BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into temporary local telephone number portability solution to implement competition in local exchange telephone markets.	DOCKET NO. 950737-TP ORDER NO. PSC-95-1604-FOF-TP ISSUED: December 28, 1995

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

APPEARANCES:

Michael W. Tye, Esquire, 106 East College Avenue, Suite 1410, Tallahassee, Florida 32301 and Robin D. Dunson, Esquire, 1200 Peachtree St., NE, Promenade I, Room 4038, Atlanta, Georgia 30309.
<u>On behalf of AT&T Communications of the Southern States, Inc.</u>

Marsha E. Rule, Esquire, Wiggins & Villacorta, P.A., Post Office Drawer 1657, Tallahassee, Florida 32302.
<u>On behalf of BellSouth Mobility Inc.</u>

Laura L. Wilson, Esquire, Charles F. Dudley, Esquire, 310 N. Monroe Street, Tallahassee, Florida 32301.
<u>On behalf of Florida Cable Telecommunications Association, Inc.</u>

Angela B. Green, Esquire, 125 S. Gadsden Street, Suite 200, Tallahassee, Florida 32301.
<u>On behalf of Florida Public Telecommunications Association, Inc.</u>

Kimberly Caswell, Esquire, Post Office Box 110, FLTC0007, Tampa, Florida 33601.
<u>On behalf of GTE Florida Incorporated.</u>

Patrick K. Wiggins, Esquire, Wiggins & Villacorta, P.A., Post Office Drawer 1657, Tallahassee, Florida 32302.
<u>On behalf of Intermedia Communications of Florida, Inc.</u>

Floyd R. Self, Esquire and Norman H. Horton, Jr., Esquire, Messer, Caparello, Madsen, Goldman & Metz, P.A., Post Office Box 1876, Tallahassee, FL 32302-1876
On behalf of McCaw Communications of Florida, Inc.

Richard D. Melson, Esquire, Post Office Box 6526, 123 South Calhoun Street, Tallahassee, Florida 32314 and Michael J. Henry, Esquire, MCI Telecommunications Corp., 780 Johnson Ferry Road, Suite 700, Atlanta, Georgia 30346.
On behalf of MCI Metro Access Transmission Services, Inc.

Richard M. Rindler, Esquire, James C. Falvey, Esquire, Swidler & Berlin, Chartered, 3000 K Street, N.W., Suite 300, Washington, D.C. 20007.
On behalf of Metropolitan Fiber Systems of Florida, Inc.

Robert G. Beatty, Esquire, J. Phillip Carver, Esquire, R. Douglas Lackey, Esquire, Nancy B. White, Esquire, c/o Nancy H. Sims 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301.
On behalf of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company.

C. Everett Boyd, Jr., Esquire, Ervin, Varn, Jacobs, Odom & Ervin, 305 S. Gadsden Street, Tallahassee, Florida 32301.
On behalf of Sprint Communications Company Limited Partnership.

Lee L. Willis, Esquire, J. Jeffry Wahlen, Esquire, Macfarlane, Ausley, Ferguson & McMullen, P. O. Box 391, Tallahassee, Florida 32302.
On behalf of Central Telephone Company of Florida and United Telephone Company of Florida.

Peter M. Dunbar, Esquire, Charles W. Murphy, Esquire, Pennington & Haben, P.A., Post Office Box 10095, Tallahassee, Florida 32302-2095.
On behalf of Time Warner AxS of Florida, L.P. and Digital Media Partners.

Monica M. Barone, Esquire, Tracy Hatch, Esquire Gerald L. Gunter Building, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
On behalf of the Commission Staff.

FINAL ORDER

BY THE COMMISSION:

TABLE OF CONTENTS **PAGE**

PARTIES OF RECORD

The parties will be referred to throughout this Order by the abbreviations shown below:

AT&T Communications of the Southern States, Inc.	ATT-C
GTE Florida Incorporated	GTEFL
MCI Metro Access Transmission Services, Inc.	MCI
Metropolitan Fiber Systems of Florida, Inc.	MFS
BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company	SBT
Central Telephone Company of Florida and United Telephone Company of Florida	Centel/United
Time Warner AxS of Florida, L.P. and Digital Media Partners	Time Warner
BellSouth Mobility Inc.	BMI
Florida Cable Telecommunications Association, Inc.	FCTA
Florida Public Telecommunications Association, Inc.	FPTA
Intermedia Communications of Florida, Inc.	Intermedia
McCaw Communications of Florida, Inc.	McCaw
Sprint Communications Company Limited Partnership	Sprint

I. **INTRODUCTION**

Section 364.16(4), Florida Statutes, which became effective on July 1, 1995, requires the Commission to ensure the implementation of a temporary number portability solution prior to the introduction of competition in the local exchange market. This section specifically states:

> In order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines.

Section 364.16(4), Florida Statutes, also requires the parties, under the direction of the Commission, to set up a number portability standards group by no later than September 1, 1995, for the purposes of investigation and development of appropriate parameters, costs and standards for number portability. The number portability standards group was formed and met numerous times. However, since we are required to ensure the establishment of a temporary number portability solution by January 1, 1996, we established an expedited hearing schedule in the event the parties could not negotiate a mechanism by the statutory deadline.

Although Section 364.16 (4), Florida Statutes, addresses both temporary and permanent number portability, this proceeding is limited to consideration of the appropriate parameters for the development of a temporary number portability mechanism in Florida. We will open another docket to address the development of a permanent solution.

On June 29, 1995, we established this docket to investigate the appropriate temporary local number portability solution as contemplated by the statute. A workshop was held on July 20, 1995, to address the following topics:

1. Establishment of the Number Portability Standards Group.
2. Appropriate issues for the October hearing.
3. The possibility of stipulating the issues in this proceeding.
4. Investigation of a permanent number portability solution once the temporary solution is established.

After the initial workshop, the parties and staff met on four separate occasions, August 3, August 15, August 22, and August 25, in an attempt to develop a stipulation for the issues in this proceeding. The parties submitted a proposed stipulation on August 31, 1995, which addressed some, but not all, of the issues identified in this docket. By Order No. PSC-95-1214-AS-TP issued on October 3, 1995, we approved the stipulation. See attachment A to this Order.

The stipulation requires the Local Exchange Companies (LECs) to offer certificated Alternative Local Exchange Companies (ALECs) remote call forwarding (RCF) as the mechanism to provide temporary number portability by January 1, 1996, while allowing the parties to continue to negotiate on other mechanisms, such as Flex DID, if so desired. Likewise, ALECs shall offer RCF to the LECs effective on the date they begin to provide local exchange telephone service. The parties have agreed that the price charged by the ALECs will mirror the price of the LECs. In addition, the parties agree that RCF is a temporary mechanism for number portability. They do not believe that RCF is feasible as a long term number portability mechanism. Therefore, the parties, via the stipulation, have agreed to continue to work to investigate and develop a permanent number portability solution.

We conducted an evidentiary hearing on October 20, 1995, wherein various parties presented evidence and arguments on the remaining issues to be decided in this docket. These issues are: the advantages and disadvantages of RCF, the price to be charged for RCF, the cost recovery mechanism to be used for RCF, and implementation items identified during the hearing. Our decision, based on the evidence in the record, is set forth below.

II. ADVANTAGES AND DISADVANTAGES OF REMOTE CALL FORWARDING

Some LECs believe that we do not need to make a determination regarding the advantages and disadvantages of RCF since it is the stipulated mechanism to be used in the provision of temporary number portability in Florida. However, some potential competitors believe the advantages and disadvantages should be considered when determining the appropriate price the LECs should charge for RCF. We agree with the latter group; however, we do not believe any advantage or disadvantage can be attributed to any one carrier. The advantages or disadvantages are merely a reality of the current telecommunications network and some of the problems associated with moving to a competitive environment.

Before we address the specific advantages and disadvantages, we believe it is important to explain how they will be evaluated.

We are required by Section 364.16 (4), Florida Statutes, to ensure that a temporary number portability mechanism is in place prior to the introduction of local exchange competition. It appears the statute intends that a customer have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up its existing local telephone number. We interpret this requirement to mean that the provision of number portability should be transparent in all aspects to the customer, if possible. We also believe that an advantage or disadvantage should be evaluated not only by the impact on customers, but also by the impact on carriers.

The parties have identified numerous advantages and disadvantages in using RCF to provide temporary number portability. Listed below are the major advantages and disadvantages of RCF identified in this proceeding. Although the parties identified additional advantages and disadvantages, we find that they are encompassed in the lists below:

Advantages

1. RCF will be provisioned using existing translation routines and can be delivered directly from an end office to the ALEC.

2. RCF is a known and well understood offering generally available in all offices.

3. RCF will not require additional trunking requirements with low call volume. The RCF'd call would traverse the normal interoffice trunking network.

4. RCF allows end users to change local service providers while retaining their existing telephone number, with minimal impact to the incumbent LEC's customer base and network.

5. Only one translation change per path is required.

6. Screening list CLASS features in the customer's new central office still work.

7. RCF supports the use of SS7 signaling.

8. RCF can be applied on a line-by-line basis.

Disadvantages

1. Two telephone numbers are required for each portable number arrangement using RCF.

2. Calls from a ported number may not allow for full CLASS feature transparency.

3. Potential call set-up of an additional delay of .5 to 5 seconds is possible depending upon the network configuration and signaling protocols.

4. The engineered capability of a given switch may pose a problem in regard to the number of call forwarded calls the switch can handle at a given time.

5. Some call flow scenarios would require additional trunking.

6. All calls must be routed to the LECs' switches before they can be forwarded to ALECs.

7. The actual network number (for a ported number) is not known to customers.

8. Administration is required to insure the appropriate RCF changes are made in the affected office when a customer moves to a new local service provider.

9. RCF for two paths is necessary to enable call waiting for the ported customer.

10. The incumbent LEC remains in the revenue stream for terminating access revenues.

11. For 911 purposes, it is not clear that the ported number would be able to be displayed at the PSAP in all cases, and if it is, it will require training of the PSAP operator.

For the most part, the parties to this proceeding do not per se strongly disagree with the list of advantages and disadvantages identified above. However, some of the LECs are concerned with using a Commission approved list of advantages and disadvantages when establishing the prices for RCF. These concerns are discussed in detail below.

Exhibit seven (7) in this proceeding consisted of a list of eight (8) advantages and thirteen (13) disadvantages compiled from the testimony of the parties. Sprint's witness Poag states that disadvantages two (2) and twelve (12) listed on exhibit 7 are very similar. Therefore, he suggests that we eliminate number 2. These disadvantages are:

2. Calls from a ported number may not allow for full CLASS feature transparency.

12. CLASS features Automatic Recall and Automatic Call Back are disabled following a call to the ported number.

Time Warner's witness Engleman disagrees that these disadvantages are redundant and believes they should be listed separately. Witness Engleman, however, recognizes that disadvantage two (2) is a generic statement that encompasses disadvantage twelve (12). Upon consideration, we find that since disadvantage twelve (12) appears to be encompassed in disadvantage two (2), they can be combined into a single disadvantage which is designated disadvantage two (2) in the list above.

Disadvantage two (2) recognizes that some of the parties believe that RCF as a temporary number portability solution may not allow for full CLASS feature transparency. In addition, Time Warner's witness Engleman states that CLASS features, Automatic Recall and Automatic Call Back, are disabled following a call to a ported number. Further, he states that CALLER ID will not show the ported number when the ported customer originates a call. Sprint's witness Poag claims his company has tested the call return, which is Automatic Recall and Automatic Call Back, and for his company these CLASS features work. However, Witness Poag agrees that Caller ID does not work for any call originated from a ported number. GTEFL and SBT both indicate that RCF utilized as a temporary number portability arrangement may have some impact on existing CLASS features.

Upon consideration, even though Sprint has successfully tested the impact of RCF used to provide temporary number portability on call return service, we find that limited testing does not guarantee that all CLASS features are transparent to customers. The evidence shows that there may not only be some problems for customers with ported numbers for CLASS services, but even customers that do not want to port their number will have some problems with CLASS services such as CALLER ID. Since one of the criteria to evaluate a disadvantage is whether it is transparent to the customer, we believe the fact that calls from a ported number may not allow for full CLASS feature transparency is a disadvantage of using RCF as a temporary number portability mechanism.

Sprint's witness Poag is also concerned about disadvantage three (3) which states that the potential of an additional call set-up delay of .5 to 5 seconds is possible depending upon the network configuration and signaling protocols. Witness Poag believes the delay for most calls is insignificant based on test calls using direct dial versus RCF to a ported number. SBT's witness Kolb stated in his deposition that a call would experience an additional delay of approximately .5 seconds per switch. Once again Sprint tested the call set-up delay and determined that some calls would experience additional delay and some would not. However, witness Poag did indicate that, in his test, there was an additional delay for some local calls, as well as approximately a 2 second call delay for long distances calls. Upon consideration, we find that this limited testing does not disprove the belief that the use of RCF will adversely impact the call set-up delay. On the contrary, this evidence supports this specific disadvantage since the wording states that there could be a potential call set-up delay with the use of RCF as a temporary number portability mechanism. Accordingly, we find that the potential call set-up delay is a disadvantage.

Sprint's witness Poag does not believe disadvantage seven (7) is a disadvantage since the ALEC can publish the network numbers to their customers. This assertion stems from situations such as when a customer with a ported number calls 911 or a customer subscribes to Caller ID. What appears to the person at the terminating end of the call may be the network number and not the ported number. This could cause substantial customer confusion. Time Warner's witness Engleman believes service provider number portability by its very nature is supposed to be transparent to the customer who derives the benefit. We agree with witness Engleman. An arrangement which requires that a customer be informed of a network number in order to minimize confusion is not transparent to the customer. Upon consideration, we agree with witness Engleman and find that this is a disadvantage.

None of the LEC witnesses indicate that their particular company will have any problem providing 911 service. Therefore they assert that disadvantage eleven (11) is not a disadvantage. However, it appears that all of the LECs in this proceeding believe there are some problems with 911 service when using RCF as a temporary number portability mechanism. One problem recognized by all parties is that the Public Safety Answering Point (PSAP) may only be capable of receiving the network number. This may be confusing since the name, address, etc. would be identified with the number assigned by the LEC. We find that although this problem may not be associated with a particular company, the evidence, nevertheless, shows that it is a problem with using RCF to provide number portability. Accordingly, we find that number eleven (11) is a disadvantage.

Finally, GTEFL's witness Menard is concerned about using RCF to allow customers to move from one location to another. She asserts that GTEFL will incur additional transport costs to handle the ported number. Upon review, we find that the record does not support any finding regarding location portability. First, the stipulation does not contemplate location portability. The stipulation clearly states, "The parties agree that Chapter 364.16(4), Florida Statutes, requires a service provider temporary number portability solution." Further, one of the remaining issues we must decide in this docket is the price of RCF to provide service provider number portability. The LECs did not identify, on the record, what impact, if any, the use of RCF to provide location portability would have on the prices proposed in this docket. Accordingly, we will make no finding regarding this concern.

In summary, most of the concerns of the parties are associated with how an advantage or disadvantage impacts their specific company, and not whether it is an advantage or disadvantage of using RCF to provide temporary number portability. Therefore, we find that the advantages one (1) through eight (8) and disadvantages one (1) through eleven (11) listed above represent the major considerations with using RCF to provide temporary service provider number portability.

III. <u>COSTS ASSOCIATED WITH REMOTE CALL FORWARDING</u>

The LECs' proposed costs are as follows:

Company	Proposed Nonrec. Cost	Proposed Recurring Cost	Proposed Add'l Path Cost*	Cost - TSLRIC Basis Recurr./Add'l Path
SBT	$24.84	$1.11	less than $0.50	no
GTEFL	$ 7.45 res. $12.35 bus. $ 9.90 avg.	$1.11	$0.50	no (TSLRIC = $0.88 1 path, $0.40 add'l path)
Sprint	unknown	$1.03	less than $0.75	no (TSLRIC < $1.00 1 path, 0.50 add'l path)

* **An additional path allows multiple calls to a single number or group of numbers. Services such as Call Waiting require an additional path, as well as multi line arrangements**

Most parties, that stated a position on this issue, agree that the costs associated with RCF fall into three broad categories: service implementation costs, central office equipment and software costs, and interoffice trunking. Service implementation includes taking the order, routing the order through the various departments, and performing data input functions by the customer service representatives and engineers. The central office costs include software costs and right-to-use fees, line cards or other equipment costs and processor memory. Interoffice trunking includes signaling and transport between central offices, as well as trunk terminations. MFS witness Devine believes these cost categories should be closely scrutinized.

The method of determining costs is also not in dispute. The parties agree that total service long-run incremental cost (TSLRIC) is an appropriate measure. MCI Metro witness Price and Sprint witness Poag stated that TSLRIC includes only the directly assignable costs to a specific service. Witnesses Price, Poag and Kolb indicated that if a cost is shared with other services, or is a general overhead cost, it should not be included in a TSLRIC study.

There is disagreement among the parties over whether a cost item can be directly assignable to a service and the levels of some costs. The specific disagreements include: the inclusion of land, buildings, electricity, and right-to-use fees, the appropriate cost of capital, and the specific functions necessary for order processing.

SBT's witness Kolb believes that costs for incremental land, buildings, and electricity are appropriate in a TSLRIC study. SBT included such costs in its study. According to Sprint's witness Poag, these costs are called shared or common costs. Witness Poag and GTEFL's witness Menard argue that, while shared costs are not direct incremental costs, they should be included when pricing RCF. Sprint and GTEFL did not include land and buildings in the incremental part of their respective studies. MCI witness Price testified that shared costs should not be a part of an incremental study.

The LEC's testimony indicated that such items are not part of a true TSLRIC study. Sprint witness Poag stated that his proposed cost of $1.03 is not an incremental cost but an average cost, and does "not include any contribution to the shared and joint costs. . . ." However, Sprint's cost study clearly states "Average costs, unlike TSLRIC, include shared fixed costs such as operational software. . . Other shared costs which have not been included in either the TSLRIC or Average costs include billing, collection, directory listings and account maintenance." It appears as though witness Poag's stated average cost of $1.03 includes at least some shared or common costs. SBT witness Kolb admitted that the costs for land, buildings, electricity, and additional switching capacity were not based on an expectation that RCF for temporary number portability would cause any additional expenses in these categories. This supports the argument that these costs should not be included in a TSLRIC study. GTEFL witness Menard agrees that such items are not part of a TSLRIC study, but should be included when pricing RCF.

Right-to-use fees also generated some disagreement among the parties. SBT, GTEFL, and Sprint all included some level of right-to-use fees in their cost studies. SBT witness Kolb testified that right-to-use fees for 5ESS switches are paid on a per-line basis and cover many services. He also did not know whether the right-to-use fees for RCF had already been recovered through existing RCF customers. This suggests that right-to-use fees are shared costs, and not a cost directly attributable to RCF.

The cost of capital used in the LECS' studies was inconsistent. GTEFL used its current authorized rate of return as its cost of equity input to its cost of capital; Sprint's cost of capital was not stated. However, SBT used a cost of equity of 16%, a rate substantially higher than the rate of return at which sharing begins.

The LECs' proposed nonrecurring costs, particularly SBT's, were scrutinized by the other parties. Witness Kolb testified that SBT's nonrecurring costs were projected to be $24.84 per line. However, this estimate contained several elements questioned by the other parties. First, it was based solely on business customers and did not include the possibility that any residential customers would switch telephone companies. Second, it included the right-to-use fees already discussed. Third, it did not take into account that service orders may be placed electronically, or combined with other requests for efficiency. Finally, like the other LEC studies, it was based on speculative assumptions and not on any practical experience. Witnesses Kolb and GTEFL's Menard admitted that their nonrecurring cost studies were only proxies. Witness Poag acknowledged that Sprint did not file a proposed cost for nonrecurring activity because witness Poag did not believe an accurate estimate could be made without practical experience. GTEFL witness Menard proposed that a cost be developed after six months to a year of practical experience.

In summary, the LECs maintained that the cost studies they provided were the best they could provide given no practical experience with number portability. None of the other parties had positions on actual costs, but they all maintained that the actual costs would be less than the stated costs because of unnecessary incremental cost elements and inflated costs.

We note that there are several factors that make developing costs for this service difficult. First, some cost factors for existing RCF service may apply, while others may not. Second, no LEC in this docket has any experience taking service orders from ALECs for number portability. Third, the costs should not be based on RCF as a whole, but just on the increment that provides temporary number portability.

Upon review of the record, we find that the cost study provided by SBT is speculative. The inclusion of land, buildings, and electricity by SBT, as well as the high cost of money used, are inconsistent with both Sprint's and GTEFL's study and in our view inappropriate. Also, the inputs used for the nonrecurring costs are admittedly speculative ignore the residential market, and ignore efficiencies possible through electronic ordering or ordering combinations of features. It appears that SBT costs to provide RCF as a temporary number portability are overstated. Accordingly, we find that SBT's costs cannot be accurately determined from the information on the record.

The costs provided by GTEFL and Sprint appear to be more reasonable, but still do not lead to accurate cost estimates. GTEFL's stated costs of $1.11 + $0.50 per additional path include shared costs; the TSLRIC costs in the study are only $0.88/$0.40. Also, GTEFL did not perform a cost study for the nonrecurring charges. It used its existing Secondary Service Order study as a proxy for RCF ordering. Again, this ignores the probability that entrants will order services electronically and in larger numbers than the single features the Secondary Service Order charge is designed to cover.

Sprint's cost study approach appears to be the most reasonable. It did not propose nonrecurring costs as witness Poag believed it was impossible to determine them at this time. Also, Sprint's proposed cost of $1.03 was an average cost; the incremental cost stated in the study was far less.

We realize that providing accurate costs in this docket was nearly impossible. The lack of practical experience, coupled with an extremely short time period to complete the work, made it very difficult to provide accurate studies.

We believe that Sprint's and GTEFL's proposed TSLRIC recurring costs appear to follow a conservative incremental methodology, while SBT's do not. However, none of the companies were able to provide a reasonably accurate estimation of the nonrecurring costs for temporary number portability through RCF.

Upon consideration, we find that the costs for Remote Call Forwarding (RCF) include service implementation costs, central office equipment and software costs, and interoffice networking costs. However, the precise costs for providing temporary number portability cannot be determined based on the record before us.

IV. **REMOTE CALL FORWARDING COST RECOVERY**

Section 364.16(4), Florida Statutes, provides in pertinent part:

> In the event the parties are unable to successfully negotiate . . . a temporary number portability solution, the commission shall establish a temporary number portability solution by no later than January 1, 1996. . . . The prices and rates shall not be below cost.

At the hearing, all of the parties except MFS agreed that the company receiving the ported number would pay the company providing the ported number a monthly fee. MFS's witness Devine testified that the costs should be spread out among the entire customer base. Other witnesses acknowledged that this proposal was contrary to what the parties agreed to in the stipulation. We find that since the stipulation, we approved, provides that the company receiving the ported number will pay the company providing the ported number, the only issue we must decide is the price to be charged.

The LECs propose the following rates for RCF:

Company	Proposed Nonrecurring Charge	Proposed Recurring Charge	Proposed Additional Path Charge
SBT	\$25.00	≥ \$2.00	\$0.75
GTEFL	\$11.00 res. \$14.00 bus.	\$1.25	\$0.75
Sprint	\$10.00	\$1.25	\$0.50

The rates shown for SBT in the table above are approximations based on testimony and responses during cross examination of witness Kolb. Neither SBT's prehearing nor posthearing positions offered specific rate proposals. SBT entered into an agreement with Teleport Communications Group, Inc. for RCF at \$25.00 nonrecurring, \$1.50 recurring, and \$0.75 per additional path charges. However, that agreement is contingent upon this

Commission's approval of one of SBT's proposals in Docket No. 950696-TP, Determination of Funding For Universal Service and Carrier of Last Resort Responsibilities. Witness Kolb stated that if such a proposal is not approved, SBT's proposed rate for RCF "should be more in the range of $2.00 and maybe higher." SBT did not address nonrecurring or additional path charges. Additionally, witness Kolb did not give specific rates in his testimony. He did note that "long run incremental cost should be used to establish a price floor."

Sprint's witness Poag and GTEFL's witness Menard defended their respective rate proposals by arguing that recovery of some shared and common costs is appropriate. Witness Menard added that GTEFL's nonrecurring charges would be the same as those currently charged to enhanced service providers (ESPs) for similar features such as call forwarding. Also, witness Menard stated that costs for GTEFL's GTD-5 switches were not included, which would substantially increase the costs.

SBT's agreement with Teleport and witness Kolb's testimony offered rates substantially above SBT's stated incremental cost. Witness Kolb argued that, even at $2.00, RCF would be priced far below the currently tariffed rate and would be the second lowest in the country.

The other parties differed philosophically with the LECs regarding contributions over incremental costs. While the LECs argued such recovery is appropriate, the other parties argued that no contribution should be included. MFS' Witness Devine testified that temporary number portability was simply a technical hurdle to competition, not an opportunity for companies, LECs or ALECs, to generate profits from their competitors. He stated that each company should only recover its direct costs. Witnesses Guedel, Price and Engleman agreed.

Some nonLECs offered specific rate proposals. Time Warner's witness Engleman proposed a rate of $1.00 for two paths, but admitted that no cost information was used in determining that rate. MCI's witness Price proposed that additional paths should be free, even after acknowledging some costs are associated with additional paths. Some non-LEC witnesses suggested that the price set should be discounted to account for the disadvantages associated with RCF.

Upon review of the record before us, we find that the rate for temporary number portability through remote call forwarding should be set at $1.00 per line, per month for one path. Additional paths should be $0.50 per month per path. A nonrecurring charge of

$10.00 should also be included. We base our decision on the following:

(1) We agree that number portability is crucial to the ALECs' ability to compete for customers. Because of this, we also agree with witnesses Devine, Guedel, Price, and Engleman that pricing the solution at or near TSLRIC is appropriate in this instance.

(2) As shown in the table above, $1.00 per month and $0.50 per additional path are above both GTEFL's and Sprint's stated TSLRIC for RCF. Although $1.00 is below SBT's stated costs, SBT's costs are questionable. $0.50 is well above SBT's stated costs for additional paths. Also, SBT made no specific proposal for any rate in this proceeding.

(3) The $10.00 per month nonrecurring charge was proposed by both Sprint and Time Warner and is above GTEFL's average nonrecurring cost of $9.90. Although it is below SBT's stated costs, again those costs are highly questionable as each LEC witness admitted the nonrecurring activity for this service is speculative at this time. Again, SBT also did not propose any rate.

The record reflects that these proposed rates are above GTEFL's and Sprint's stated costs to provide them. However, if any company that begins providing temporary number portability subsequently determines that its rates are below cost, it may request a rate adjustment at any time.

Chapter 364.16(4), Florida Statutes, requires that the rates for temporary number portability not be below cost. This statutory provision imposes a responsibility on us to reasonably ensure that the rate is above cost. We must also implement number portability, including the rates, by January 1, 1996. Balancing the necessity of implementing a temporary number portability solution with the need to set rates above cost, we will apply the rates discussed above to SBT even though these rates are below SBT's stated costs. These rates do cover the costs of the other LECs and, while there may be differences between the costs of the various LECs, SBT's stated costs appear to be questionable.

In order to ensure that SBT's rates are above cost, SBT shall file cost studies or submit a filing which clearly states that it believes that the rates are above its costs by March 31, 1997. If the company files cost studies it should identify the recurring and nonrecurring costs associated with providing RCF. The incremental cost study deriving SBT's recurring cost should include only those cost components that are directly related to providing RCF as a temporary number portability solution. The nonrecurring cost study should reflect SBT's actual experience gained during calendar year 1996 by providing RCF for number portability to ALECs. We note that the company is not precluded from filing a cost study earlier than March 31, 1997.

V. **IMPLEMENTATION AND PROCEDURAL ITEMS**

Several parties have identified procedures that need to be in place prior to RCF being used as a temporary number portability mechanism. Normally such procedures would not be filed with the Commission. However, we find that it will be important for the parties to understand what they have to do in order to utilize RCF as a temporary number portability mechanism. Further, having such procedures in place will help us determine whether there is some action necessary to ensure a smooth transition in the implementation of RCF as a temporary number portability mechanism. Accordingly, we find that the LECs should provide procedures for certain items to the ALECs and this Commission no later than January 1, 1996, and the ALECs should provide the same information to the LECs and this Commission at the time they begin to provide local telephone service. The information to be filed shall include:

1. Billing of RCF for temporary number portability
2. Handling 911 information of ported numbers
3. Service Ordering Requirements for RCF
4. Trouble Handling of Ported Numbers

SBT argues that the Commission should continue to allow the LECs to negotiate the price for RCF as a temporary number portability mechanism. We disagree. Section 364.16(4), Florida Statutes, provides that if the parties are unable to negotiate a temporary number portability mechanism then this Commission shall do so by January 1, 1996. We believe this obligation includes setting a price. Notwithstanding, we find that companies may continue to negotiate a package which includes a price for RCF as a temporary number portability mechanism. Further, companies may continue to negotiate other temporary number portability mechanisms. However, LECs and ALECs shall provide an explanation of the mechanism and the negotiated rates to the Commission no later than 10 days from the completion of the negotiations for the new temporary number portability mechanism. We note that if a company sets a rate for any temporary number portability mechanism, including RCF, that appears to be below its cost, cost justification will be required.

Some of the parties stated that they wanted to address a permanent number portability solution in this docket. Other parties believe that this docket should be closed. Upon consideration, we believe the development of a permanent number portability solution will be complicated and should, therefore, be considered separate from the temporary mechanism and its particular problems. However, we find that this docket should remain open for a period of time in order to evaluate any cost studies that are submitted and to address any problems that may arise due to the use of RCF as a temporary number portability mechanism. Accordingly, this docket shall remain open until January 1, 1998. If there are no issues to be addressed at that time, the docket will be closed.

VI. **MISCELLANEOUS**

A. MFS' Proposed Findings of Fact

Along with their post-hearing filings, MFS submitted a number of proposed findings of fact. Rule 25-22.056(2)(a), Florida Administrative Code, and Section 120.57,(1)(b)4., Florida Statutes, provide that parties may file proposed findings of fact. Rule 25-22.056(2), Florida Administrative Code, provides that the Commission will rule upon each finding of fact, as required by Section 120.59(2), Florida Statutes, when filed in conformance with the rules. MFS properly filed proposed findings of fact on November 6, 1995. Accordingly, our rulings thereon are set forth below.

1. Temporary number portability is defined as "an end user's ability at a given location to change service from a local exchange company (LEC) to an alternative local exchange company (ALECs) or vice versa, or between two ALECs, without changing their local telephone number."

   Reject. The stipulation states that service provider number portability allows an end user at a given location to change service from a local exchange company (LEC) to an alternative local exchange company (ALEC) or vice versa, or between two ALECs, without changing their local telephone numbers.

2. Remote Call Forwarding ("RCF") is a temporary service provider number portability mechanism that can be implemented in most LEC central offices at the present time using existing switch and network technology. This mechanism entails sending a call to the old telephone number through the switch of the former local service provider, and then forwarding the call to the switch of the new local service provider.

Accept.

3. RCF is the most appropriate method to provide temporary number portability by January 1, 1996.

   Reject as a conclusion of law.

4. Customers have indicated that they are extremely reluctant to change telephone service providers if they have to change their existing telephone numbers.

   Reject. This is speculation, not fact.

5. A temporary number portability solution, such as RCF, is the only current means by which customers can retain their existing telephone numbers while exercising their option to choose an alternative local service provider.

   Accept.

6. Flexible Direct Inward Dialing is an alternative temporary number portability mechanism the terms of which the LECs will continue to negotiate with ALECs who desire to use such a mechanism. Parties can continue to negotiate other feasible <u>options</u> for temporary number portability that may be available in the future.

   Accept.

7. LECs have agreed to offer RCF to certificated ALECs as a temporary number portability mechanism, effective January 1, 1996. Stipulation at 2. ALECs have agreed to offer RCF to LECs as a temporary number portability mechanism, effective on the date the ALECs begin to provide local exchange telephone service.

   Accept.

8. The recurring price for RCF will be charged on a per-line, per-month basis and will be uniform throughout an individual LEC's existing service territory. Stipulation at 3. The price charged by an individual LEC for RCF shall not be below the costs of that LEC to provide RCF for the purposes of providing temporary number portability. Stipulation at 3. The price charged for RCF offered by an ALEC will mirror the price charged by the LEC.

   Accept.

9. The costs associated with providing RCF, which primarily entails the routing and switching of RCF calls over the existing network, include processing and transport costs.

   Accept.

10. There is an added recurring cost associated with RCF as a result of the "double routing" of forwarded calls that is required under the RCF mechanism. Each call is first routed to the switch of the former local service provider, and then forwarded (ported) to the switch of the carrier actually serving the customer. The "double routing" imposes insignificant incremental switching costs on the carrier forwarding the call.

    Reject. The concept of "double routing" is included in the LECs' cost studies as items such as interoffice transport or trunking. Whether the cost associated with interoffice trunking is "insignificant" or not is a matter of opinion. The LECs believe the cost is significant enough to include it as a separate cost item.

11. RCF is not a "premium" service, such as "Caller ID" or "Call Trace", made available to customers merely as a convenient, supplemental feature of telephone service.

    Reject. This is not a finding of fact, but merely an opinion. The word "premium" is a relative term. RCF may or may not be considered a premium service depending on the customer.

B. <u>MFS' Proposed Conclusions of Law</u>

MFS also submitted eleven proposed conclusions of law. This Commission is not required to rule on proposed conclusions of law. Accordingly, we decline to do so.

C. <u>Time Warner AxS of Florida, L.P., and Digital Media Partners' Motion to Accept Supplemental Authority and Motion for Official Recognition</u>

On November 6, 1995, Time Warner AxS of Florida, L.P., and Digital Media Partners (Collectively "Time Warner") filed a Motion to Accept Supplemental Authority and Motion for Official Recognition of Washington Utilities and Transportation Commission Fourth Order Rejecting Tariff Filings and Ordering Refiling; Granting Complaints, In Part which was issued on October 31, 1995.

Section 120.61, Florida Statutes, provides that when official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material. Time Warner has provided a copy of the Washington Order to all parties and the Commission and no response in opposition has been filed with the Commission. Upon consideration, we will grant Time Warner's Motion.

Based on the foregoing it is,

ORDERED by the Florida Public Service Commission that each and all of the specific findings herein are approved in every respect. It is further

ORDERED that the stipulation entered into by the parties in this docket and approved by Order No. PSC-95-1214-AS-TP shall be incorporated by reference into this Order. It is further

ORDERED that the eight advantages and eleven disadvantages of utilizing Remote Call Forwarding (RCF) as a temporary number portability solution are as set forth in the body of this Order. It is further

ORDERED that the costs of providing RCF as a temporary number solution include service implementation costs, central office equipment software costs and interoffice networking costs. It is further

ORDERED that the precise costs of providing remote call forwarding as a temporary number portability solution cannot be determined based on the record in this proceeding as set forth in the body of this Order. It is further

ORDERED that, in order to meet the requirements of Section 364.16(4), Florida Statutes, the costs of providing Remote Call Forwarding as a temporary number portability solution shall be recovered as set forth in the body of this Order. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company shall file cost studies that identify the recurring and nonrecurring costs associated with providing RCF for telephone number portability by March 31, 1997, unless it makes a filing as set forth in the body of this Order. It is further

ORDERED that LECs and ALECs shall provide the procedures, described in Section V of this Order, to this Commission and to each other as set forth in the body of this Order. It is further

ORDERED that Time Warner AxS of Florida, L.P., and Digital Media Partners' Motion to Accept Supplemental Authority and Motion for Official Recognition of Washington Utilities and Transportation Commission Fourth Order Rejecting Tariff Filings and Ordering Refiling; Granting Complaints, are hereby granted. It is further

ORDERED that this docket shall remain open until January 1, 1998.

By ORDER of the Florida Public Service Commission, this 28th day of December, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

STIPULATION AND AGREEMENT

Chapter 364.16(4), Florida Statutes, requires the Florida Public Service Commission to have a temporary service provider number portability mechanism in place on January 1, 1996. The statute further requires industry participants to form a number portability standards group by September 1, 1995 for the purpose of developing the appropriate costs, parameters, and standards for number portability. Negotiating the temporary number portability solution is one task that the group is to perform. This standards group was formed on July 26, 1995, and consists of the members listed on Attachment A to this agreement. If parties are unable to come to agreement on the temporary solution, the Florida Public Service Commission has reserved dates for an evidentiary proceeding under Chapter 120.57, Florida Statutes.

As a result of workshops held by the members of the standards group, an agreement has been reached as to the methods of providing temporary number portability. This Stipulation is entered into by and between the undersigned parties to Docket No. 950737-TP, Investigation into a Temporary Local Telephone Number Portability Solution to Implement Competition in Local Exchange Markets.

The parties agree that Chapter 364.16(4), Florida Statutes, requires a service provider temporary number portability solution. Service provider number portability allows an end user at a given location to change service from a local exchange company (LEC) to an alternative local exchange company (ALEC) or vice versa, or between two ALECs, without changing local telephone numbers.

The parties further agree that a temporary service provider number portability mechanism that can be implemented in most LEC central offices at the present time is Remote Call Forwarding. With Remote Call Forwarding, a call to the old telephone number is first sent to the switch of the former local service provider, and then forwarded (ported) to the switch of the new local service provider. This is a temporary mechanism that can be implemented using existing switch and network technology. While remote call forwarding is not an appropriate solution to the issue of permanent number portability, the parties agree that it can be used as a temporary number portability mechanism.

The parties therefore agree that the LECs shall offer Remote Call Forwarding to certificated ALECs as a temporary number portability mechanism, effective January 1, 1996. Likewise, the parties agree that ALECs shall offer Remote Call Forwarding to LECs as a temporary number portability mechanism, effective on the date they begin to provide local exchange telephone service. All parties agree that the provision of reliable end user access to emergency services such as 911/E911 is necessary to protect the public health, safety and welfare. This stipulation is entered into with the understanding that Remote Call Forwarding does not provide technical impediments to the availability and reliable transfer of relevant information to 911/E911 systems.

All parties shall work together and with the 911 coordinators to successfully integrate the relevant ALEC information into the existing 911/E911 systems. The recurring price for Remote Call Forwarding will be on a per-line per-month basis and will be uniform throughout an individual LEC's existing service territory. The price charged by an individual LEC for Remote Call Forwarding shall not be below the costs of that LEC to provide Remote Call Forwarding for purposes of providing temporary number portability. The price charged for Remote Call Forwarding offered by an ALEC will mirror the price charged by the LEC.

The parties recognize that there are other related compensation issues that are not addressed in this agreement, including compensation for termination of ported calls and the entitlement to terminating network access charges on ported calls. These items will be negotiated by the parties, or resolved by the Commission, as local interconnection issues under Chapter 364.162.

The parties further agree that Flexible Direct Inward Dialing is an alternative temporary number portability mechanism. With Flexible Direct Inward Dialing, the number is routed to the switch of the former local service provider, which translates it to look like a direct inward dialed call terminating in the switch of the new local exchange provider. The parties recognize that Flexible Direct Inward Dialing involves certain technical and administrative issues that have not yet been fully addressed.

The parties agree that the LECs will continue to negotiate with the ALECs who desire to utilize Flexible Direct Inward Dialing as a method of providing temporary number portability to resolve any technical and administrative issues and to establish the prices, terms and conditions upon which Flexible Direct Inward Dialing will be offered. In the event the parties are unable to satisfactorily negotiate the price, terms and conditions, either party may petition the Commission which shall, within 120 days after receipt of the petition and after opportunity for a hearing, determine whether Flexible Direct Inward Dialing is technically and economically feasible and, if so, set nondiscriminatory rates, terms and conditions for Flexible Direct Inward Dialing. The prices and rates shall not be below cost.

Nothing in this Stipulation shall preclude the use of other feasible options for temporary number portability that may be developed in the future.

The parties further agree that the work of the number portability standards group will continue, under Chapter 364.16(4), Florida Statutes, to investigate and develop a permanent number portability solution.

(SIGNATURES BEGIN ON FOLLOWING PAGE)

RECEIVED
DEC 28 1995
FPSC-RECORDS/REPORTING
11:20

M E M O R A N D U M

DECEMBER 27, 1995

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BARONE)

RE: DOCKET NO. 950737-TP - INVESTIGATION INTO TEMPORARY LOCAL TELEPHONE NUMBER PORTABILITY SOLUTION TO IMPLEMENT COMPETITION IN LOCAL EXCHANGE TELEPHONE MARKETS.

1604-FOF

Attached is the FINAL ORDER, with attachments, to be issued in the above-referenced docket. (Number of pages in Order - 28)

MMB/mmb
Attachment
cc: Division of Communications
I: 950737fo.mmb

52
21

Attach not on CMS