.

Respectfully submitted this 25th day of March, 2002.

Michael A. Gross
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and Regulatory Counsel
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