

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements.

DOCKET NO. 990649-TP
ORDER NO. PSC-00-1284-PHO-TP
ISSUED: July 14, 2000

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on July 6, 2000, in Tallahassee, Florida, before Commissioner E. Leon Jacobs, Jr. as Prehearing Officer.

APPEARANCES:

BENNETT ROSS, ESQUIRE, KIP EDENFIELD, ESQUIRE, and NANCY B. WHITE, ESQUIRE, 150 South Monroe Street, Room 400, Tallahassee, Florida 32301
On behalf of BellSouth Telecommunications, Inc.

KIMBERLY CASWELL, ESQUIRE, One Tampa City Center, 201 North Franklin Street, Tampa, Florida 33601-0110
On behalf of GTE Florida, Incorporated.

JOHN FONS, ESQUIRE, Ausley & McMullen, 227 South Calhoun Street, Tallahassee, Florida 32301; and CHARLES J. REHWINKEL, ESQUIRE, 1313 Blairstone Road Tallahassee, Florida 32301-3021.
On behalf of Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership.

JOSEPH A. MCGLOTHLIN, ESQUIRE, McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301.
On behalf of Florida Competitive Carriers Association.

JAMES LAMOUREUX, ESQUIRE, 1200 Peachtree Street, Suite 1200, Atlanta, Georgia 32309.
On behalf of AT&T Communications of the Southern States, Inc.

EDWARD PHILLIPS, ESQUIRE, 3625 Queen Palm Drive, Tampa, Florida 33619.
On behalf of Intermedia Communications, Inc.

DOCUMENT NUMBER-DATE

08528 JUL 14 2000

FPSC-RECORDS/REPORTING

004343

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 2

DONNA CANZANO MCNULTY, ESQUIRE, 325 John Knox Road, The Atrium Building - Suite 105, Tallahassee, Florida 32303 and RICHARD D. MELSON, ESQUIRE, Hopping Green Sams & Smith, P.A., Post Office Box 6526, Tallahassee, Florida 32314.

On behalf of MCI WorldCom, Inc.

JOSEPH A. MCGLOTHLIN, ESQUIRE, McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301.; entering an appearance for MICHAEL HAZZARD, ESQUIRE, Kelley Drye & Warren, LLP, 1200 Nineteenth Street N.W., Fifth Floor, Washington, D.C. 20036.

On Behalf of Z-Tel Communications, Inc.

RICHARD D. MELSON, ESQUIRE, Hopping Green Sams & Smith, P.A., Post Office Box 6526, Tallahassee, Florida 32308
On behalf of Rhythms Links, Inc. and MCI WorldCom, Inc.

J. JEFFRY WAHLEN, ESQUIRE, Ausley & McMullen, 227 South Calhoun Street, Tallahassee, Florida 32301.

On behalf of ALLTEL Communications, Inc.

MICHAEL A. GROSS, ESQUIRE, 310 N. Monroe Street, Tallahassee, Florida 32301.

On behalf of Florida Cable Telecommunications Association, Inc.

KELLY KESTER, ESQUIRE, Koger Center - Ellis Building, 1311 Executive Center Drive, Suite 200, Tallahassee, Florida 32301-5027.

On behalf of Supra Telecommunications and Information Systems, Inc.

KAREN CAMECHIS, ESQUIRE, and PETER DUNBAR, ESQUIRE, Pennington Law Firm, Post Office Box 10095, Tallahassee, Florida 32302.

On behalf of Time Warner Telecom of Florida, L.P.

PATRICK WIGGINS, ESQUIRE, Wiggins & Villacorta, 2145 Delta Boulevard, Tallahassee, Florida 32303.

On behalf of DIECA Communications, Inc. d/b/a Covad Communications Company, and BlueStar Networks, Inc.

004344

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 3

BETH KEATING, ESQUIRE, WAYNE KNIGHT, ESQUIRE, and DIANA W. CALDWELL, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

**PHASE I PROCEEDING
(July 17-19, 2000)**

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

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, the Commission 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

004345

of UNE combinations and nonrecurring charges. This matter is scheduled for an administrative hearing July 17-19, 2000, on the issues identified in Order No. PSC-00-2015-PCO-TP, issued June 8, 2000.

Prehearing statements were filed by the parties on June 26, 2000. A joint prehearing statement was filed by the FCCA, AT&T, MCI WorldCom, Intermedia, and Z-Tel, referred to herein as "FCCA Group." Individual witnesses are, however, sponsored separately by members of this group, as set forth in subsequent sections of this Order. Bluestar Networks, Inc., DIECA Communications, Inc. d/b/a Covad Communications Company, and Rhythms Links Inc. also filed a joint prehearing statement. This group is referenced herein as the Data ALECs.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(4), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183(3), Florida Statutes,

shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

IV. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct and</u> <u>Rebuttal</u>		
Alphonso J. Varner	BellSouth	5, 9(b), 13
Daonne Caldwell	BellSouth	5, 6, 7(b), 7(c), 7(d)
Dr. Randall S. Billingsley	BellSouth	7(b), (c), (d)
*G. David Cunningham	BellSouth	7(b), 7(c), 7(d)
W. Keith Milner	BellSouth	5, 7(b), 7(c), 7(d)
Dennis B. Trimble	GTEFL	5, 6, 9(b) and 13

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
*Allen E. Sovereign	GTEFL	7(b)
Gregory D. Jacobson	GTEFL	7(c)
Michael R. Norris (Direct only)	GTEFL	7(d)
Kent W. Dickerson (Direct only - also Supplemental Direct)	Sprint	5, 6, 7(b), 7(c), 7(d), 9(b), and 13
James W. Sichter (also Supplemental Direct and Additional Supplemental Direct)	Sprint	5, 6, 7(b), 7(c), 7(d), 9(b), and 13
John D. Quackenbush	Sprint	5, 6, 7(b), 7(c), 7(d), 9(b), and 13
John A. Holmes (Direct only)	Sprint	5, 6, 7(b), 7(c), 7(d), 9(b), and 13
John I. Hirshleifer (Direct only)	AT&T and MCI WorldCom	7(c)
Jeffrey King (Direct only)	AT&T and MCI WorldCom	5, 6, 13
*Michael J. Majoros, Jr. (Direct only)	AT&T and MCI WorldCom	7(b)
David Nilson (Direct only)	Supra	5, 6, 9(b), 13
Carol Bentley (Direct only)	Supra	7(b), 7(c), 7(d)
Dr. George S. Ford (Direct only)	Z-Tel	5
Terry L. Murray (Direct only)	Data ALECS	6 and 9(b)
William J. Barta (Direct only)	FCTA	6, 7(b), 7(c), 7(d), 9(b), and 13

All objections, summaries, and cross examination related to any

testimony submitted by any of these witnesses that is applicable to the issues to be addressed in Phase II are reserved until the Phase II hearing, which is scheduled for September 19-22, 2000.

*Pursuant to stipulation of the parties, only these witnesses will be required to appear at the July 17-19, 2000, hearing. Section IX of this Order.

VI. BASIC POSITIONS

BELLSOUTH:

BellSouth has developed updated cost studies for various unbundled network elements and interconnection services. The rates developed by this Commission in this proceeding should be based on the cost studies filed herein by BellSouth and the rates proposed by BellSouth in its testimony.

GTEFL:

In this phase of the proceeding, parties have been asked to propose cost model inputs for just three items: depreciation, cost of capital, and tax rates. GTEFL does not believe tax rates are controversial. With regard to depreciation and cost of capital, GTEFL urges the Commission to accept its inputs, which properly reflect the level of marketplace risk for GTEFL.

In addition, the Commission should reject the ALECs' suggestions that non-recurring charges should be recovered through recurring rates. The ALECs' approach would force the ILECs to bear the full risk of non-recovery for non-recurring charges. This is unfair and inappropriate from a policy standpoint.

Finally, no party has produced any evidence that could justify requiring the ILECs to unbundle any elements or combinations that the FCC has not ordered.

SPRINT:

Phase I of this proceeding addresses just a handful of the dozens of issues actually in the proceeding. Nevertheless, the Commission should make certain, even in this limited

proceeding, that one essential policy consideration is not overlooked; namely, whatever policies the Commission adopts in this proceeding, those policies must be applied uniformly and equally to all ILECs.

FCCA GROUP:

The significance of this docket cannot be overstated. To facilitate the near-term development of competition in the local exchange-- indeed, to make meaningful facilities-based competition possible-- it is essential that the Commission implement properly designed rates for unbundled network elements.

DATA ALECS:

This docket will establish recurring rates and nonrecurring charges for unbundled network elements (UNEs) that are critical to the development of competition within the state of Florida. The Commission should rigorously review the cost studies filed in this proceeding to ensure that both recurring rates and non-recurring charges are based on the same forward-looking network design, and that prices are set at a level that recovers only efficient, forward-looking costs in strict accordance with the requirements of the Telecommunications Act of 1996 and the FCC's pricing rules.

ALLTEL:

Phase I of this proceeding addresses a small number of discrete issues. Throughout this proceeding, the Commission should follow the following basic principles: (1) only ILECs with approved agreements to provide UNEs should be required to deaverage UNEs; (2) for those ILECs, UNEs should be deaveraged where significant cost differences exist into at least three zones; (3) where there are no significant cost differences, no geographic deaveraging should be required; (4) forward looking costs should be used to determine whether significant cost differences exist and (5) the Commission's final order in this docket should make it clear that rural companies retain their right under Section 251(f)(2) to seek a modification of the deaveraging requirements established in this proceeding under the standard in Section 251(f)(2).

FCTA:

The FCTA supports the Commission's effort to establish reasonable rates for unbundled network elements and UNE combinations. The FCTA believes that the establishment of appropriate cost-based rates will promote fair and responsible competitive entry under the requirements of the Telecommunications Act of 1996. Forward-looking, cost-based rates will also protect the incumbent local exchange carriers as the providers of the facilities necessary to provision the unbundled network elements.

The issues to be addressed in this phase of the docket will significantly influence the cost estimates generated by each of the carrier's cost proxy models. To the detriment of Florida consumers, the implementation of above-cost UNE rates will slow, if not preclude, the competitive entry of alternative carriers. There should be no dispute that CLECs are financially unable to develop a ubiquitous telecommunications infrastructure from scratch. The costs of investing in duplicative facilities are prohibitive. The undertaking to construct duplicative loops and switching facilities is massive, time-consuming, and in many instances, uneconomical given the need to reach individual subscribers over wide areas. The ILECs have had the luxury of growing their networks to meet demand over a period of more than a hundred years under an exclusive regulatory compact that provided ample funding from their ratepayers. Those privileges cannot and will not be extended to CLECs. Thus, in the interest of competitive development, it is imperative that reasonable, cost-based rates be established for access to the incumbent carriers' unbundled network elements and UNE combinations.

SUPRA:

In its January 25, 1999 decision, the Supreme Court vacated Rule 51.319 of the Federal Communications Commission ("FCC") that established the initial set of unbundled network elements ("UNEs") required to be made available either individually or on a combined basis. The FCC then initiated a proceeding to determine the list of UNEs that would be appropriate pursuant to the Supreme Court decision. The FCC has since announced its decision in that proceeding and has issued a new Rule 51.319 covering the set of UNEs which must be unbundled; for which this Commission must establish pricing and to the extent applicable deaveraged pricing. Supra Telecom's positions on the individually numbered issues in this docket are consistent with the Act, the pertinent rulings of the Supreme Court, the FCC and

this Commission. Each of Supra Telecom's positions should be sustained by this Commission.

TIME WARNER:

Time Warner supports the Florida Public Service Commission's effort to establish reasonable rates for unbundled network elements and UNE combinations. Time Warner believes that the establishment of appropriate cost-based rates will promote fair and responsible competitive entry under the requirements of the Telecommunications Act of 1996. Forward-looking, cost-based rates will also protect the incumbent local exchange carriers as the providers of the facilities necessary to provision the unbundled network elements.

The issues to be addressed in this phase of the docket will significantly influence the cost estimates generated by each of the carrier's cost proxy models. To the detriment of Florida consumers, the implementation of above-cost UNE rates will slow, if not preclude, the competitive entry of alternative carriers. There should be no dispute that ALECs are financially unable to develop a ubiquitous telecommunications infrastructure from scratch. The costs of investing in duplicative facilities are prohibitive. The undertaking to construct duplicative loops and switching facilities is massive, time-consuming, and in many instances, uneconomical given the need to reach individual subscribers over wide areas. The ILECs had the luxury of growing their networks to meet demand over a period of more than a hundred years under an exclusive regulatory compact that provided ample funding from their ratepayers. Those privileges cannot and will not be extended to ALECs. Thus, in the interest of competitive development, it is imperative that reasonable, cost-based rates be established for access to the incumbent carriers' unbundled network elements and UNE combinations.

STAFF:

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VII. ISSUES AND POSITIONS

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 12

ISSUE 5: For which signaling networks and call-related databases should rates be set?

POSITIONS

BELLSOUTH:

Rates should be set for access to CCS7 signaling transport and the following call-related databases: 800 access Ten Digit Screening; Line Information Database Access; BellSouth Calling Name Database Service; BellSouth Access to #911 Service; and Local Number Portability Query Service.

GTEFL:

GTEFL is proposing TELRIC-based prices for all signaling networks and call-related databases as defined in FCC Rule 319(e), except for access to 911/E911 and AIN databases. The last two elements are currently provisioned on a bona fide request basis within the context of GTEFL's interconnection agreements. GTEFL would prefer to entertain requests for access to 911/E911 and AIN databases in this case-by-case fashion, particularly since there has been little demand of GTEFL for these elements.

SPRINT:

Sprint proposes UNE rates for the following signaling networks and call-related database items:

- common channel signaling (including STP Ports and STP Switching (SS7 Interconnection))
- Database Query Services
- 911/E911
(Holmes)

FCCA GROUP:

The following list of UNEs should have rates established:
Common Channel Signaling System 7 (CCS7) Transport,
including Signaling Transfer Points (STP)
Toll Free Calling Database (i.e., 800)
Line Information Data Base (LIDB)

004354

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 13

Calling Name Database (CNAM)
911/E911 Database
Local Number Portability (LNP)
Advanced Intelligent Network Database (AIN), including access to
AIN switch triggers

Service Management Systems
Service Control Points
Service Creation Environment
Directory Assistance Database (DA)
Daily Usage Information (e.g., ADUF, ODUF, EODUF)

As the industry evolves additional databases may be required,
for which future cost-based rates should also be established.

DATA ALECS:

Adopt FCCA Group position.

ALLTEL:

Agree with Supra.

FCTA:

No position at this time.

SUPRA:

Rates should be set all signaling networks and call-related
databases. With respect to signaling networks, this includes
all signaling networks utilized by any and all functions
inherent in the switch, including interswitch voice messaging
(ISVM). With respect to call-related databases, this includes
all OSS databases because they are necessary to properly bill
customers, the ILECs and other carriers in the UNE environment.

TIME WARNER:

Time Warner does not have a position on Issue 5 at this time.

STAFF:

Staff takes no position at this time.

004355

ISSUE 6: Under what circumstances, if any, is it appropriate to recover non-recurring costs through recurring rates?

POSITIONS

BELLSOUTH:

In order to determine if it is appropriate to price a particular service such that its recurring rates recover non-recurring costs, several factors should be considered, including the length of time the service will be installed or remain in service. This factor is important to ensure that the non-recurring costs can be recovered and will not be foregone if the service is removed or disconnected too soon. Absent some of the type of volume and term agreement or termination liability, the risk of not recovering non-recurring costs increases. Another factor to consider is the impact that the recovery of the non-recurring costs will have on the recurring rate. Depending on the amount of costs to be recovered, spreading the non-recurring costs over a recurring rate could cause the recurring rate to be inappropriately high.

GTEFL:

GTEFL does not believe it is appropriate to recover non-recurring costs through recurring rates. This approach will force the ILECs to bear all the risk of non-recovery of recurring charges. It is not fair or appropriate that the ILECs' customers should pay the ALECs' non-recurring charges when an ALEC customer discontinues service or the ALEC goes out of business. The cost causer—the ALEC—should pay all non-recurring costs at the time they are incurred.

SPRINT:

Absent compelling circumstances (i.e., evidence that high non-recurring charges are a barrier to entry), Sprint believes that non-recurring costs should be recovered through non-recurring rates. (Sichter)

FCCA GROUP:

As a general matter, non-recurring costs should be recovered through non-recurring charges and recurring costs should be recovered through recurring charges. A problem arises when a non-recurring charge is so high that it presents a significant barrier to entry. Such a situation can largely be avoided by adherence to proper rate design - i.e., by applying TELRIC principles and by assuring that only costs actually caused by the new entrant are reflected in the charge. In those remaining instances in which (notwithstanding the recognition of the principle of cost causation and the application of proper rate design) the non-recurring charge would be at a level that would impede the development of competition by making entry difficult, it is sound policy to recover the non-recurring costs over a reasonable period of time through a recurring charge or through payments of the non-recurring charge in several installments.

DATA ALECS:

The Commission should conduct a rigorous review of the proposed nonrecurring charges and eliminate costs that are not truly efficient, forward-looking economic costs. If, after completing this process, the total, cumulative nonrecurring charges are still so high as to create a barrier to competitive entry in Florida, then it is appropriate to consider recovering some or all of the remaining non-recurring costs through recurring rates.

ALLTEL:

As a general matter, non-recurring costs should be recovered through non-recurring charges. In those instances in which the non-recurring charge would be at a level that would impede the development of competition by making entry difficult, it is sound policy to recover the non-recurring charges in several installments.

FCTA:

The FCTA acknowledges that, as a general principle, one-time costs should be recovered through nonrecurring charges. But it is a common practice in the telecommunications industry for carriers to recover nonrecurring costs through recurring charges. The FCTA supports this form of cost recovery where appropriate in order to reduce the immediate financial burden that would be imposed upon the requesting party. The FCTA

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 16

recommends that the Commission order that the expenses associated with the development of electronic gateways and systems enhancements to the incumbent carriers' Operations Support Systems are capitalized and recovered through recurring charges.

SUPRA:

Rates should be set all signaling networks and call-related databases. With respect to signaling networks, this includes all signaling networks utilized by any and all functions inherent in the switch, including interswitch voice messaging (ISVM). With respect to call-related databases, this includes all OSS databases because they are necessary to properly bill customers, the ILECs and other carriers in the UNE environment.

TIME WARNER:

Time Warner acknowledges that, as a general principle, one-time costs should be recovered through nonrecurring charges. But it is a common practice in the telecommunications industry for carriers to recover nonrecurring costs through recurring charges. Time Warner supports this form of cost recovery where appropriate in order to reduce the immediate financial burden that would be imposed upon the requesting party. Time Warner recommends that the Commission order that the expenses associated with the development of electronic gateways and systems enhancements to the incumbent carriers' Operations Support Systems are capitalized and recovered through recurring charges.

STAFF:

Staff takes no position at this time.

ISSUE 7: What are the appropriate assumptions and inputs for the following items to be used in the forward-looking recurring UNE cost studies?

- b) depreciation;
- c) cost of capital;
- d) tax rates.

POSITIONS

BELLSOUTH:

(b) The appropriate depreciation inputs to the BellSouth cost study are those contained in BellSouth's 2000 Florida depreciation study.

(c) The appropriate overall cost of capital rate is 11.25%.

(d) The appropriate tax rates are contained in Ms. Caldwell's direct testimony and in the BellSouth cost studies.

GTEFL:

The appropriate assumptions and inputs for depreciation, cost of capital, and tax rates are those that have been proposed, respectively, by GTEFL witnesses Sovereign, Jacobson and Norris.

SPRINT:

b) Sprint has adopted for this proceeding the depreciation lives ordered by the Florida Public Service Commission in the Universal Service Fund Docket No. 990696-TP.

c) Using the weighted market value cost of capital for Sprint-Florida, the cost of capital is 13.19% based upon the market value capital structure of 10.36% debt and 89.64% common equity.

d) Sprint's filing utilizes the federal and state income tax and state ad valorem tax rates currently in effect in Florida.

FCCA GROUP:

b) BellSouth and GTE have proposed lives based on a methodology that has been discredited by experience. Their proposals would impede competition by overstating the costs of depreciation that would be recovered through UNE rates.

For BellSouth the projection lives should be those adopted for UNE's by the Commission in Table III of Order No. PSC-98-0604-FOF-TP, with the exception of fiber cable accounts, for which the FCC- approved life of 25 years should be employed.

For GTE, the Commission should use the projection lives and net salvage factors set forth in the FCC's 1995 prescription of GTE's depreciation rates.

c) The midpoint of the forward-looking economic cost of capital for BellSouth is 8.54%; for GTE, the corresponding value is 8.66%.

d) Not at Issue

DATA ALECS:

- b) Adopt FCCA Group position.
- c) Adopt FCCA Group position.
- d) Adopt FCCA Group position.

ALLTEL:

No position.

FCTA:

(b) By adopting aggressive capital recovery rates, the ILECs have overstated the recurring capital costs that will be recovered from requesting carriers through higher than necessary UNE rates. The FCTA recommends that the FCC's prescribed projection lives and future net salvage rates for BellSouth and GTE should be adopted as model inputs in lieu of the carriers' proposed rates. The forward-looking depreciation lives and future net salvage estimates prescribed by the FCC are grounded in a comprehensive examination and offer an objective alternative to the incumbent carriers' proposed capital recovery rates.

(c) The ILECs have assumed high costs of capital that also overstate the recurring capital costs. GTE and Sprint, in particular, have assumed an equity-rich capital structure in tandem with a high cost of equity. The carriers' assumptions regarding capital market conditions result in an inflated cost of capital that will be designed into the UNE rates charged to competing carriers. The FCTA recommends that the Commission adopt a more realistic cost of capital based upon the testimony of Staff and other experts participating in the proceeding.

(d) The incumbent carriers' approach to estimating the currently effective ad valorem and property tax rates appears reasonable. The composite income tax factor used in the cost proxy models reflects a state corporate income tax rate of 5.5%. The FCTA does not challenge the incumbent carriers' model input values in these areas.

SUPRA:

(b) For depreciation, 47 CFR § 51.505(b)(1) requires a TELRIC cost model that assumes a network design based upon the most efficient technology currently available. Moreover, depreciation rates used in calculating the forward-looking economic costs of elements must be based upon the actual expected economic life (i.e. true useful life) of the equipment. Any shorter depreciation rates result in a windfall to the ILECs and thus go beyond cost by adding a profit margin on an ALECs use of the equipment.

(c) Only a reasonable profit is statutorily authorized and must be view in light of the low risk experience by ILECs and the continuing monopoly status of ILECs who will always own the infrastructure and network elements and who will be guaranteed recovery of costs irrespective of the number of customers lost to ALECs. Shareholder pre-tax return on investment should be no more than eight to ten percent (8%-10%), with no profit being added on debt. The total cost of capital should be a weighted average of the cost of debt together with the maximum eight to ten percent shareholder return on investment.

(d) No consideration should be given for taxes since taxes on gross receipts (i.e. excise and sales taxes) are the responsibility of the ALECs and not the ILECs, and taxes on income not related to the UNEs and are already factored into the cost of capital.

TIME WARNER:

(b) By adopting aggressive capital recovery rates, the ILECs have overstated the recurring capital costs that will be recovered from requesting carriers through higher than necessary UNE rates. Time Warner recommends that the FCC's prescribed projection lives and future net salvage rates for BellSouth and GTE should be adopted as model inputs in lieu of the carriers' proposed rates. The forward-looking depreciation lives and future net salvage estimates prescribed by the FCC are grounded in a comprehensive examination and offer an objective alternative to the incumbent carriers' proposed capital recovery rates.

(c) Position on Cost of Capital The ILECs have assumed high costs of capital that also overstate the recurring capital costs. GTE and Sprint, in particular, have assumed an equity-rich capital structure in tandem with a high cost of equity. The carriers' assumptions regarding capital market conditions result in an inflated cost of capital that will be designed into the UNE rates charged to competing carriers. Time Warner recommends that the Commission adopt a more realistic cost of capital based upon the testimony of Staff and other experts participating in the proceeding.

(d) Position on Tax Rates The incumbent carriers' approach to estimating the currently effective ad valorem and property tax rates appears reasonable. The composite income tax factor used in the cost proxy models reflects a state corporate income tax rate of 5.5%. Time Warner does not challenge the incumbent carriers' model input values in these areas.

STAFF:

Staff takes no position at this time.

ISSUE 9b: Subject to the standards of the FCC's Third Report and Order, should the Commission require ILECs to unbundle any other elements or combinations of elements? If so, what are they and how should they be priced?

POSITIONS

BELLSOUTH:

The UNEs which BellSouth currently makes available to ALECs are those required by the FCC's 319 Order. Absent a showing that access to a UNE is "necessary" and where failure to provide such access "impairs" the ability of an efficient ALEC to provide telecommunications services, BellSouth believes it is not necessary for this Commission to impose additional unbundling obligations beyond those UNEs identified in the FCC's national list. Since the FCC recently completed its exhaustive review of UNEs, BellSouth is not aware of any additional elements that need to be examined.

GTEFL:

The Commission should not require the ILECs to unbundle any elements or combinations other than those the FCC has designated.

SPRINT:

This proceeding does not address the pricing of two network elements the Federal Communications Commission determined should be unbundled; namely, "line sharing" and Operational Support Systems (OSS). Sprint understands these two network elements will be addresses in separate proceedings.

FCCA GROUP:

With the exception of network elements associated with line sharing, which by stipulation are not within the scope of this docket, these parties have not identified any elements or combinations of elements that should be subject to the unbundling requirement at this time beyond those delineated in Attachment A to Order PSC-00-0540-PCO-TP.

DATA ALECS:

The ILECs are required to unbundle line sharing. Nevertheless, pursuant to a stipulation approved by the Commission in Order No. PSC-99-2467-PCO-TP, line sharing issues are not to be addressed in this proceeding. The rates for line-sharing-related elements should therefore be addressed in a different forum.

ALLTEL:

This proceeding does not address the pricing of two network elements the Federal Communications Commission determined should be unbundled; i.e., "line sharing" and Operational Support Systems. These two network elements will be addresses in separate proceedings.

FCTA:

The FCTA believes that it is not necessary for the Commission to expand upon the FCC's minimum unbundling requirements for non-rural ILECs at this time. The Commission must ensure, however, that access to all unbundled network elements, is offered at competitive rates and acceptable service quality levels. If it is found otherwise, the Commission should initiate proceedings to investigate the unbundling of the network element at issue.

SUPRA:

Yes, ILECs should be required to provide unbundled DSLAM access, access to Dark Fiber on a demultiplexed and shared basis (not only time-division but chromatic-division as well). To the extent an ILEC seeks to charge more for standard POTS loops than xDSL capable loops, xDSL loops wherein the xDSL capability is irrelevant and not guaranteed.

TIME WARNER:

Time Warner believes that it is not necessary for the Commission to expand upon the FCC's minimum unbundling requirements for non-rural ILECs at this time. The Commission must ensure, however, that access to all unbundled network elements, is offered at competitive rates and acceptable service quality levels. If it is found otherwise, the Commission should initiate proceedings to investigate the unbundling of the

network element at issue.

STAFF: Staff takes no position at this time.

ISSUE 13: When should the recurring and non-recurring rates and charges take effect?

POSITIONS

BELLSOUTH:

The recurring and on-recurring rates and charges established in this proceeding should take effect after the Commission issues an effective order and after existing interconnection agreements are properly amended to incorporate the ordered rates.

GTEFL:

GTEFL should be given at least thirty days to implement the rates approved in the Commission's final order in this proceeding.

SPRINT:

Sprint recommends that any UNE rates ordered in this proceeding should be filed 60 days after the release of the Commission Order.

FCCA GROUP:

The rates and charges should take effect on the earliest possible date following the Commission's decision. Interconnection agreements should be amended to incorporate the ordered rates and charges.

DATA ALECS:

Adopt FCCA Group position.

ALLTEL:

Agree with FCCA Group.

FCTA:

The Commission should grant the ILECs a reasonable amount of time to modify their billing and other administrative systems in order to process the demands of deaveraged UNE offerings. The FCTA recommends that the recurring and nonrecurring UNE rates should take effect 30 days to 90 days after the Commission issues its order in the proceeding.

SUPRA:

Immediately after the Commission has made a final determination of the rates set by this docket.

TIME WARNER:

The Commission should grant the ILECs a reasonable amount of time to modify their billing and other administrative systems in order to process the demands of deaveraged UNE offerings. Time Warner recommends that the recurring and nonrecurring UNE rates should take effect 30 days to 90 days after the Commission issues its order in the proceeding.

STAFF: Staff takes no position at this time.

VIII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Alphonso J. Varner	BellSouth	_____	Florida Rate and Cost Analysis
		(AJV-1)	

		(AJV-1R)	BellSouth's Comments in CC Docket 96-98
		_____	BellSouth's Reply Comments in CC Docket 96-98
		(AJV-2R)	
Daonne Caldwell	BellSouth	_____	BSTLM Report Guide
		(DDC-1)	

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		_____ (DDC-2)	OC 48 - Line Cards
		_____ (DDC-3)	T E L R I C Calculation
		_____ (DDC-4)	UNE Cost Summary
		_____ (DDC-5)	Input Sheet
Dr. Randall S. Billingsley		_____ (RSB-1)	Regulatory and E c o n o m i c Standards used in Cost of C a p i t a l Analysis
		_____ (RSB-2)	Nature and Applicability of the DCF Model in Regulatory Proceedings
		_____ (RSB-3)	DCF and CAPM Data for BIT Comparable Firm Portfolio
		_____ (RSB-4)	Comparable F i r m Identification Criteria and Methodology
		_____ (RSB-5)	Capital Asset Pricing Model Analysis
		_____ (RSB-6)	Treasury Bond F u t u r e s Interest Rate

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(RSB-7)	Market Risk Premium Approach to Estimating the Cost of Equity Capital
		(RSB-8)	Expected Market Risk
		(RSB-9)	Recent Aaa vs. Treasury Bond Yields
		(RSB-10)	Market Value Capital Structure of BIT Comparables
		(RSB-11)	Billingsley Vita
		(RSB-12)	Comparable Firm Identification Criteria and Methodology
		(RSB-13)	DUF and CAPM Data for BIT Comparable Firm Portfolio
		(RSB-14)	Treasury Bond Futures Interest
		(RSB-15)	Expected Market Risk
		(RSB-16)	Recent Aaa vs. Treasury Bond

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(RSB-17)	Market Value Capital Structure of B I T Comparables
G. David Cunningham		(GDC-1)	Company Composite Projection Life
		(GDC-2)	2000 Florida Depreciation Study
		(GDC-3)	Projection Lives
		(GDC-4)	Comparison of Projection Lives
		(GDC-5)	July 15, 1998 Position Paper
W. Keith Milner		(WKM-1)	Access to Multi-Tenant Environment
Michael R. Norris	GTEFL	(MRN-1)	Expense Module - Cost Pool Methodology Road Map
Gregory D. Jacobson	GTEFL	(GDJ-1)	Standard and P o o r ' s I n d u s t r i a l s W e i g h t e d A v e r a g e C o s t o f C a p i t a l

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		_____ (GDJ-2)	Standard and P o o r ' s Industrials Quarterly Discounted Cash Flow Model
		_____ (GDJ-3)	Standard and P o o r ' s Industrials C a p i t a l Structure - December 31, 1 9 9 4 - December 31, 1998
		_____ (GDJ-4)	C a p i t a l S t r u c t u r e C o m p a r i s o n (ILECs vs. Standard and Poor's and IXCs)
		_____ (GDJ-5)	Standard and P o o r ' s Industrial Proxy Group Development
		_____ (GDJ-6)	Quarterly D.F. Model
		_____ (GDJ-1R)	Impact of Mergers on E x p e c t e d E a r n i n g s Growth Rate

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 29

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		_____ (GDJ-2R)	Telephone Holding Companies Long - Run Earning Growth Rates
		_____ (GDJ-3R)	Telecommunica- tions Holding Companies Quarterly Discounted Cash Flow Model
		_____ (GDJ-4R)	Holding Companies Capital Asset Pricing Model
		_____ (GDJ-5R)	Capital Structure Comparison Telecommunica- tions Holding Companies December 31, 1994 - December 31, 1998
		_____ (GDJ-6R)	Holding Companies Impact of Extraordinary Write-Offs on Book Equity
Allen E. Sovereign	GTEFL	_____ (AES-1)	G T E ' s Recommended Depreciation Lives and Salvage Values

004371

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(AES-2)	Comparison of G T E Recommended Depreciation Lives and Salvage values w i t h Commission Ordered Lives and Values (Docket No. 980696-TP)
Dennis B. Trimble	GTEFL	(DBT-1)	U N E s - Description, Rate, and E x h i b i t Location
		(DBT-2)	GTE Florida Wholesale NRC Rate Summary
		(DBT-3)	U N E s - Identification of Costs Associated with "other" revenues
		(DBT-4)	G T E ' s Deaveraging Proposal Based on 2-Wire UNE Loops
John D. Quackenbush	Sprint	(JDQ-1)	Book Value C a p i t a l Structure (December 31, 1999)
		(JDQ-2)	Market Value C a p i t a l Structure

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		_____ (JDQ-3)	Market Value of Debt
		_____ (JDQ-4)	Comparable Group Market- to-Book Ratios
		_____ (JDQ-5)	LEC Industry Composite Common Equity Ratios Based on USTA data
		_____ (JDQ-6)	Sprint Cost of Debt February 18 through March 3, 2000
		_____ (JDQ-7)	Comparable Group Risk Measures
		_____ (JDQ-8)	Discounted Cash Flow Model
		_____ (JDQ-9)	Comparable Group Cash Flow Analysis
		_____ (JDQ-10)	Risk Premium Analysis
		_____ (JDQ-11)	Value Line Betas
		_____ (JDQ-12)	S p r i n t Corporation Common Stock Issuance Costs (January 1967- February 2000)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(JDQ-13)	Weighted Book Value Cost of Capital - Structure and Rates
		(JDQ-14)	Weighted Market Cost of Capital - Structure and Rates
		(JDQ-15)	Comparison of Mr. Hirshleifer's Cost of Debt Calculation to an Updated Cost of Debt Using Mr. Hirshleifer's methodology
		(JDQ-16)	Comparison of Mr. Hirshleifer's Cost of Debt Calculation to an Updated Cost of Debt Using Mr. Hirshleifer's methodology
Kent W. Dickerson	Sprint	(KWD-1)	Qualifications
		(KWD-2)	Issue/Witness List
James W. Sichter	Sprint	(JWS-12)	Non-Recurring Charge Comparison

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
John I. Hirshleifer	AT&T and MCI WorldCom	_____	Curriculum Vitae
		(JH-1)	
		_____	Telephone Holding Companies
		(JH-2)	
		_____	BellSouth Bond Yields
		(JH-3)	
		_____	GTE Bond Yields
		(JH-4)	
		_____	Estimated Betas for the Comparable Companies
		(JH-5)	
		_____	Risk Premium Computed from Expected Market Return
(JH-6)			
_____	Expected Long-Run One-Month Treasury Bill Yield for September 1999		
(JH-7)			
_____	Stock Market Premium Analysis		
(JH-8)			
_____	Model Estimates of Cost Equity		
(JH-9)			
_____	Capital Structure of Telephone Holding Companies		
(JH-10)			
_____	Model Estimates of Cost Capital		
(JH-11)			

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Michael J. Majoros, Jr.	AT&T and MCI WorldCom	_____	Appearance B e f o r e R e g u l a t o r y A g e n c i e s R e l a t e d t o D e p r e c i a t i o n
		(MJM-1)	
		_____	Participation a s N e g o t i a t o r i n F C C D e p r e c i a t i o n R a t e P r e s c r i p t i o n C o n f e r e n c e s
		(MJM-2)	
		_____	Curriculum V i t a e
		(MJM-3)	
		_____	Depreciation R e s e r v e P e r c e n t
		(MJM-4)	
_____	BellSouth/GTE - F l o r i d a T e l e p h o n e P l a n t R e l a t e d R a t e s		
(MJM-5)			
_____	Society of D e p r e c i a t i o n P r o f e s s i o n a l s - A n n u a l R a t e s		
(MJM-6)			
_____	Comparison of T F I ' s F i b e r F e e d e r F o r e c a s t s		
(MJM-7)			
_____	Track Record - C o m p a r i s o n o f A c t u a l R e t i r e m e n t s a n d A d d i t i o n s		
(MJM-8)			

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(MJM-9)	Comparison of BellSouth's Metallic Cable Forecast to Actual Retirements
		(MJM-10)	Florida Projection Life Comparison - Recommended Inputs for BellSouth/GTE - Florida
David Nilson	Supra	(DAN-1)	Lucent 5ESS-2000 Product Literature on ISVM
Terry L. Murray	Data ALECS	(TLM-1)	Curriculum Vita
William J. Barta	FCTA	(WJB-1)	Qualifications
		(WJB-2)	FCC prescribed Projection lives and Future Net Salvage rates
		(WJB-3)	Comparison between plant-in-service and total reserves
		(WJB-4)	Graph of total cash operating expenses and total access lines

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 37

On April 12, 2000, Sprint filed a Motion for Extension of Time to File Cost Studies and/or Acknowledgment of Late-Filing. On May 15, 2000, Sprint filed a Motion to Accept Supplemental Direct Testimony. No responses were filed for either Motion. Because no party will be harmed if these Motions are granted, I find it reasonable to grant Sprint's Motions.

Furthermore, I clarify that line sharing is not an issue to be addressed in either Phase of this proceeding.

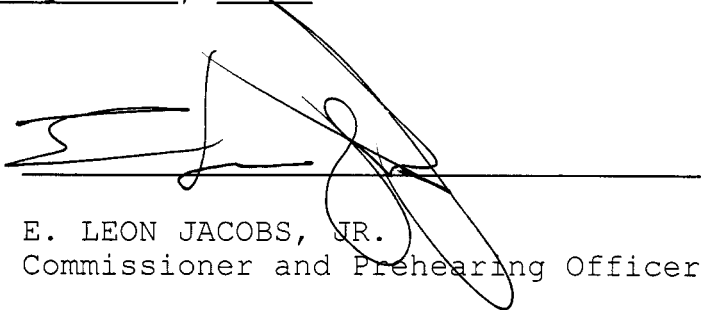
It is therefore,

ORDERED by E. Leon Jacobs, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission. It is further

ORDERED that the Motions discussed in Section IX of this Order shall be granted. It is further

ORDERED that the stipulation discussed in the body of this Order is accepted.

By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 14th day of July, 2000.



E. LEON JACOBS, JR.
Commissioner and Prehearing Officer

(S E A L)

BK

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

004379

ORDER NO. PSC-00-1284-PHO-TP
DOCKET NO. 990649-TP
PAGE 38

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.

004380

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requestion for Photocopying and Mailing

Date 7, 14, 00

Number of Originals 38

Copies Per Original 16

Requested By Monte Reel

Item Presented

Agenda For (Date) _____ Order No. 00-1284 In Docket No. 9906-97-TP
Notice of _____ For (Date) _____ In Docket No. _____
Other _____

Special Handling Instructions

Distribution/Mailing

Number	Distributed/ Mailed To	Number	Distribution/Mailed To
<u>16</u>	<u>Commission Offices</u>	_____	_____
<u>3</u>	<u>Docket Mailing List - Mailed</u>	_____	_____
<u>32</u>	<u>Docket Mailing List - Faxed</u>	_____	_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 183 Verified By Michael
Date and Time Completed 7/19 Job Checked For Correctness and Quality (Initial) CS

Mail Room Verification

Date Mailed _____ Verified By _____

RECEIVED-PPSC
MEMORANDUM

July 14, 2000 JUL 14 PM 12:56

RECORDS AND REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *BK*

RE: DOCKET NO. 990649-TP - INVESTIGATION INTO PRICING OF UNBUNDLED NETWORK ELEMENTS.

1284-PHC

Attached is a PREHEARING ORDER to be issued in the above-referenced docket. (Number of pages in order - 38)

BK/anc
Attachment
cc: Division of Competitive Services (Ollila)
I: 990649po.bk

MUST GO TODAY

32 f
3 m