

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996.

DOCKET NO. 000075-TP(PHASE II)
ORDER NO. PSC-01-1362-PHO-TP
ISSUED: June 22, 2001

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on June 13, 2001, in Tallahassee, Florida, before Commissioner Lila A. Jaber, as Prehearing Officer.

APPEARANCES:

NANCY B. WHITE, ESQUIRE AND JAMES MEZA, III, ESQUIRE, 150 West Flagler Street, Suite 1910, Miami, Florida 33130
On behalf of BellSouth Telecommunications, Inc.

R. DOUGLAS LACKEY, ESQUIRE AND E. EARL EDENFIELD, JR., ESQUIRE, 675 West Peachtree Street, Northeast, Suite 4300, Atlanta, Georgia 30375
On behalf of BellSouth Telecommunications, Inc.

KIMBERLEY CASWELL, ESQUIRE, Post Office Box 110, FLTC0007, Tampa, Florida 33601-0110
On behalf of Verizon Florida Inc.

SUSAN S. MASTERTON, ESQUIRE, Post Office Box 2214, Tallahassee, Florida 32316-2214
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 the Florida Competitive Carriers Association

JAMES LAMOREAUX, ESQUIRE, 1200 Peachtree Street, Suite 8100, Atlanta, Georgia 30309
On behalf of AT&T Communications of the Southern States, Inc.

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ORDER NO. PSC-01-1362-PHO-TP
DOCKET NO. 000075-TP(PHASE II)
PAGE 2

KENNETH HOFFMAN, ESQUIRE and MARTIN P. MCDONNELL, ESQUIRE, Rutledge, Ecenia, Purnell & Hoffman, P.A., Post Office Box 551, Tallahassee, Florida 32302
On behalf of AT&T Communications of the Southern States, Inc., TCG of South Florida, Allegiance Telecom of Florida, Inc., and MediaOne Florida Telecommunications, Inc., Level 3 Communications, LLC, and US LEC of Florida, Inc.

MICHAEL R. ROMANO, ESQUIRE, Level 3 Communications, LLC, 1025 Eldorado Blvd., Broomfield, CO 80021
On behalf of Level 3 Communications, LLC

CHRISTOPHER W. SAVAGE, Cole, Raywid & Braverman, L.L.P., 1919 Pennsylvania Avenue, Northwest, Washington, DC 20006 and JON MOYLE and CATHY SELLERS, Moyle Law Firm, 118 North Gadsden Street, Tallahassee, Florida 32301
On behalf of Global NAPs, Inc.

MR. SCOTT SAPPERSTEIN, One Intermedia Way, MC FLT-HQ3, Tampa, Florida 33647-1752
On behalf of Intermedia Communications, Inc.

PETER M. DUNBAR, ESQUIRE and KAREN CAMECHIS, ESQUIRE, Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., Post Office Box 10095, Tallahassee, Florida 32302-2095
On behalf of Time Warner Telecom of Florida, L.P.

MORTON J. POSNER, ESQUIRE, 1150 Connecticut Avenue, Northwest, Suite 205, Washington, DC 20036
On behalf of Allegiance Telecom of Florida, Inc.

MICHAEL GROSS, ESQUIRE, 246 East 6th Avenue, Tallahassee, Florida 32303
On behalf of the Florida Cable Telecommunications Association

RICHARD D. MELSON, ESQUIRE, Hopping Green Sams Smith, P.A., Post Office Box 6526, Tallahassee, Florida 32314
On behalf of MCI WorldCom

DONNA CANZANO MCNULTY, ESQUIRE, 325 John Knox Road, The Atrium, Suite 105, Tallahassee, Florida 32303
On behalf of MCI WorldCom

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P.A., Post Office Box 1876, Tallahassee, Florida 32302
On behalf of e.spire Communications, Inc.

FELICIA R. BANKS, ESQUIRE, and BETH KEATING, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

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 January 21, 2000, this docket was established to investigate the appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996 (the Act). An administrative hearing regarding issues delineated for Phase I was conducted on March 7 - 8, 2001. An administrative hearing on the issues delineated for Phase II has been set for July 5-6, 2001.

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, 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. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. 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, 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. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. 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. Summaries of testimony shall be limited to five minutes. 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.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct**</u>		
John Ruscilli	BellSouth	10, 12, 13, 14, 15, 16, 17 and 18
Nathaniel Tolar+	BellSouth	11
Howard Lee Jones+	Verizon	11
Edward C. Beauvais, Ph.D.	Verizon	10, 12, 13, 14, 16(b), 17 and 18
Terry Haynes	Verizon	15(a) and 15(b)

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Elizabeth A. Geddes	Verizon	16(a)
Michael R. Hunsucker	Sprint	10, 11, 12, 13, 14, 15, 16 and 17
Lee L. Selwyn	AT&T, TCG, MediaOne, Time Warner, Global NAPS, FCCA and FCTA	11, 12, 13, 14, 15, 17 and 18
William P. Hunt, III	Level 3	11, 14 and 16
Timothy J. Gates	Level 3	13, 14 and 15
Joseph P. Gillan	FCCA	16
Richard A. Guepe*	AT&T, TCG and MediaOne	11, 13, 14 and 18
Mark E. Argenbright	WorldCom	11, 12 and 18

Rebuttal**

John Ruscilli	BellSouth	10, 11, 12, 13, 14, 15, 16, 17 and 18
Dr. William Taylor	BellSouth	12, 13, 14 and 15
Edward C. Beauvais, Ph.D.	Verizon	10, 12, 13, 14, 16(b), 17 and 18
Terry Haynes	Verizon	15(a) and 15(b)
Michael R. Hunsucker	Sprint	10, 11, 12, 13, 14, 15, 16, 17 and 18
Lee L. Selwyn	AT&T, TCG, MediaOne, Time Warner, Global NAPS, FCCA and FCTA	11, 12, 13, 14 and 15
William P. Hunt, III***	Level 3	16
Timothy J. Gates	Level 3	14 and 15

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Richard A. Guepe*	AT&T, TCG and MediaOne	14
Mark E. Argenbright	WorldCom	11 and 12

* The prefiled Direct testimony of Gregory R. Follensbee was to be adopted by Richard A. Guepe on behalf of AT&T, TCG, and MediaOne. However, subsequent to the Prehearing Conference, I was notified by staff that Witness Guepe will also be unavailable for the hearing. Therefore, John Schell will be adopting the prefiled Direct testimony of Gregory R. Follensbee and the Rebuttal testimony of Richard A. Guepe on behalf of AT&T, TCG, and MediaOne.

** Direct and Rebuttal testimony will be taken up together.

*** William P. Hunt will be the last witness on July 6, 2001.

+ The prefiled Direct testimony and exhibits of these witnesses will be entered into the record by stipulation at the hearing. Cross-examination has been waived by the parties.

VII. BASIC POSITIONS

BELLSOUTH:

The Commission's goal in this generic proceeding is to resolve each issue set forth below consistent with the requirements of Section 251 of the Telecommunications Act of 1996 ("1996 Act"), including the regulations prescribed by the Federal Communications Commission ("FCC"). BellSouth's positions on the individually numbered issues in this docket are reasonable and consistent with the Act and the pertinent rulings of the FCC. Thus, the Commission should adopt BellSouth's positions on each of the issues in dispute.

VERIZON:

In recent weeks, the FCC has issued a benchmark order concerning reciprocal compensation and opened a rulemaking to consider all forms of intercarrier compensation. *Implementation of the Local Competition Provisions in the Telecomm. Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, Order on Remand and Report and Order, FCC 01-131*

(*Remand Order*) (April 27, 2001) and *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, FCC 01-132 (*Intercarrier Compensation Notice*) (April 27, 2001). The rulemaking will examine all forms of carrier compensation with the intent to test the concept of a unified regime for the flows of payments among telecommunications carriers that result from the interconnection of telecommunications networks under current systems of regulation. The feasibility of a bill-and-keep approach for such a unified regime is one such option that will be examined. Verizon's testimony discusses some of the attributes of a bill-and-keep approach for local traffic, but Verizon is not prepared to take a final position on an appropriate compensation scheme at this time, given the flux in the industry. Verizon, likewise, urges the Commission to refrain from making any generic decisions about compensation methods until the FCC has considered the matter. The Commission could hear the evidence in this case, but hold any decisions in abeyance until there is more certainty about the FCC's intended compensation scheme. Indeed, if the Commission adopts a reciprocal compensation scheme for local traffic that is incompatible with the FCC's, then this Commission's scheme will likely have to be altered.

SPRINT:

The Commission has jurisdiction to specify the rates, terms and conditions governing compensation for transport and delivery of local traffic pursuant to federal and state law. The Commission should follow the reciprocal compensation procedures already established by the FCC. Sprint's positions on the specific issues in this docket are consistent with the Telecommunications Act and the FCC's rules and regulations adopted pursuant to the Act. Therefore, the Commission should adopt Sprint's position on each of these issues.

JOINT ALECS:

Pursuant to the federal Telecommunications Act of 1996 ("Act") and Federal Communications Commission ("FCC") Rules and Orders, state commissions should develop policies that promote local exchange services competition between incumbent local

exchange companies ("ILECs") and alternative local exchange telecommunications companies ("ALECs"). Each ALEC, competing for its desired position in the marketplace, should have the opportunity to determine its local calling areas, network architectures, and use of assigned telephone numbers. In order for the ALECs to meaningfully compete in the marketplace, it is imperative that they not be saddled with "cloning" the ILECs' historical networks and local calling areas in the provision of local telecommunications services.

In order to meet the spirit and the letter of the Act and the FCC's Rules and Orders, the ALECs are entitled to be compensated at the ILECs' tandem interconnection rate if they satisfy a single test: the ALEC switches must serve a "comparable geographic area" as the ILEC switches. The ALECs must also be able to define their own "local calling area" for the purposes of determining the applicability of reciprocal compensation. As such, ALECs should be allowed to assign telephone numbers to end users physically located outside the rate center in which the telephone is homed, as the costs to the ILEC in transporting the call to the point of interconnection are the same irrespective of where the ALEC ultimately terminates the call.

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.

VIII. ISSUES AND POSITIONS

ISSUE 10: Pursuant to the Telecommunications Act of 1996 (Act), the FCC's rules and orders, and Florida Statutes, what is the Commission's jurisdiction to specify the rates, terms, and conditions governing compensation for transport and delivery or termination of traffic subject to Section 251 of the Act? (Legal issue)

POSITIONS

BELLSOUTH:

Pursuant to the 1996 Act and FCC rules, the Commission is required to ensure that BellSouth has established reciprocal compensation arrangements for the transport and termination of local telecommunications traffic. BellSouth's obligation to establish reciprocal compensation arrangements is set forth in Section 251(b)(5) of the 1996 Act. Further, Paragraph 1027 of the FCC's First Report and Order in CC Docket 96-98, addresses the obligations of state commissions stating, "Section 252(d)(2) states that, for the purposes of compliance by an incumbent LEC with section 251(b)(5), a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless such terms and conditions both: (1) provide for the 'mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier,' and (2) 'determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.'" Reciprocal compensation rates must be compliant with the FCC's TELRIC pricing rules and section 252(d) of the 1996 Act.

VERIZON:

At present, this Commission may address compensation mechanisms for the transport and delivery of traffic subject to section 251(b)(5) of the Act. However, the FCC has undertaken a rulemaking to establish a compensation scheme for this traffic. *Intercarrier Compensation Notice*. If this Commission adopts a compensation mechanism that is inconsistent with the FCC's, it will likely need to be modified. Verizon thus recommends that the Commission hear the evidence, but refrain from making any generic decisions about intercarrier compensation pending further development of the issue at the federal level.

The Commission should also bear in mind that Internet service provider (ISP)-bound traffic is not subject to section

251(b)(5), but is, instead, a form of information access. It is thus governed by section 251(g) and the FCC's rules and policies; this Commission may not establish any compensation mechanisms for ISP-bound traffic. *Remand Order.*

SPRINT:

The FCC has jurisdiction to establish rules governing the rates, terms and conditions for the transport and termination of local traffic, pursuant to the Act and U.S. Supreme Court decisions interpreting the Act. The Commission has the jurisdiction to implement the FCC rules and apply any FCC-required methodologies in establishing the actual rates, terms and conditions for the transport and termination of local traffic. The only limitation imposed on state commissions by the FCC is that their actions must not conflict with the federal rules.

The Commission also has jurisdiction under sections 364.161 and 364.162, Florida Statutes, to arbitrate disputes relating to negotiations by telecommunications companies to establish the rates, terms and conditions of interconnection and the unbundling of network elements.

JOINT ALECS:

The Commission has jurisdiction to establish rates, terms and conditions for interconnection between ILECs and ALECs pursuant to Section 364.162(1), Florida Statutes. In addition, Section 251(d)(3) of the Act preserves the authority of state commissions to establish access and interconnection obligations of local exchange carriers consistent with the requirements of Section 251.

STAFF:

Staff believes that pursuant to Section 364.162(1), Florida Statutes, the Commission has authority to establish rates, terms and conditions for interconnection. Further, staff believes that Sections 251 and 252 of the Telecommunications Act of 1996 (Act) authorizes the Commission to establish and enforce state-specific rules and regulations regarding how the

regulator will apply the new pro-competitive provisions of the Act.

ISSUE 11: What types of local network architectures are currently employed by ILECs and ALECs, and what factors affect their choice of architectures? (Informational issue)

The prefiled testimony and exhibits addressing this issue will be entered into the record by stipulation at the hearing. The parties have waived cross-examination, and the witnesses have been excused. Furthermore, because this issue is solely for informational purposes, our staff's post-hearing recommendation need not include an analysis regarding this issue for our consideration.

POSITIONS

BELLSOUTH:

As this issue is informational only, BellSouth has no position as such. Instead, BellSouth refers the Commission to the testimony of BellSouth witness Nathaniel Tolar.

VERIZON:

The ILEC, as carrier of last resort, serves a dispersed and diverse customer base. Its network has evolved over many decades, with design factors influenced by regulatory directives and the state of technology at particular points in time. ALECs, on the other hand, are free to focus on particular customer sets (such as ISPs) and so will design their networks to most efficiently serve those customers. In addition, the ALECs' networks are all relatively new. Their newer and more targeted networks (for the selected customers and traffic served) can be expected to produce lower costs relative to the ILECs' networks. Any intercarrier compensation scheme should consider the differences in networks and cost characteristics as between ALEC and ILEC networks.

SPRINT:

Much of what drives Sprint ILEC's local network architectural decisions today is the need for additional ports for trunks and Pair Gains. Sprint's ALEC network architecture is based on forecasted traffic.

JOINT ALECS:

Although there is no "standard" network architecture employed by ALECs, many ALECs typically use one switch to serve a broad geographic area, providing transport between the switch and end users on the line side of the switch. ILECs, on the other hand, typically provide such transport on the trunk side of their end office switches. An ALEC will design its network to accommodate the actual locations of its customers under an architecture that can be expanded in a flexible manner as demand for the ALEC's services grows. Due to the high initial cost of switching platforms when compared with the lower incremental costs of high-capacity transport facilities, ALECs often deploy fewer switches and more transport on the end user's side of the switch. An ALEC may use a combination of leased, unbundled network elements (UNEs), high capacity transport facilities, and switching resources to accommodate this type of service-provisioning arrangement.

STAFF:

Staff has no position at this time.

ISSUE 12: Pursuant to the Act and FCC's rules and orders:

- (a) Under what condition(s), if any, is an ALEC entitled to be compensated at the ILEC's tandem interconnection rate?
- (b) Under either a one-prong or two-prong test, what is "similar functionality?"
- (c) Under either a one-prong or two-prong test, what is "comparable geographic area?"

POSITIONS

BELLSOUTH:

In order for an ALEC to appropriately charge for tandem switching, the ALEC must demonstrate to the Commission that: 1) its switches serve a comparable geographic area to that served by BellSouth's tandem switches and that 2) its switches actually perform local tandem functions. An ALEC should only be compensated for the functions that it actually provides.

"Similar Functionality" is as defined in FCC Rule 51.319(c) (3) as (1) Trunk-connect facilities, which include, but are not limited to, the connection between trunk termination at a cross connect panel and switch trunk card; (2) the basic switch trunk function of connecting trunks to trunks; and (3) the functions that are centralized in tandem switches (as distinguished from separate end office switches), including but not limited, to call recording, the routing of calls to operator services, and signaling conversion features. To receive the tandem switching rate, an ALEC must demonstrate that its switches are providing a tandem function to transport local calls. As stated in the FCC's definition, to provide transport utilizing tandem switching, an ALEC's switch must connect trunks terminated in one end office switch to trunks terminated in another end office switch. In other words, a tandem switch, as defined by the FCC, provides an intermediate switching function.

In determining comparable "Geographic Coverage" the Commission should consider the following factors: (1) whether the ALEC's switch currently serves every exchange served by one of the ILEC's switches; (2) evidence of percentage of population served in a given LATA served by an ILEC's switch (3) evidence as to the location of the ALEC's customers within the area served; (4) whether the ALEC has customers in every wire center territory within an area served by an ILEC's tandem switch; (5) whether the ALEC's customers are concentrated in a small area, or whether its customers are widely scattered over a large area.

VERIZON:

If the Commission adopts a positive-price compensation scheme (as opposed to bill-and-keep), an ALEC may receive compensation at the ILEC's tandem rate if the ALEC's switches serve an area comparable to that served by the ILEC's tandem switch; and if the ALEC's switches perform functions similar to those performed by the ILEC's tandem switches (that is, switching calls between other switches, and not switching calls directly to end users). If either condition of this two-prong FCC test is not met, then compensation at the tandem interconnection rate is not appropriate. In addition, the ALEC should only be permitted to bill at the tandem rate to the extent that it offers an end office alternative, as the ILECs offer the less expensive direct end office connection to ALECs. ILECs should not be forced to bear the costs of transport to the ALEC's chosen interconnection point, or to compensate the ALEC for transport from that interconnection point back to the terminating customer. If the originating LEC is always held financially responsible for the ALEC's choice of switch location and architecture, then the ALEC will never have an incentive to efficiently deploy additional switch or interconnection points.

SPRINT:

- (a) There are two scenarios in which the FCC rules afford ALECs compensation at the ILEC's tandem interconnection rate: 1) when the ALEC switch utilizes a tandem or "equivalent facility" under FCC Rule 51.701 (c); and 2) when the ALEC switch serves a "comparable geographic area" consistent with FCC Rule 51.711 (a) (3).
- (b) Sprint contends that an ALEC switch performs "functions similar to those performed by an incumbent LEC's tandem switch" if the switch is capable of trunk to trunk connectivity and has the necessary software activated in the switch to perform the actual tandem function.
- (c) Sprint maintains that the ALEC must in fact hold itself out to serve customers in the geographic area served by the ILEC tandem absent any technical feasibility limitations, in order to satisfy the "comparable

geographic area" criteria found in Rule 51.711(a). Sprint does not believe that "comparable" means identical, but rather similar. IN that light, Sprint suggests that the Commission not adopt a specific metric, but rather, resolve any dispute on a case-by-case basis.

JOINT ALECS:

- (a) FCC Rule 51.711(a)(3) requires only that the comparable geographic area test be met before carriers are entitled to the tandem interconnection rate for local call termination. As recently confirmed by the FCC, any ALEC demonstrating that its switch serves "a geographic area comparable to that served by the incumbent LEC's tandem switch" is entitled to the tandem interconnection rate to terminate local telecommunications traffic on its network.¹
- (b) Although the FCC has now definitely declared that an ALEC is not required to meet a similar functionality test, similar functionality would be met if, for example, an ALEC switch aggregates traffic over a wide geographic area and performs other measurement and recording functions. Similar functionality does not require an ALEC switch to perform trunk-to-trunk switching.
- (c) A "comparable geographic area" refers to the coverage areas of the ALEC switch and the ILEC tandem switch. If an ALEC's switch enables an ILEC to interconnect and complete local calls within substantially the same area as that served by an ILEC tandem switch, then the ALEC switch serves a "comparable geographic area" for purposes of qualifying for the tandem interconnection rate.

¹See In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, FCC Order 01-132, paragraph 105, released April 27, 2001.

STAFF:

Staff has no position at this time on Issues 12 (a), (b) and (c).

ISSUE 13: How should a "local calling area" be defined, for purposes of determining the applicability of reciprocal compensation?

POSITIONS

BELLSOUTH:

For purposes of determining the applicability of reciprocal compensation, a "local calling area" should be defined through mutual agreement between the parties and pursuant to the terms and conditions contained in the parties' negotiated interconnection agreement. The Commission should simply allow each party to establish their own local calling area for reciprocal compensation purposes.

VERIZON:

For purposes of applying reciprocal compensation, "local calling area" should be defined by reference to the originating ILEC's tariffs. Anything else would enable ALECs to eviscerate the local/toll/access distinction and undermine service and rate relationships.

SPRINT:

The ILEC's local calling scope, including mandatory EAS, should define that appropriate local calling scope for reciprocal compensation purposes for wireline carriers. This should not affect the ability of the ALEC to designate its own flat-rated calling scope for its retail services provided to its end users customers.

JOINT ALECS:

ALECs should be allowed to establish their own local calling areas which may or may not be the same as the ILEC's. Local competition will be enhanced by allowing ALECs that wish to do so to operate without the constraints of traditional ILEC local calling areas or rate centers that can serve to hamper the ability of ALECs to offer innovative calling plans and services.

STAFF:

Staff has no position at this time.

- ISSUE 14:** (a) What are the responsibilities of an originating local carrier to transport its traffic to another local carrier?
- (b) For each responsibility identified in part (a), what form of compensation, if any, should apply?

POSITIONS

BELLSOUTH:

BellSouth agrees that ALECs can choose to interconnect with BellSouth's network at any technically feasible point in the LATA. In fact, BellSouth does not object to an ALEC designating a single Point of Interconnection at a point in a LATA on one of BellSouth's "networks" for traffic that the ALEC's end users originate. Further, BellSouth does not object to ALECs using the interconnecting facilities between BellSouth's "networks" to have local calls delivered or collected throughout the LATA. However, BellSouth does not agree that ALECs can impose upon BellSouth the financial burden of delivering BellSouth's originating local traffic to that single point. If the ALEC wants local calls completed between BellSouth's customers and the ALEC's customers using this single Point of Interconnection, that is fine, provided that the ALEC is financially responsible for the additional costs the ALEC causes. Thus, when an ALEC establishes a single Point of Interconnection in a LATA, the ALEC should be

responsible for any cost incurred by BellSouth for transporting the call out of the local calling area that BellSouth would not have otherwise incurred if the call never left the local calling area.

VERIZON:

An originating carrier must negotiate arrangements for the transport of local traffic to the carrier receiving the call. The originating carrier's obligations in this regard are to be specified in the interconnection agreement between the carriers. There are a number of possible transport arrangements, and they need not be the same as between all pairs of carriers.

SPRINT:

- (a) It is the responsibility of the originating carrier to transport its traffic to the Point of Interconnection (POI) where it will be delivered to the terminating carrier. The ALEC has the right to designate the location of this POI for both the receipt and delivery of local traffic with the ILEC at any technically feasible location within the ILEC's network.
- (b) BellSouth has proposed a compensation mechanism that assigns responsibility between the ILEC and the ALEC based on a combination of the minutes of traffic transported and the distance between the local calling area and the ALEC's point of interconnection. Sprint has proposed modifications to BellSouth's proposal that clarify that the ALEC has the right to determine the point of interconnection and that no more than one point of interconnection per local calling area may be required. Sprint believes that the BellSouth proposal, coupled with the Sprint proposed modifications, provide a reasonable compromise that Sprint can accept, both as an ILEC and an ALEC in Florida.

JOINT ALECS:

- (a) Section 251(c)(2) of the Act and FCC Rules and Orders obligate each ILEC to allow interconnection by an ALEC at any technically feasible point on the ILEC's network that is designated by the ALEC for the transmission and routing of telephone exchange service and exchange access. An ILEC must allow a requesting ALEC to interconnect at any technically feasible point, including the option to interconnect at a single point of interconnection per LATA. Once a point of interconnection is established, each carrier is responsible for delivering originating traffic to the point of interconnection.
- (b) FCC Rules and Orders preclude an originating carrier from charging a terminating carrier for the costs of switching and transporting traffic originated on its network to the point of interconnection. This was recently reaffirmed by the FCC in the Notice of Proposed Rulemaking released on April 27, 2001, in CC Docket No. 01-92, in which the FCC stated at Paragraph 112 that: "Our current reciprocal compensation rules preclude an ILEC from charging carriers for local traffic that originates on the ILEC's network." These Rules also require the originating carrier to compensate the terminating carrier for transport and termination of such traffic through the payment of intercarrier compensation.

STAFF:

Staff has no position at this time on Issues 14 (a) and (b).

- ISSUE 15:** (a) Under what conditions, if any, may carriers assign telephone numbers to end users physically located outside the rate center in which the telephone is homed?
- (b) Should the intercarrier compensation mechanism for calls to these telephone numbers be based upon the physical location of the customer, the rate center

to which the telephone number is homed, or some other criterion?

POSITIONS

BELLSOUTH:

Regardless of the numbers an ALEC assigns to its end users, BellSouth should only pay reciprocal compensation on calls that originate and terminate within the same local calling area. Further, each party should utilize its NPA/NXXs in such a way, and should provide the necessary information, so that the other party is able to distinguish local traffic (which originates and terminates in the same local calling area) from intraLATA Toll traffic (which originates in one local calling area and terminates in another local calling area) for the other party's originated traffic. If an ALEC does not provide such information to BellSouth, BellSouth has no way of knowing which calls are local (to which reciprocal compensation applies) and which calls are long distance (to which access charges apply).

ALECs should be required to separately identify any number assigned to an ALEC end user whose physical location is outside the local calling area associated with the NPA/NXX assigned to that end user, so that BellSouth will know whether to treat the call as local or long distance. Providing that an ALEC will separately identify such traffic, for purposes of billing and intercarrier compensation, BellSouth would not object to an ALEC assigning numbers out of an NPA/NXX to end users located outside the local calling area with which that NPA/NXX is associated. Because of this freedom, an ALEC can elect to give a telephone number to a customer who is physically located in a different local calling area than the local calling area where that NPA/NXX is assigned. If the ALEC, however, chooses to give out its telephone numbers in this manner, calls originated by BellSouth end users to those numbers are not local calls. Consequently, such calls are not local traffic and no reciprocal compensation applies.

VERIZON:

If ALECs are permitted to assign telephone numbers to end users who are physically located outside the rate center associated with the particular telephone numbers, then the ILEC has no way of knowing how to properly rate the calls to those end users. An intercarrier mechanism should be based upon the geographic location and rate center where the receiving customer is located, and the ILEC's originating local calling area, as discussed above. To the extent an ALEC chooses to offer foreign-exchange-like, interexchange toll replacement service through the use of virtual NXX numbers, then the ALEC must be responsible for providing the transport associated with that service. Otherwise, the distinction between local and toll calling, embodied in the ILECs' tariffs and this Commission's policies, will be impossible to maintain.

SPRINT:

- (a) Carriers should be permitted to assign NPA/NXX codes to end users outside the rate center in which the NPA/NXX is homed.
- (b) It should be the responsibility of the originating carrier to deliver its traffic to the rate center in which the NPA/NXX is homed.

JOINT ALECS:

- (a) Carriers should be allowed to assign telephone numbers to end users physically located outside the rate center in which the telephone is homed anytime the carrier deems appropriate. Both ILECs and ALECs should be allowed to define both their outward and inward local calling areas. ALECs should be allowed to offer customers competitive alternatives to the local calling areas that are embodied in the ILEC's services. The costs that the ILEC incurs in transporting originating traffic to an ALEC are entirely unaffected by the location at which the ALEC delivers the calls to the ALEC's end user customer. As long as the ALEC establishes a point of interconnection within the LATA, it should be allowed to offer service in

any rate center in the LATA and terminate calls dialed to that rate center at any location it wishes.

- (b) Reciprocal compensation obligations should apply without regard to whether the physical location of the called customer is located within the originating rate center of the ILEC. The appropriate method to determine whether such traffic is local is to compare the calling and called party's NPA/NXXs.

STAFF:

Staff has no position at this time on Issues 15(a) and (b).

- ISSUE 16:** (a) What is the definition of Internet Protocol (IP) telephony?
- (b) What carrier-to-carrier compensation mechanism, if any, should apply to IP telephony?

POSITIONS

BELLSOUTH:

IP telephony is, in very simple and basic terms, a mode or method of completing a telephone call. The word "Internet" in Internet Protocol telephony refers to the name of the protocol; it does not mean that the service necessarily uses the World Wide Web. Phone-to-Phone IP Telephony is telecommunications service that is provided using Internet Protocol for one or more segments of the call. Technically speaking, Internet Protocol, or any other protocol, is an agreed upon set of technical operating specifications for managing and interconnecting networks. The Internet Protocol is a specific language that equipment on a packet network uses to intercommunicate. It has nothing to do with the transmission medium (wire, fiber, microwave, etc.) that carries the data packets between gateways, but rather concerns gateways, or switches, that are found on either end of that medium. As with any other local traffic, reciprocal compensation should apply to local telecommunications provided via IP Telephony. To the extent, however, that calls provided

via IP telephony are long distance calls, access charges should apply. Application of access charges for long distance calls does not depend on the technology used to transport such calls. Due to the increasing use of IP technology mixed with traditional circuit switching technology to switch or transport voice telecommunications, it is important to specify that long distance calls, irrespective of the technology used to transport them, constitute switched access traffic and not local traffic.

Switched access charges, not reciprocal compensation, apply to phone-to-phone long distance calls that are transmitted using IP telephony. From the end user's perspective - and, indeed, from the IXC's perspective - such calls are indistinguishable from regular circuit switched long distance calls. The IXC may use IP technology to transport all or some portion of the long distance call, but that does not change the fact that it is a long distance call.

VERIZON:

IP telephony involves the provision of a telephony application using Internet Protocol. IP telephony encompasses a broad variety of services and may be offered in various configurations (*i.e.*, between two personal computers (PCS), between a phone and a PC, or between two phones); over a combination of different types of underlying backbone networks (*e.g.*, the public Internet or a private network); and over different types of access networks (*e.g.*, corporate intranet or broadband connection). Because IP telephony is still a rather nascent technology and because it is the subject of an ongoing FCC rulemaking, the parties generally concur that there is no need for this Commission to establish any generic IP telephony compensation mechanisms in this docket.

SPRINT:

- (a) Paragraph 84 of the FCC's April 1998 USF Order (FCC-98-67) defines IP telephony services as services that "enable real-time voice transmission using Internet protocols." IP telephony services may be generally

classified into one of three categories: computer-to-computer, phone-to-phone and computer-to-phone.

In the case of computer-to-computer IP telephony, the FCC has ruled that the Internet service provider is providing "information services" that are not "telecommunications to its subscribers." With phone-to-phone IP telephony, the IP telephony provider simply creates a virtual transmission path between points on the public switched network over a packet-switched IP network. Computer-to-phone IP telephony provides the same functionality as phone-to-phone IP telephony. While some circuit switches that are evolving into packet switches using ATM or IP to transmit voice and data, service provided by this equipment should not be considered IP Telephony and should be treated like circuit-switched telephony is treated today.

- (b) Computer-to-computer IP telephone routed through an Internet Service Provider is information services not local telecommunications services. All other IP telephony traffic should be subject to the same compensation mechanisms as voice traffic.

JOINT ALECS:

- (a) As an emerging technology, there is no single consensus definition of "IP telephony."
- (b) Issues concerning IP telephony compensation are currently being addressed in an FCC rulemaking (CC Docket 01-92). The Commission should refrain from addressing these issues at this time.

STAFF:

Staff has no position at this time on Issues 16(a) and (b).

ISSUE 17: Should the Commission establish compensation mechanisms governing the transport and delivery or termination of traffic subject to Section 251 of the Act to be used in the absence of the parties reaching an agreement or

negotiating a compensation mechanism? If so, what should be the mechanisms?

POSITIONS

BELLSOUTH:

Yes. The Commission is required to ensure that BellSouth has established reciprocal compensation arrangements for the transport and termination of local telecommunications traffic pursuant to the 1996 Act and FCC rules. As such, the rates, terms and conditions of any compensation mechanism established by the Commission must also comport with the 1996 Act and FCC rules. The mechanism must comply with the FCC's TELRIC pricing rules and §252(d) of the 1996 Act.

VERIZON:

As noted, there is an ongoing FCC rulemaking to examine a unified intercarrier compensation scheme, so Verizon believes it would be premature for this Commission to establish any compensation mechanisms at this time. If the Commission does adopt a policy preference in this docket, Verizon has recommended a bill-and-keep approach, which is the same system the FCC has tentatively proposed its rulemaking. In order to avoid new forms of regulatory arbitrage, however, a bill-and-keep approach could only apply to Section 251(b)(5) traffic if it also applied to all Internet-bound traffic. A bill-and-keep approach would also have to recognize the cost differences between the ILECs' tandem/end office switching structure and the single-tier switching structure most ALECs use.

SPRINT:

Yes. The Commission should follow the reciprocal compensation procedures already established by the FCC.

JOINT ALECS:

Yes. The Commission should establish "default" symmetrical reciprocal compensation rates based upon the ILEC's costs

unless an ALEC can establish that its own costs are greater. The "default" rates should include the tandem interconnection rate when the ALEC switch serves a comparable geographic area.

STAFF:

Staff has no position at this time.

ISSUE 18: How should the policies established in this docket be implemented?

POSITIONS

BELLSOUTH:

The policies established in this proceeding should take effect after the Commission issues an effective order and would be implemented when existing interconnection agreements are properly amended to incorporate the ordered policies. The terms and conditions by which BellSouth provides UNEs and interconnection services to ALECs should be governed by an approved interconnection agreement.

VERIZON:

If the Commission establishes any policy preferences in this docket, they may be applied, if appropriate, in the context of specific arbitrations under the Act.

SPRINT:

Any policies established in this docket should be implemented through negotiation and amendment of new and existing interconnection agreements.

JOINT ALECS:

The Commission should, in a separate proceeding, establish cost-based symmetrical reciprocal compensation rates available to parties unable to negotiate mutually acceptable rates. The Commission should also establish expedited procedures for

implementation of the decisions made in this docket, including expedited resolution of any disputes regarding any required amendments to their interconnection agreements.

STAFF:

Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
John Ruscilli	BellSouth	_____ (JAR-1)	Network Diagrams
Nathaniel Tolar+	BellSouth	_____ (NDT-1)	Network Diagrams
Edward C. Beauvais, Ph.D.	Verizon	_____ (ECB-2)	Global Naps Newsflash
Terry Haynes	Verizon	_____ (TAH-1)	Maine PUC Order Prohibiting Virtual NXX Service
Howard Lee Jones+	Verizon	_____ (HLJ-3)	ILEC PRI Model
		_____ (HLJ-4)	CyberPOP Model
		_____ (HLJ-5)	NaviNet Switch Bypass Case Study
Howard Lee Jones+	Verizon	_____ (HLJ-6)	NaviNet Bypass Solutions in the Real World Paper

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Timothy J. Gates	Level 3	_____ (TJG-1)	Mr. Gates' Qualifications
Joseph P. Gillan	FCCA	_____ (JPG-1)	Class System of Services
Richard A. Guepe	AT&T, TCG and MediaOne	_____ (GRF-1)	ILEC Network
		_____ (GRF-2)	AT&T Network
Richard A. Guepe	AT&T, TCG and MediaOne	_____ (GRF-3)	Cost Model
		_____ (GRF-4)	TRA Cost Model and AT&T Proposal
		_____ (GRF-5)	ILEC Proposal

Rebuttal

Edward C. Beauvais, Ph.D.	Verizon	_____ (ECB-3)	Point of Interconnection Scenarios
Lee L. Selwyn	AT&T, TCG, MediaOne, TimeWarner, Global NAPS, FCCA and FCTA	_____ (LLS-1)	Article Entitled "Triumph of Light"
		_____ (LLS-2)	BellSouth end office and tandem switches
Mark E. Argenbright	WorldCom	_____ (MEA-1)	Arbitrator's Report and Decision

+ The prefiled Direct testimony and exhibits of these witnesses will be entered into the record by stipulation at the hearing. Cross-examination has been waived by the parties.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. STIPULATIONS

Parties have stipulated that all testimony relating to Issue 11 will be stipulated into the record. The witnesses who were prepared to testify only on Issue 11 do not need to be present at the hearing. Therefore, Witnesses Nathaniel Tolar and Howard Lee Jones are excused from the hearing.

XI. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XII. RULINGS

Sprint's Motion to Accept Revised Prehearing Statement

On June 6, 2001, Sprint filed a Motion to Accept Revised Prehearing Statement (Motion). In its Motion, Sprint submits that no party will be materially harmed by the acceptance of the revised filing. Further, Sprint states that it has conferred with the parties in this docket, and to the best of its knowledge, no party objects to this Motion. Noting no objection, Sprint's Motion to Accepted Revised Prehearing Statement is granted.

FCTA's Request to Be Excused

On May 30, 2001, Florida Cable Telecommunications Association (FCTA) filed a request for permission to be excused from attendance at the prehearing conference. Noting no objection, FCTA's request to be excused from the prehearing is granted.

XO and KMC's Request to Be Excused

On June 4, 2001, XO Florida, Inc. (XO) and KMC Telecom (KMC) filed requests for permission to be excused from attendance at

the prehearing conference and hearing. Noting no objection, XO's and KMC's request are granted.

Intermedia's Request to Be Excused

During the prehearing, Mr. McGlothlin requested that Mr. Sapperstein, counsel for Intermedia Communications, Inc. be excused from the hearing. Noting no objection, Mr. Sapperstein is excused from the hearing.

Motion to Continue

During the prehearing conference, Rick Melson, Counsel for MCI WorldCom made an *ore tenus* Motion to Continue the hearing for Phase II of this proceeding. In his motion, Mr. Melson stated that several of the witnesses will have difficulty in traveling during the Fourth of July holiday to attend the hearing. Further, Mr. Melson stated that he has conferred with parties, and to the best of his knowledge, all parties support the motion to continue this hearing. However, Mr. Edenfield, counsel for BellSouth indicated that he needed to confer with his client before he could indicate full support of the motion. Commission staff indicated that it could only support the motion if the hearing were to be continued until sometime in February 2002.

On June 14, 2001, BellSouth provided to staff counsel a written response to the Motion to Continue. In its response, BellSouth indicated that it could only support the motion if the hearing were to be rescheduled by the first week in September of 2001.

The parties in this proceeding have been aware for quite some time of this hearing schedule. At this point, parties and Commission staff have expended significant resources in going forward with this proceeding. Any change in this hearing schedule will impact this Commission's calendar and our staff's work load. Parties supporting the Motion to Continue have not demonstrated that the interests of judicial economy will be best served by granting a continuance. Accordingly, the Motion to Continue is denied. However, in consideration of those witnesses who will be traveling during the Fourth of

July holiday, the hearing shall be postponed until 1:00 p.m. (EST) on July 5, 2001.

XIII. DECISIONS THAT MAY IMPACT COMMISSION'S RESOLUTION OF ISSUES

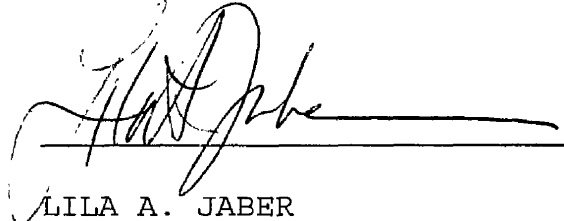
Parties have stated in their prehearing statements that the following decisions have a potential impact on our decision in this proceeding:

1. In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 96-98, FCC Order NO. 01-131 (Released April 27, 2001).
2. In the Matter of Developing A Unified Intercarrier Compensation Regime, CC Docket No. 01-92, FCC Order No. 01-131 (Released April 27, 2001).

It is therefore,

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 22nd Day of June, 2001;



LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

FRB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

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