

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc

DOCKET NO. 030869-TL

In re: Flow-through of LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.

DOCKET NO. 030961-TI

ORDER NO. PSC-03-1367-PHO-TL

ISSUED: December 3, 2003

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on November 24, 2003, in Tallahassee, Florida, before Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer.

APPEARANCES:

Richard A. Chapkis, Esquire, 201 North Franklin Street, FLTC0717, P.O. Box 110, Tampa, Florida 33601

On behalf of Verizon Florida, Inc. (VERIZON)

DOCUMENT NUMBER-DATE

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John P. Fons, Esquire, Ausley & McMullen, P.O. Box 391, Tallahassee, Florida 32302; and Susan S. Masterton, Esquire, Sprint-Florida, Inc., P.O. Box 2214, Tallahassee, Florida 32316-2214

On behalf of Sprint Florida, Inc. (SPRINT).

Nancy B. White, Esquire and James Meza III, Esquire, c/o Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida, 32301; and R. Douglas Lackey, Esquire and Meredith E. Mays, Esquire, 675 West Peachtree Street, NE, Suite 4300, Atlanta, Georgia 30375

On behalf of BellSouth Telecommunications, Inc. (BST).

George N. Meros, Jr., Esquire and Carlos Muniz, Esquire, Gray Robinson, P.A., Post office Box 11189, Tallahassee, Florida 32302-3189

On behalf of Knology of Florida, Inc. (KNOLOGY).

Floyd Self, Esquire, Messer Caparello & Self, P.A., 215 South Monroe Street, Suite 701, Tallahassee, Florida 32302

On behalf of AT&T Communications of the Southern States, LLC and MCI WorldCom Communications, Inc. (ATT/MCI).

Donna Canzano McNulty, Esquire, 1203 Governors Square Blvd., Suite 201, Tallahassee, Florida 32301

On behalf of MCI WorldCom Communications, Inc.

Tracy W. Hatch, Esquire, 101 N. Monroe Street, Suite 700, Tallahassee, Florida 32302

On behalf of AT&T Communications of the Southern States, LLC

Harris R. Anthony, Esquire, 400 Perimeter Center Terrace, Suite 350, Atlanta, Georgia 30346

On behalf of BellSouth Long Distance, Inc. (BELLSOUTH LONG DISTANCE).

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Charles J. Rehwinkel, Esquire, Post Office Box 2214, Tallahassee, Florida 32316-2214

On behalf of Sprint Communications Company, Limited Partnership (Sprint COMMUNICATIONS COMPANY).

Richard A. Chapkis, Esquire, 201 North Franklin Street, FLTC0717, P.O. Box 110, Tampa, Florida 33601

On behalf of Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions and Verizon Select Services, Inc. (VZLD).

Charles J. Beck, Esquire and H.F. Rick Mann, Esquire, Office of the Public Counsel c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 31399-1400

On behalf of the Citizens of Florida (OPC).

Michael B. Twomey, Esquire, Post Office Box 5256, Tallahassee, Florida 32314-5256

On behalf of AARP (AARP); Common Cause of Florida (COMMON CAUSE OF FLORIDA); and Sugarmill Woods Civic Association, Inc. (SUGARMILL WOODS).

Jack Shreve, Esquire, and Cecilia Bradley, Esquire, L-01, The Capitol, Tallahassee, Florida 32399-1050

On behalf of The Office of the Attorney General (AG).

Patricia A. Christensen, Esquire; Beth Keating, Esquire; Felicia R. Banks, Esquire; and Lee Fordham, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Commission (STAFF).

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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

The Florida Legislature enacted the Tele-Competition Innovation and Infrastructure Enhancement Act (Tele-Competition Act or Act) which became effective on May 23, 2003. On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth), each filed petitions pursuant to Section 364.164, Florida Statutes. Dockets Nos. 030867-TL (Verizon), 030868-TL (Sprint), and 030869-TL (BellSouth) were opened to address these petitions in the time frame provided by Section 364.164, Florida Statutes. On September 4, 2003, the Order Establishing Procedure and Consolidating Dockets for Hearing, Order No. PSC-03-0994-PCO-TL, was issued. At the September 15, 2003, Agenda Conference, the Commission decided to hold public hearings in the above referenced dockets.

On September 3, 2003, OPC filed Motions to Dismiss the Petitions in each of these dockets. On September 10, 2003, Verizon filed its Response to OPC's Motion to Dismiss. Also on September 10, 2003, Sprint and BellSouth filed their Joint Response to OPC's Motion to Dismiss. At the September 30, 2003, the Commission voted to dismiss Verizon, Sprint, and BellSouth's Petitions with leave to amend their Petition within 48 hours to address the Commission's determination regarding the two-year time frame in Section 364.164(1)©, Florida Statutes. On September 30, October 1, and October 2, 2003, the companies filed their amended petitions. Thereafter, the Commission included Docket No. 030961-TI in this proceeding by Order No. PSC-03-1240-PCO-TL, issued November 4, 2003, and the schedule was modified by

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Order No. PSC-03-1269-PCO-TL, issued November 10, 2003. This matter is set for hearing on December 10-12, 2003, but may extend into December 13 and 15, 2003.

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.

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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 the Commission Clerk and Administrative Service's confidential files.

IV. POST-HEARING PROCEDURES

The procedures identified herein shall apply in the event the Commission decides to receive post-hearing pleadings or briefs in this matter.

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.

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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 Staff 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

Direct and Rebuttal Testimony will taken up at the same time.

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Witness	Proffered By	Issues #
Direct/Rebuttal		
Kenneth Gordon	Verizon, Sprint, BellSouth	1, 1b, 1c, 2, 5
John A. Ruscilli	BST	1, 2, and 5
W. Bernard Shell (adopting Direct Testimony of Daonne Caldwell)(also filed rebuttal)	BST	1A
E. Stephen Bigelow	BST	4
Jerry Hendrix (Direct only)	BST	3, 4
Dr. Aniruddha "Andy" Banerjee (adopting Direct Testimony of William E. Taylor, PH.D. on direct)(also filed rebuttal)	BST	1, 2, and 5
Orville D. Fulp	Verizon	1, 1a, 3, 4, 5
Carl R. Danner	Verizon	1, 1b, 1c, 2, 5
Evan T. Leo	Verizon	1, 1b, 1c, 2
Kent W. Dickerson	Sprint	1a, 1b
Brian K. Staihr	Sprint	1, 1b, 1c, 2, and 5
John M. Felz (Direct only)	Sprint	1, 1a, 1c, 3, 4, and 5
F. Ben Poag (Rebuttal only)	Sprint	1, 1b, 1c, 2, and 5
Felix L. Boccucci, Jr. (Direct only)	Knology	2
John Mayo (Direct, Rebuttal and Additional Rebuttal)	ATT/MCI	1a, 1b, 1c, 8, 9, 10
Wayne Fonteix (Direct only)	ATT	1c, 2, 3, 4, 5
Richard Guepe	ATT	6, 7, 8, 9, 10
Joseph Dunbar (Direct only) (Revised Nov. 25)	MCI	7, 8, 9, 10
Dirk Henson	BellSouth Long Distance	6, 7, 8, 9, 10

Witness	Proffered By	Issues #
Emeric W. Kapka	Sprint Communications Company	6, 7, 8, 9, 10
John Broten	VZLD	6, 7, 8,9, 10
Gregory L. Shafer (Direct only)	STAFF	1c, 2, 3
Suzanne M. Ollila (Direct only)	STAFF	1b, 1c, 2
David J. Gabel	OPC	1, 1a, 1b, 1c, 2, 5
Bion C. Ostrander (Direct, Rebuttal and Additional Rebuttal)	OPC	4, 5, 6, 7,8, 9
Mark N. Cooper (Direct only)	AARP	1, 1a, 1b, 1c, 2, 4, 5, 9

VII. BASIC POSITIONS

VERIZON: The Commission should approve Verizon's rate rebalancing plan because it meets the four criteria set forth in Section 364.164, Florida Statutes.

First, Verizon's rate rebalancing plan will remove current support for basic local telecommunications services. (Section 364.164(1)(a)). Verizon has shown that: (i) its basic local services receive support, and (ii) the plan will remove the support by increasing the price of those services.

Second, Verizon's rate rebalancing plan will: (i) facilitate the creation of a more attractive local exchange market for the benefit of residential consumers; and (ii) induce enhanced market entry. (Section 364.164(1)(a)-(b)). By moving Verizon's basic local rates toward cost, Verizon's proposed basic local rate increases will induce competitors to enter and serve the basic local exchange market. This will benefit residential customers by making them a more attractive target for competitors that have every incentive to meet their demands with new and innovative products and services.

Third, Verizon's rate rebalancing plan will reduce intrastate switched network access rate reductions to parity over a period of not less than two years nor more

than four years. (Section 364.164(1)©). Specifically, the plan will reduce the Company's intrastate access rates to parity in three increments over two years.

Fourth, Verizon's rate rebalancing plan is revenue neutral. (Section 364.164(1)(d)). It calls for Verizon to reduce its intrastate access rates by \$76.2 million and offset that increase with a corresponding increase in basic local rates.

In sum, the plan should be adopted because it removes support that prevents increased competition that would benefit residential customers and meets the other criteria in Section 364.164.

SPRINT:

The Florida Tele-Competition Innovation and Infrastructure Enhancement Act ("2003 Act") authorizes the Commission to grant the reduction of intrastate switched network access rates charged by a local exchange telecommunications company in a revenue neutral manner upon the filing of a petition by a local exchange telecommunications company and upon consideration of whether granting the petition will:

1. Remove current support for basic local telecommunications services that prevents the creation of a more attractive, competitive local exchange market for the benefit of residential consumers;
2. Induce enhanced market entry;
3. Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years; and
4. Be revenue neutral as defined in subsection (7) of Section 364.164 within the revenue category defined in subsection (2) of Section 364.164, Florida Statutes.

The 2003 Act creates the mechanism by which residential local competition can become a reality in Florida. The key to that reality is the reduction of the considerable local residential price support being provided by over-priced intrastate switched network access in a revenue neutral manner. As noted in the 2003 Act, the presence of heavily supported, priced-below-cost residential basic local services acts as an obstacle to wide-scale residential local competition. Sprint-Florida's testimony and exhibits demonstrate that the combination of reducing the support of residential local basic service prices and increasing those prices more toward cost will signal potential and currently reluctant competitors that the Florida residential local market can be profitable. It follows, then, that competitors will enter the residential local markets to serve a broader number of

residential customers with a variety of innovative technologies, services and pricing choices.

As demonstrated by Sprint-Florida's testimony and exhibits, reducing intrastate switched network access rates to interstate parity in a revenue neutral manner over a two-year period (three annual adjustments) will achieve the goals of the 2003 Act by removing current support for basic local telecommunications services that prevents the creation of a more attractive, competitive local exchange market for the benefit of residential consumers, and by inducing enhanced market entry.

Additionally, the 2003 Act requires each interexchange carrier to flow-through the benefits of any intrastate switched network access rate reductions to its residential and business customers, including the elimination of any in-state connection fee by July 1, 2006. As demonstrated by the testimony and exhibits of the interexchange carriers, the intrastate switched network access rate reductions resulting from the grant of Sprint-Florida's Petition will be flowed-through to Sprint-Florida's residential customers in accordance with the legislatively mandated return of access reduction benefits to residential and business customers. As noted in the Joint Motion for Reconsideration or Clarification, this legislatively mandated benefit is not one of the criteria to be considered by the Commission in addressing whether to grant Sprint-Florida's Petition. This statutorily-required flow-through benefit is a given in this proceeding.

BST: BellSouth has set forth two proposals, both of which seek to rebalance rates in a revenue neutral manner through decreases in intrastate switched access charges and corresponding rate increases for basic services. BellSouth's proposals are consistent with Section 364.164, will create a more attractive local exchange market, will benefit residential customers, and will enhance the opportunity for market entry for competitive local exchange carriers.

KNOLOGY: Knology believes that the petitions filed in these dockets should be granted, because that decision will help to implement the policy underlying 364.14, and it will enhance the competitive choices available to Florida citizens. Knology made the strategic decision to expand its service offerings to other cities in Florida. Shortly after the passage of this legislation, Knology entered into an agreement with Verizon Media Ventures, Inc. to purchase its Cable and Data Asset (Verizon Media) in Pinellas County. This acquisition will provide an additional opportunity for Knology to market voice, video and data services to approximately 275,000 homes and businesses. Knology seeks a market-driven competitive price structure when it makes a strategic decision to deploy capital

resources to bring the most updated technology to the marketplace. It is Knology's opinion that granting these petitions will bring new capital investment and additional jobs, in addition to new products and price competition to the State of Florida.

ATT/MCI: Local competition in Florida has developed at a slow pace. Seven years after passage of the federal Telecommunications Act of 1996, most Floridians have yet to reap the benefits of a truly competitive market for local telecommunications services. The disappointing pace of local exchange competition in Florida is due, in part, to high access charges. Excessive access charges retard competition in two ways. First, they support ILEC local exchange service which in turn allows incumbent providers to subject their competitors to an anticompetitive price squeeze. It is difficult for a telecommunications company to enter the local exchange market and compete against incumbent providers whose rates are supported; the support allows incumbent providers to subject their competitors to an anti-competitive price squeeze.

Second, excessive access charges further depress competition by limiting competitors' ability to compete across the full range of service categories. The ILECs' per-minute cost to originate or terminate a telephone call is the same whether that call originated across the street, across the state or across the continent; a minute-long telephone call uses a minute of the ILEC's network resources regardless of the distance it traveled before reaching the ILEC network. However, competitors are charged higher rates to originate and terminate long distance calls, so they must charge their customers higher rates for such calls, even though distance-based distinctions are increasingly irrelevant to consumers. The Tele-Competition Act of 2003 ("2003 Act") allows the Commission to rebalance retail service rates to reduce the outdated access support, thereby reducing intrastate access charges to parity with interstate access charges and limiting ILECs' ability to leverage an anti-competitive price squeeze.

Further, the 2003 Act specifically sets forth the four criteria the Commission is to use to evaluate the ILECs' petitions. The Commission's inclusion of Issues 6-10 is outside the scope of the criteria established by statute. The IXC market is highly competitive and the competitive market should and will decide such issues. Moreover, the statute requires IXCs to flow-through whatever access charge reductions are approved, and provides the IXCs the discretion to determine how best to flow through such reductions based on what is occurring in the marketplace. The IXCs are required to eliminate in-state connection fees by July

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1, 2006. The 2003 Act recognizes the competitive IXC market is the best determinant of the specifics of the access flow through.

BELLSOUTH LONG

DISTANCE: Each intrastate interexchange carrier that receives more than a de minimus benefit from local exchange companies' reducing their intrastate access rates should flow-through corresponding revenue reductions to its residential and business customers. The intrastate interexchange carriers have discretion as to the specifics of how to flow-through the revenue reductions, *e.g.*, which rates should be reduced. Market forces will ensure that the revenue reductions made by the intrastate interexchange carriers will remain in effect.

SPRINT COMMUNICATIONS

COMPANY: Sprint LP's basic position is that it will comply with the requirements of Section 364.163, Florida Statutes and flow through to business and residential customers the benefits of any ILEC access reductions approved by the Commission. Sprint's participation in Docket Nos. 030867-TL, 030868-TL and 030869-TL is conditional and depends on the ultimate outcome of the Motion identified in Section H of this Statement.

VERIZON LONG

DISTANCE: The VZ LD Affiliates intervened in the above-referenced proceedings to assist the Commission in implementing Section 364.163(2), Florida Statutes, which requires IXCs to flow through access charge reductions that they receive from LECs to business and residential customers. In responding to Issues 6 – 10 below, which are copied verbatim from Staff's Tentative Issues List, the VZ LD Affiliates have provided the Commission with a proposal to ensure that these customers benefit from access reductions, while minimizing distortions to the competitive market. The Commission should therefore conclude that the VZ LD Affiliates' proposal conforms to the requirements of the statute.

OPC: The petitions filed by Verizon, Sprint, and BellSouth to reform their intrastate network access rates and BLTS rates should be denied. The Companies' petitions do not provide adequate empirical evidence to support their claims. In particular:

Residential basic local telephone service is not subsidized by access or any other service. Accordingly, a rebalancing, by substantially raising residential BLTS rates, cannot be justified by any claim by the ILECs that such support exists.

The ILECs have not made a showing that the proposed rebalancing of these rates would create a more attractive competitive local exchange market for the benefit of residential customers or that market entry will be enhanced because their analysis is based on a model that no entrant would ever use. Moreover, any claims of benefits to consumers based on the removal or reduction of support of residential BLTS are moot, since no such support exists.

The ILECs have not demonstrated that the proposed rebalancing would benefit or protect consumers. Again, any claims of benefits to be brought about by elimination or reduction of support of residential BLTS are irrelevant since residential rates are not supported, and ILEC evidence beyond this on the impacts of the rebalancing is very limited.

The economic and policy environment in the telecommunications sector is undergoing rapid and fundamental change. The development of more competitive telecommunications markets in the area of mobile services has revealed what economically efficient prices are likely to look like in telecommunications markets generally. Relative pricing patterns in these markets are in sharp contrast to the prices recommended by the ILECs.

If the Commission accepts one or more of the ILECs' petitions, the interexchange telecommunications companies should flow through the intrastate switched network access charge reductions in a proportionate manner that would return the BLTS rate increases to the appropriate parties who are saddled with these increases.

AARP:

The petitions filed by Verizon, Sprint, and BellSouth to reform their intrastate network access rates and BLTS rates, should be denied. The Companies' petitions do not provide adequate empirical evidence to support their claims. In particular:

Residential basic local telephone service is not subsidized by access or any other service. Accordingly, a rebalancing, by substantially raising residential BLTS rates, cannot be justified by any claim by the ILECs that such support exists.

The ILECs have not made a showing that the proposed rebalancing of these rates would create a more attractive competitive local exchange market for the benefit of residential customers or that market entry will be enhanced because their analysis is based on a model that no entrant would ever use. Moreover, any claims of benefits to consumers based on the removal or reduction of support of residential BLTS are moot, since no such support exists.

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The ILECs have not demonstrated that the proposed rebalancing would benefit or protect consumers. Again, any claims of benefits to be brought about by elimination or reduction of support of residential BLTS are irrelevant since residential rates are not supported, and ILEC evidence beyond this on the impacts of the rebalancing is very limited.

The economic and policy environment in the telecommunications sector is undergoing rapid and fundamental change. The development of more competitive telecommunications markets in the area of mobile services has revealed what economically efficient prices are likely to look like in telecommunications markets generally. Relative pricing patterns in these markets are in sharp contrast to the prices recommended by the ILECs.

If the Commission accepts one or more of the ILECs' petitions, the interexchange telecommunications companies should flow through the intrastate switched network access charge reductions in a proportionate manner that would return the BLTS rate increases to the appropriate parties who are saddled with these increases.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: Petitioners Verizon Florida Inc., Sprint-Florida, and BellSouth Telecommunications, Inc. have each filed petitions to raise their local telecommunications service rates pursuant to Section 364.164(1), Florida Statutes (2003). In evaluating the petitions, the Commission is required to consider whether the petitions will benefit residential consumers. Section 364.164(1)(a), Florida Statutes (2003). Moreover, the Commission has an overriding obligation to ensure that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices. Section 364.01(4)(a), Florida Statutes. Therefore, the Commission must exercise "appropriate regulatory oversight to protect consumers" and ensure that Petitioners' proposed actions will in fact benefit residential consumers. Section 364.01(3), Florida Statutes.

Neither the Petitions, nor the record evidence submitted in support of these Petitions, demonstrate that the relief requested will benefit residential consumers.

To the contrary, the Petitions and record evidence indicate residential consumers will be forced to shoulder additional cost for local telecommunications services without receiving a corresponding benefit.

The record raised no genuine issue as to whether the Petitions will benefit residential consumers. The record in fact demonstrates granting the Petitions will be detrimental to Florida's consumers. The Petitions should therefore be denied as a matter of law.

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.

Testifying Staff

Position: Testifying staff believes that the ILEC proposals will result in benefits for some residential consumers and that there will likely be an increase in market entry if the proposals are approved. Testifying staff does, however, believe that Sprint's implementation of its proposal should be extended due to the magnitude of the proposed increases for that company.

VIII. ISSUES AND POSITIONS

ISSUE 1: Will the ILECs' rebalancing proposals remove the current support for basic local telecommunications services that prevents the creation of a more attractive competitive market for the benefit of residential consumers?

POSITIONS:

VERIZON: Yes. Verizon's basic local services receive support, and Verizon's plan removes this support by bringing the prices of those services more in line with costs. Removing support for basic local services will promote competition for the benefit of residential customers. It will make residential customers more attractive to competitors and thus induce enhanced market entry, encourage innovation, and promote increased freedom of choice. Moreover, the plan will

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reduce intrastate access rates, thereby allowing residential customers to make more long distance calls at lower prices.

SPRINT: Yes. By granting Sprint-Florida's Petition, the goal of the 2003 Act - to enhance the creation of a competitive residential market - will be achieved. Creating a more attractive competitive market will benefit residential consumers.

BST: This Commission has previously found that BellSouth's residential rates are supported, which support is further detailed in the testimony of BellSouth witness W. Bernard Shell (*see, e.g.* proprietary exhibit WBS-1). BellSouth's proposal will remove a portion of the support for basic local telecommunications services, and will bring the rates for basic local exchange service to a level that encourages competitive entry, which is evidenced, in part, by the prefiled testimony of AT&T and Knology. Residential customers will benefit from having new choices of providers and services that additional competition will bring and will also benefit from the pass-through of access reductions in the form of reduced toll rates.

KNOLOGY: Knology believes that granting these petitions will materially diminish the current support for basic local telecommunications services. This support prevents creation of a more competitive market. Diminution of the support will spur additional competition. Knology experience in its existing markets provides examples of how the entry of a facilities based competitor for telephone service expands the products available to consumers increases the customer service levels and promotes product and pricing competition.

ATT/MCI: Yes. The ILECs' proposals do so by simultaneously reducing intrastate switched access rates that have been established at economically inefficient levels through the residual rate setting process and adjusting local exchange rates upward on a revenue neutral basis. This movement unequivocally "removes support for basic local telecommunications services" in Florida. Through the process of residual ratemaking, intrastate switched access charges have been historically elevated well above their relevant economic cost and the surplus has served as residual support for basic local telecommunications services. Thus, it is quite clear that the statutory requirement of removing support for basic local services will be met by the plan described in the ILECs' petitions.

BELLSOUTH LONG

DISTANCE: No present position.

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SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: Residential basic local telephone service is not subsidized by access service or any other service. The ILEC's petitions therefore do not remove current support, because there is none.

AARP: Residential basic local telephone service is not subsidized by access service or any other service. The ILEC's petitions therefore do not remove current support, because there is none.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: No position at this time.

STAFF: Staff has no position at this time.

ISSUE 1A: What is a reasonable estimate of the level of support provided for basic local

POSITIONS:

VERIZON: For purposes of this proceeding, Verizon seeks to remove \$76.2 million of support from basic local telecommunications services. This is the amount necessary to bring Verizon's intrastate switched network access rate to parity with its interstate switched network access rate.

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SPRINT: The level of support provided for basic local telecommunications services by intrastate switched network access rates in Sprint-Florida's service areas is \$142,073,492 per year, based upon current access minutes of use.

BST: This Commission has previously found that BellSouth's residential rates are supported, which support is further detailed in the testimony of BellSouth witness W. Bernard Shell (*see, e.g.* proprietary exhibit WBS-1). BellSouth's proposal will remove a portion of the support for basic local telecommunications services, and will bring the rates for basic local exchange service to a level that encourages competitive entry, which is evidenced, in part, by the prefiled testimony of AT&T and Knology. Residential customers will benefit from having new choices of providers and services that additional competition will bring and will also benefit from the pass-through of access reductions in the form of reduced toll rates.

KNOLOGY: Knology believes that granting these petitions will materially diminish the current support for basic local telecommunications services. This support prevents creation of a more competitive market. Diminution of the support will spur additional competition. Knology's experience in its existing markets provides examples of how the entry of a facilities based competitor for telephone service expands the products available to consumers, increases the customer service levels and promotes product and pricing competition.

ATT/MCI: AT&T and MCI have no position.

BELLSOUTH LONG

DISTANCE: No present position.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: Basic Local Telecommunications Services (BLTS) are not supported by the rates charged for intrastate access because the existing BLTS rates exceed their incremental costs.

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AARP: Basic Local Telecommunications Services (BLTS) are not supported by the rates charged for intrastate access because the existing BLTS rates exceed their incremental costs.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: No position at this time.

STAFF: Staff has no position at this time.

ISSUE 1B: Does the current level of support prevent the creation of a more attractive competitive local exchange market for the benefit of residential consumers?

POSITIONS:

VERIZON: Yes. Verizon's current residential basic monthly rates are well below incremental cost, and therefore impair competition for residential customers. The availability of local service at supported prices limits the prices that competitive local providers can charge. To the extent that competitive providers' costs are similar to Verizon's, the existing supported prices make it economically infeasible for those providers to compete.

SPRINT: Yes. The presence of heavily supported, priced-below-cost residential basic local service acts as an obstacle to the creation of widespread residential local competition. The removal of this obstacle is the centerpiece of the 2003 Act.

BST: This Commission has previously found that BellSouth's residential rates are supported, which support is further detailed in the testimony of BellSouth witness W. Bernard Shell (*see, e.g.* proprietary exhibit WBS-1). BellSouth's proposal will remove a portion of the support for basic local telecommunications services, and will bring the rates for basic local exchange service to a level that encourages

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competitive entry, which is evidenced, in part, by the prefiled testimony of AT&T and Knology. Residential customers will benefit from having new choices of providers and services that additional competition will bring and will also benefit from the pass-through of access reductions in the form of reduced toll rates.

KNOLGY: Knology believes that granting these petitions will materially diminish the current support for basic local telecommunications services. This support prevents creation of a more competitive market. Diminution of the support will spur additional competition. Knology's experience in its existing markets provides examples of how the entry of a facilities based competitor for telephone service expands the products available to consumers increases the customer service levels and promotes product and pricing competition.

ATT/MCI: Yes. The excessive switched access charge levels make it difficult for a telecommunications company to enter the local exchange market and compete against incumbent providers whose local rates are supported by access charges; the support allows incumbent providers to subject their competitors to an anti-competitive price squeeze. Further, excessive access charges further depress competition by limiting competitors' ability to compete across the full range of service categories.

BELLSOUTH LONG

DISTANCE: No present position.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: No. The existing level of BLTS rates have minimal, if any, impact on making the local exchange market more attractive to competitors.

AARP: No. The existing level of BLTS rates have minimal, if any, impact on making the local exchange market more attractive to competitors.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

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SUGARMILL WOODS: Adopts the position of AARP.

AG: No position at this time.

STAFF: Staff has no position at this time.

ISSUE 1C: Will the ILECs' rebalancing proposals benefit residential consumers as contemplated by Section 364.164, Florida Statutes? If so, how?

POSITIONS:

VERIZON: Yes. As stated above, by moving basic local residential rates toward cost, Verizon's rate rebalancing plan will promote competition for the benefit of residential customers. It will make these customers more attractive to competitors and thus induce enhanced market entry, encourage innovation, and promote increased freedom of choice. In addition, Verizon's rebalancing plan will lower intrastate access rates and allow residential customers to make more long distance calls at lower prices.

SPRINT: Yes. The creation of a more attractive competitive local exchange market will benefit residential consumers by providing them choices: choice of provider, choice of technology, choice of services and choice of pricing options. These are choices residential consumers are demanding, and these choices are only available in a competitive market.

BST: This Commission has previously found that BellSouth's residential rates are supported, which support is further detailed in the testimony of BellSouth witness W. Bernard Shell (*see, e.g.* proprietary exhibit WBS-1). BellSouth's proposal will remove a portion of the support for basic local telecommunications services, and will bring the rates for basic local exchange service to a level that encourages competitive entry, which is evidenced, in part, by the prefiled testimony of AT&T and Knology. Residential customers will benefit from having new choices of providers and services that additional competition will bring and will also benefit from the pass-through of access reductions in the form of reduced toll rates.

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KNOLGY: Knology believes that granting these petitions will materially diminish the current support for basic local telecommunications services. This support prevents creation of a more competitive market. Diminution of the support will spur additional competition. Knology experience in its existing markets provides examples of how the entry of a facilities based competitor for telephone service expands the products available to consumers increases the customer service levels and promotes product and pricing competition.

ATT/MCI: Yes. The ILECs' proposals will reduce current deterrents to local market entry. A more level playing field will induce increased market entry, which will provide consumers, residential and business alike, with a wider choice of providers' offerings and prices. Residential consumers will further benefit from toll rate reductions and the elimination of any in-state connection fee.

BELLSOUTH LONG

DISTANCE: No present position.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: No. The ILECs have not made a showing that the proposed rebalancing of BLTS rates would create a more attractive competitive local exchange market for the benefit of residential customers or that market entry will be enhanced because their analyses are based on a model that no entrant would ever use. Moreover, any claims of benefits to consumers based on the removal or reduction of support of residential BLTS are moot, since no such support exists.

AARP: No. The ILECs have not made a showing that the proposed rebalancing of BLTS rates would create a more attractive competitive local exchange market for the benefit of residential customers or that market entry will be enhanced because their analyses are based on a model that no entrant would ever use. Moreover, any claims of benefits to consumers based on the removal or reduction of support of residential BLTS are moot, since no such support exists.

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COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: No position at this time.

STAFF: Staff has no position at this time.

TESTIFYING STAFF

POSITION: The ILEC rebalancing proposals will result in benefits for some residential consumers through increased value and increased choice.

ISSUE 2: Will the effects of the ILECs' rebalancing proposals induce enhanced market entry? If so, how?

POSITIONS:

VERIZON: Yes. Verizon's rate rebalancing plan will bring the prices of Verizon's basic local services more in line with costs. Prices that more closely reflect underlying costs, such as those proposed in Verizon's rate rebalancing plan, will increase the likelihood that competitive providers can offer services at a price equal to or lower than that offered by Verizon, and still remain profitable. As a result, the reformed prices proposed in Verizon's rate rebalancing plan will make the local exchange market more attractive to competitors and induce enhanced market entry.

SPRINT: Yes. Removing a significant portion of support for priced-below-cost residential local service will encourage currently reluctant competitors to enter the residential market on an enhanced, wider-scale basis by providing a more favorable environment to offer expanded consumer choices on a profitable basis.

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BST: Yes. By removing implicit support from basic local exchange rates, carriers will have increased business opportunities to attract new customers and offer new products, services, and bundles.

KNOLOGY: Yes. The ILECs' rebalancing proposal moves the pricing structure for telephone services in Florida towards market based pricing.

ATT/MCI: Yes. Reduction of the existing access support will make the market more attractive for traditional long distance companies to enter the telecommunications local market. (For example, since the passage of the 2003 Act, AT&T has announced its entry into the local residential market in Florida). Reduction and eventual elimination of the access support is critical to sustainable competition. It will allow CLECs to compete on a more equal footing with the ILECs who already provide both local and long distance services to their customers.

BELLSOUTH LONG

DISTANCE: No present position.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: No. Competitive Local Exchange Companies' (CLECs) entry decisions will be based on total expected revenues and costs associated with all the services that can be sold given entry into the market. An entry decision would not be based on the price of any particular service or product such as residential BLTS.

AARP: No. Competitive Local Exchange Companies' (CLECs) entry decisions will be based on total expected revenues and costs associated with all the services that can be sold given entry into the market. An entry decision would not be based on the price of any particular service or product such as residential BLTS.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

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AG: No position at this time.

STAFF: Staff has no position at this time.

TESTIFYING STAFF

POSITION: The likelihood of increased market entry is improved by the rebalancing proposals, particularly in those markets where profitability is marginal. It is also likely that some existing market participants will expand their participation in new markets and service offerings.

ISSUE 3: Will the ILECs' rebalancing proposals reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four years?

POSITIONS:

VERIZON: Yes. Verizon's rebalancing plan will reduce the Company's intrastate switched network access rates to parity in three increments over two years.

SPRINT: Yes. Sprint-Florida's Amended Petition, testimony and exhibits demonstrate that rebalancing prices over a two-year period (three annual increments) will provide the marketplace with the appropriate competitive signals and will not result in consumer rate-shock.

BST: Yes. BellSouth's proposed increases will occur over three installments, first quarter 2004, first quarter 2005, and first quarter 2006.

KNOLOGY: This issue is best addressed by the Petitioners.

ATT/MCI: The proposal by Sprint appears to correctly reduce its switched network access rates to interstate parity. BellSouth's "mirroring" proposal appears to correctly reduce its switched access rates to interstate parity while its "typical network" proposal does not. Verizon's proposal does not correctly reduce its intrastate switched access rates to interstate parity.

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BELLSOUTH LONG

DISTANCE: No present position.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: Citizens take no position at this time.

AARP: Verizon's inclusion of the interstate PICC end-user charge in its calculation of intrastate access charges for the purpose of rebalancing means that Verizon has failed to comply with the provisions of the Act requiring parity and revenue neutrality. Verizon's petition should be denied on these grounds.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: No position at this time.

STAFF: Staff has no position at this time.

TESTIFYING STAFF

POSITION: Sprint should extend its implementation of access reductions and increases to basic local service rates by 12 months in order to mitigate rate shock to consumers.

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ISSUE 4: Are the ILECs' rebalancing proposals revenue neutral, as defined in Section 364.164(2), Florida Statutes?

POSITIONS:

VERIZON: Yes. Verizon's rate rebalancing plan is revenue neutral, as defined in the statute. The plan will reduce Verizon's intrastate switched network access rates by \$76.2 million and offset that increase with a corresponding increase in basic local rates.

SPRINT: Yes. As demonstrated by Sprint-Florida's testimony and exhibits, rebalancing will be accomplished in a revenue neutral manner.

BST: Yes. BellSouth's proposals reflect a reduction in intrastate access that will be rebalanced through increases in basic local exchange rates.

KNOLOGY: This issue is best addressed by the Petitioners.

ATT/MCI: The ILEC rebalancing proposals appear to be revenue neutral notwithstanding any failures to correctly reach interstate parity.

BELLSOUTH LONG

DISTANCE: No present position.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: Citizens take no position at this time.

AARP: No. The ILECs have not substantiated that their respective intrastate long distance (LD) rate reductions for residential customers will equal their corresponding BLTS increases. Furthermore, Verizon's inclusion of the interstate PICC end-user charge in its calculation of intrastate access charges for the purpose of rebalancing means that Verizon has failed to comply with the

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provisions of the Act requiring parity and revenue neutrality. Verizon's petition should be denied on these grounds.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: No. The ILECs have not substantiated that their respective intrastate long distance (LD) rate reductions for residential customers will equal their corresponding BLTS increases.

STAFF: Staff has no position at this time.

ISSUE 5: **Should the ILECs' rebalancing proposals be granted or denied?**

POSITIONS:

VERIZON: The ILECs' rebalancing plans should be granted. Verizon's plan meets the criteria of Section 364.164, and will result in prices that are more fair and accurate. This in turn will promote competition, benefit customers, and advance the public interest.

SPRINT: Sprint-Florida's Amended Petition should be granted because Sprint-Florida has satisfactorily met each of the factors the 2003 Act requires to be considered by the Commission.

BST: The petitions should be granted as fully compliant with Section 364.164.

KNOLOGY: Granted.

ATT/MCI: Sprint's proposal should be granted. BellSouth's mirroring proposal should be granted. Verizon's proposal should be denied unless it corrects its access reductions outlined in Issue 3.

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BELLSOUTH LONG

DISTANCE: No present position.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: The VZ LD Affiliates take no position on this issue.

OPC: Denied. As is noted in Issues No. 1 through 4, above, the ILECs have not satisfied the requirements of section 364.164(1), Florida Statutes.

AARP: Denied. As is noted in Issues No. 1 through 4, above, the ILECs have not satisfied the requirements of section 364.164(1), Florida Statutes.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: Denied. The ILECs have not satisfied the requirements of section 364.164(1), Florida Statutes.

STAFF: Staff has no position at this time.

ISSUE 6: Which IXC's should be required to file tariffs to flow through BellSouth's, Verizon's, and Sprint-Florida's switched access reductions, if approved, and what should be included in these tariff filings?

POSITIONS:

VERIZON: This issue is beyond the scope of this proceeding, which is governed by Section 364.164, Florida Statutes. For that reason, Verizon, Bell South and Sprint have

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filed a Joint Motion for Reconsideration or Clarification of the Prehearing Officer's Second Order Modifying Procedure.

SPRINT: No position. Please see Joint Motion for Reconsideration or Clarification.

BST: No position. Please see Joint Motion for Reconsideration or Clarification.

KNOLOGY: Knology intends to match the ILEC access rates in a manner consistent with the Commission approved phase in period. In all other respects, Knology does not intend to address this issue.

ATT/MCI: All IXCs should be required to flow through the switched access reductions they receive in order to keep long distance carriers on a level playing field. For competitive neutrality, any flow through conditions imposed must be applied to all IXCs. However, AT&T and MCI would not oppose a *de minimus* threshold established by the Commission for those IXCs for which the flow through would have no meaningful impact. This threshold should be set sufficiently low to allow only those IXCs with very low volume of access use to qualify.

BELLSOUTH LONG

DISTANCE: BellSouth Long Distance does not have a position as to which intrastate interexchange carriers should be required to file tariffs to flow-through the access reductions, other than to note that Section 364.163 requires that all such carriers who benefit from the access reductions must flow-through the benefits. A company's tariff filings should specify the rates to be reduced and may contain a statement of the particular company's corresponding anticipated revenue reduction.

SPRINT COMMUNICATIONS

COMPANY: Sprint's conditional position (please see Joint Motion for Reconsideration or Clarification) is that any IXC paying more than \$1 million in access charges should be required to demonstrate that the required flow-through has occurred. It is not clear that the demonstration of flow through should occur in the tariff filings. The demonstration of compliance with the statutory requirements should be up to each company and should insure that confidentiality is maintained where needed. Tariffs should reflect rates and charges that flow through benefits of reduced access charge prices.

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VERIZON LONG

DISTANCE: Any IXC that receives the benefit of intrastate switched access rate reductions must file intrastate tariffs (if tariff filings are required) flowing through these reductions. An IXC reseller should not be required to reduce prices to its customers unless it receives a reduction in the prices it is charged by its facilities-based supplier. IXCs should have the discretion to determine how to flow through the access charge reductions (e.g., by lowering in-state per minute rates and/or monthly recurring plan charges). If the Commission should decide to deregulate long distance services and eliminate long distance tariffing obligations, the reductions should be passed through to end users under end user service agreements.

OPC: All Interexchange Communications Companies in Florida should be required to file tariffs and flow through the impacts of access rate reductions, except for those IXCs whose intrastate access expense reduction is \$100 or less, per month. Those IXCs which are not required to flow through the reductions should attest to such, via a letter filed with the Commission. These flow-through reductions should be directed to residential customers in the same proportion as the BLTS revenue increases proposed by the ILECs.

Included in these tariff filings should be the information delineated in the testimony of Citizens' witness, Bion Ostrander, beginning on page 6.

AARP: All Interexchange Communications Companies in Florida should be required to file tariffs and flow through the impacts of access rate reductions, except for those IXCs whose intrastate access expense reduction is \$100 or less, per month. Those IXCs which are not required to flow through the reductions should attest to such, via a letter filed with the Commission. These flow-through reductions should be directed to residential customers in the same proportion as the BLTS revenue increases proposed by the ILECs.

Included in these tariff filings should be the information delineated in the testimony of Citizens' witness, Bion Ostrander, beginning on page 6.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

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AG: All Interexchange Communications Companies in Florida should be required to file tariffs and flow through the impacts of access rate reductions, except for those IXC's whose intrastate access expense reduction is \$100 or less, per month. Those IXC's which are not required to flow through the reductions should attest to such, via a letter filed with the Commission.

STAFF: Staff has no position at this time.

ISSUE 7: If the ILEC access rate reductions are approved, should the IXC's be required to flow through the benefits of such reductions, via the tariffs, simultaneously with the approved ILEC access rate reductions?

POSITIONS:

VERIZON: This issue is beyond the scope of this proceeding, which is governed by Section 364.164, Florida Statutes. For that reason, Verizon, Bell South and Sprint have filed a Joint Motion for Reconsideration or Clarification of the Prehearing Officer's Second Order Modifying Procedure.

SPRINT: No position. Please see Joint Motion for Reconsideration or Clarification.

BST: No position. Please see Joint Motion for Reconsideration or Clarification.

KNOLOGY: Knology intends to match the ILEC access rates in a manner consistent with the Commission approved phase in period. In all other respects, Knology does not intend to address this issue.

ATT/MCI: It is unnecessary to set the exact same filing dates for both the ILECs and IXC's. The statute clearly requires the IXC's revenues to be reduced by the amount of access reductions it receives. The statute does not specify a timeframe. IXC's need a sufficient amount of time to both calculate the savings they will receive and to prepare tariffs for filing. IXC's should be allowed 60 days from the ILEC filing date of access tariff revisions to file any tariff revisions for flow through. If the Commission chooses to mandate the ILEC and IXC tariffs be effective

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simultaneously, ILEC access tariff revisions should be filed 60 days in advance of the effective date so that IXCs have the time necessary to conduct their analysis and file their tariffs.

BELLSOUTH LONG

DISTANCE: Affected intrastate interexchange carriers should file their tariffs to flow-through the access reductions within fifteen (15) days of the effective date of the last of the three LECs' filings. This will allow the carriers to avoid unnecessary multiple filings.

SPRINT COMMUNICATIONS

COMPANY: Sprint's conditional position (please see Joint Motion for Reconsideration or Clarification) is generally, yes. However, IXCs should be allowed to have up to 60 days from the time that ILEC access reductions are effective in order to implement tariff, billing and other administrative changes necessary to make flow-through price adjustments.

VERIZON LONG

DISTANCE: Facility-based IXCs that benefit from reductions in the price of access should be required to pass through rate reductions, via their intrastate tariffs (if tariffs are required), as soon as possible after the approved ILEC access rate reductions. Non-facilities based IXCs should be required to flow through access charge reductions when they are received from the underlying facilities-based carrier. Since the flow-through of the access charges will require facilities-based carriers as well as IXC resellers to make modifications to, for example, billing systems, rate tables, marketing and fulfillment materials, carriers should be given a reasonable amount of time to implement necessary plan and system changes before they are required to pass through access rate reductions.

OPC: Yes.

AARP: Yes.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

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AG: Yes.

STAFF: Staff has no position at this time.

ISSUE 8: For each access rate reduction that an IXC receives, how long should the associated revenue reduction last?

POSITIONS:

VERIZON: This issue is beyond the scope of this proceeding, which is governed by Section 364.164, Florida Statutes. For that reason, Verizon, Bell South and Sprint have filed a Joint Motion for Reconsideration or Clarification of the Prehearing Officer's Second Order Modifying Procedure.

SPRINT: No position. Please see Joint Motion for Reconsideration or Clarification.

BST: No position. Please see Joint Motion for Reconsideration or Clarification.

KNOLOGY: Knology does not intend to address this issue.

ATT/MCI: The interexchange long distance market is highly competitive. The competitive market should and will decide this issue. As the commission staff noted in its October 22, 2003 recommendation in Docket No. 030961 regarding its proposals for flow through, such restrictions have been unnecessary in the past and could have negative consequences:

As the long distance market is highly competitive, imposing any restriction on the length of time a revenue reduction is in place could place the IXCs at a disadvantage. Imposing a time mandate could prevent an IXC from implementing a pricing strategy that maximizes its competitive position.

Should the Commission mandate a period of time over which the IXC reductions are to be maintained, this would be the first time such a mandate has been imposed. In prior IXC access reduction flow throughs identified earlier in this

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recommendation, the Commission did not impose a period of time that the rate reductions must be in place.

BELLSOUTH LONG

DISTANCE: Given the completely and irrevocably competitive nature of the intrastate interexchange long distance market in Florida, market forces will ensure that any revenue reductions resulting from the flow-through of access charges will remain in place. There is significant and considerable competition among traditional long distance carriers as well as competition from other providers, such as voice over internet protocol providers and wireless carriers. This competition will cause carriers to move their prices toward cost and prevent them from raising rates in an effort to keep the benefits of the access rate reductions. Intrastate interexchange carriers should have the flexibility to change rates to meet market conditions, as long as they reduce their revenues in an amount equal to their access charge reductions.

SPRINT COMMUNICATIONS

COMPANY: Sprint's conditional position (please see Joint Motion for Reconsideration or Clarification) is that market forces will insure that the revenue benefits of access reductions will be effective in maintaining the revenue benefits of the access reductions. Nevertheless, each provider required to make a flow-through filing should reduce average prices by an amount at least equivalent to the access reduction on a per minute basis and should maintain those average price reductions for all three years of the access reductions plus at least one additional year.

VERIZON LONG

DISTANCE: The long distance communications market is highly competitive. Traditional wireline long distance carriers compete against each other as well as with wireless carriers, cable companies and IP telephony providers. Competition will ensure that IXCs flow through access reductions without any need for Commission intervention. Nevertheless, to remove any doubt about whether customers will actually receive the benefit of the access reductions, the VZ LD Affiliates agree to flow through the reductions year over year for three years. After that time, the VZ LD Affiliates should be free to change its long distance rates in accordance with the demands of the marketplace.

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OPC: The IXCs should be required to cap and maintain their long distance rate reductions for a period of three years after parity is achieved, as required by section 364.163, Florida Statutes; and as further described in Mr. Ostrander's testimony on pages 14 and 15.

AARP: The IXCs should be required to cap and maintain their long distance rate reductions for a period of three years after parity is achieved, as required by section 364.163, Florida Statutes; and as further described in Mr. Ostrander's testimony on pages 14 and 15.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: The IXCs should be required to cap and maintain their long distance rate reductions for a period of three years after parity is achieved, as required by section 364.163, Florida Statutes.

STAFF: Staff has no position at this time.

ISSUE 9: **How should the IXC flow-through of the benefits from the ILEC access rate reductions be allocated between residential and business customers?**

POSITIONS:

VERIZON: This issue is beyond the scope of this proceeding, which is governed by Section 364.164, Florida Statutes. For that reason, Verizon, Bell South and Sprint have filed a Joint Motion for Reconsideration or Clarification of the Prehearing Officer's Second Order Modifying Procedure.

SPRINT: No position. Please see Joint Motion for Reconsideration or Clarification.

BST: No position. Please see Joint Motion for Reconsideration or Clarification.

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KNOLOGY: Knology does not intend to address this issue.

ATT/MCI: The 2003 Act simply requires the IXCs to return the benefits of access reductions to both residential and business customers. However, it does not micromanage the IXC market by mandating a methodology or specific allocation. In doing so, the Act recognizes the competitive market is the best determinant of the specifics of the access flow through. The 2003 Act specifically has given IXCs the maximum flexibility to determine how best to make reductions that meet the needs of the market place. As long as both residential and business customers benefit, each IXC should be left to accomplish its flow through consistent with its market needs. In addition, each IXC must eliminate any in-state connection fee by July 1, 2006.

BELLSOUTH LONG

DISTANCE: Both residential and business customers must receive benefits from the reduction in access charges. Section 364.163 does not require any specific allocation. Nonetheless, under current market conditions and so long as the other carriers agree to do so, BellSouth Long Distance will allocate the revenue reductions in an approximately pro rata manner between residential and business customers.

SPRINT COMMUNICATIONS

COMPANY: Sprint's conditional position (please see Joint Motion for Reconsideration or Clarification) is that the methodology contained in witness Kapka's direct testimony should be a guide for flow-through.

VERIZON LONG

DISTANCE: VLD plans to flow through the benefits realized from access reductions to both residential and business customers based on the relative proportion of access minutes associated with these classes of customers. VSSI also plans to flow through savings to its customers. The amount of intrastate switched access that VSSI uses is significantly less than the amount that VLD uses.

OPC: The interexchange carriers should allocate rate reductions between residential and business customers in the same proportion as the respective percent revenue increases for those two classes of customers that have been proposed by the ILECs.

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AARP: The interexchange carriers should allocate rate reductions between residential and business customers in the same proportion as the respective percent revenue increases for those two classes of customers that have been proposed by the ILECs.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: The interexchange carriers should allocate rate reductions between residential and business customers in the same proportion as the respective percent revenue increases for those two classes of customers that have been proposed by the ILECs.

STAFF: Staff has no position at this time.

ISSUE 10: Will all residential and business customers experience a reduction in their long distance bills? If not, which residential and business customers will and will not experience a reduction in their long distance bills?

POSITIONS:

VERIZON: This issue is beyond the scope of this proceeding, which is governed by Section 364.164, Florida Statutes. For that reason, Verizon, Bell South and Sprint have filed a Joint Motion for Reconsideration or Clarification of the Prehearing Officer's Second Order Modifying Procedure.

SPRINT: No position. Please see Joint Motion for Reconsideration or Clarification.

BST: No position. Please see Joint Motion for Reconsideration or Clarification.

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KNOLGY: Knology's customers will enjoy reductions if the petitions are granted. Knology bundles local and long distance service in many of its product offerings. Customers purchasing bundled services will receive discounts on the services. If a Knology local telephone customer elects to purchase toll services from another carrier, Knology will match the ILEC access rate reductions in a manner consistent with the Commission Order.

ATT: All AT&T residential customers paying the instate connection fee will experience a reduction in their long distance bills. Depending on the level of access reductions, residential customers may receive additional reductions.

All classes of AT&T's business customers will receive reductions. To the extent that an individual business customer may be on a service that does not receive a reduction, this customer may choose to switch AT&T plans.

MCI: All consumers in Florida will benefit from these access reductions either directly or indirectly. If the ILEC petitions are approved, pricing changes will occur, making people look at their bills to make sure that they have the right long distance plan for their needs. All MCI stand-alone, presubscribed, residential long distance customers paying MCI's in-state recovery fee will receive a benefit, because MCI will reduce its in-state connection fee over the next three years, eliminating it by July 1, 2006. MCI will pass other benefits to some of its residential customers, although it has not determined specifically how it will do so. Depending on the service and plan, some business customers will see benefits.

BELLSOUTH LONG

DISTANCE: Although every residential and business customer may not necessarily benefit from the revenue reductions, each customer, by changing plans (or carriers) should have the opportunity to benefit.

SPRINT COMMUNICATIONS

COMPANY: Sprint's conditional position (please see Joint Motion for Reconsideration or Clarification) is that whether a customer will experience a reduction in his long distance bill will depend on his willingness to make intrastate long distance calls in any given billing period. It is impossible to state with any specificity which residential customers will and will not experience a reduction in their long distance bills.

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VERIZON LONG

DISTANCE: To the extent it receives access charge reductions, VLD plans to reduce in-state usage rates on some, but not all, residential and business plans. VLD's current plan is not to reduce prices on any of its unlimited long distance plans. Customers on these plans already receive, on an aggregate basis, VLD's lowest rates on a per minute basis. A reduction in access charges will not provide an incentive for customers to make additional calls since their plans already permit unlimited in-state calling. For residential customers, the access flow through reductions realized by VLD would be reflected in the per minute rates for several plans that represent a substantial portion of VLD's residential subscriber base. The plans VLD is considering for flowing through access reductions, if any, are set forth in the testimony of the Direct Testimony of John Broten.

OPC: No position at this time.

AARP: It is not presently possible to determine the extent any such customers will experience reductions in their long distance bills because the IXCs had not until recently, if at all yet, filed tariffs detailing how they would flow through the reduction in access fees. AARP has not yet had sufficient time to analyze the recently filed IXC testimony to determine if the unredacted materials will present sufficient data to make such a determination.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: No position at this time.

STAFF: Staff has no position at this time.

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ISSUE 11: Should these Dockets be closed?

POSITIONS:

VERIZON: No. The above-referenced docket is ongoing and should remain open.

SPRINT: No position at this time.

BST: No position at this time.

KNOLOGY: No position stated.

ATT/MCI: No position stated.

BELLSOUTH LONG

DISTANCE: No position stated.

SPRINT COMMUNICATIONS

COMPANY: No position at this time.

VERIZON LONG

DISTANCE: No. The above-referenced docket is ongoing and should remain open.

OPC: Yes.

AARP: Yes.

COMMON CAUSE

FLORIDA: Adopts the position of AARP.

SUGARMILL WOODS: Adopts the position of AARP.

AG: Yes.

STAFF: Staff has no position at this time.

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IX. EXHIBIT LIST

Witness	Proffered By	I.D. No.	Description
Direct/ Rebuttal			
Fulp	Verizon	(ODF - 1) CONFIDENTIAL	(Amended) Calculation of Interstate ATS ARPM
Fulp	Verizon	(ODF - 2) CONFIDENTIAL	(Amended) Florida Rate Rebalancing Summary
Fulp	Verizon	(ODF - 3) CONFIDENTIAL	(Amended) Florida Rate Rebalancing Exchange Access Summary UNE-P Impact-With Usage
Fulp	Verizon	(ODF - 4)	(Amended) Switched Access Tariff-intrastate- Revised
Danner	Verizon	(CRD - 1)	(Amended) Curriculum Vitae
Gordon	Verizon, BellSouth	Sprint, (Attachment A)	(Amended)Curriculum Vitae
Gordon	Verizon, BellSouth	Sprint, (Attachment B)	(Amended) Table of CLEC Lines Sold
Gordon	Verizon, BellSouth	Sprint, (Exhibit 1)	CLEC Margin Comparison
Leo	Verizon	(ETL - 1) CONFIDENTIAL	Local Competition in Florida
Dickerson	Sprint	(KWD - 1)	Cost of Local Service Study - Methods

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Witness	Proffered By	I.D. No.	Description
Dickerson	Sprint	(KWD - 2)	Cost of Local Service Study
		CONFIDENTIAL	
Dickerson	Sprint	(KWD - 3)	Sprint-Florida BCM2 Results
Dickerson	Sprint	(KWD - 3)	HCPM Cost of Service Comparison
Staihr	Sprint	(BKS - 1)	Density and Customer Concentration Data
Staihr	Sprint	(BKS - 2)	Explanation of Competitive Activity Level
Felz	Sprint	(JMF - 1)	ILEC Serving Territory
Felz	Sprint	(JMF - 2)	Switched Access Rates vs. Cost Analysis
Felz	Sprint	(JMF - 3)	Basic Local Service Rates vs. Cost Comparison (Residential)
Felz	Sprint	(JMF - 4)	Basic Local Service Rates vs. Cost Comparison (Business)
		CONFIDENTIAL	
Felz	Sprint	(JMF - 5)	BellSouth/Sprint Intrastate Access Rates
Felz	Sprint	(JMF - 6)	Residence One-Party Flat-Rate Service with Touchtone
Felz	Sprint	(JMF - 7)	Business Flat-Rate Service with Touchtone
Felz	Sprint	(JMF - 8)	Interstate Switched Access Rate Elements

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Witness	Proffered By	I.D. No.	Description
Felz	Sprint	(JMF - 9)	Intrastate Access Reductions Summary
Felz	Sprint	(JMF - 10)	Composite Switched Access Rate Analysis
Felz	Sprint	(JMF - 11)	(Amended) Intrastate Access Rate Reduction
Felz	Sprint	(JMF - 12)	(Amended) Summary of Revenue Neutral Rate Changes
Felz	Sprint	(JMF - 13)	(Amended) Current and New Basic Rate Changes
Felz	Sprint	(JMF - 14)	% Increase Residential Subscribership
Felz	Sprint	(JMF - 15)	% Households with Telephone Service
Felz	Sprint	(JMF - 16)	Personal Income per Capita
Felz	Sprint	(JMF - 17)	Disposable Personal Income
Felz	Sprint	(JMF - 18)	Per Capita Personal Income
Ruscilli	BST	(JAR - 1)	(Amended) BellSouth's Proposed Basic Service Rate Changes
Shell	BST	(DDC - 1)	(Revised - Sept. 12, 2003)
		CONFIDENTIAL	Cost Study (Attached to Direct Testimony of D. Caldwell)
Shell	BST	(DDC - 2)	Recurring costs by rate group (Attached to Direct Testimony of D. Caldwell)
		CONFIDENTIAL	

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Witness	Proffered By	I.D. No.	Description
Shell	BST	(DDC – 3)	Basic local exchange diagram (Attached to Direct Testimony of D. Caldwell)
Shell	BST	(DDC – 4) CONFIDENTIAL	Non-recurring cost chart (Attached to Direct Testimony of D. Caldwell)
Shell	BST	(WBS – 1) CONFIDENTIAL	Cost Comparison
Bigelow	BST	(SB – 1) CONFIDENTIAL	(Amended) Typical Network Composite – Summary of Demand
Bigelow	BST	(SB – 2) CONFIDENTIAL	(Amended) Mirroring Methodology – Summary of Demand
Bigelow	BST	(SB – 3) CONFIDENTIAL	(Amended) Switched Access Demand
Bigelow	BST	(SB – 4) CONFIDENTIAL	(Amended) Composite Rate Parity Worksheet)
Hendrix	BST	(JH – 1)	(Amended) Mirroring Methodology – Revenue Reduction
Hendrix	BST	(JH – 2)	(Amended) Typical Network Composite Methodology – Revenue Reduction
Hendrix	BST	(JH - 3)	(Amended) Mirroring and Typical Network Methodologies-Rate Element Detail

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Witness	Proffered By	I.D. No.	Description
Banerjee	BST	(AXB - 1)	Curriculum Vitae
Mayo	ATT/MCI	(JWM - 1)	Vita of Dr. John Mayo
Mayo	ATT/MCI	(JWM - 2)	Review of Networks Economics Article
Mayo	ATT/MCI	(JWM - 3)	Carrier Access Charges in a Flat-Fee, Bundled Services Market
Fonteix	ATT	(WF - 1)	BellSouth Access Rates
Fonteix	ATT	(WF - 2)	Sprint Access Rates
Fonteix	ATT	(WF - 3)	Verizon Access Rates
Kapka	Sprint Communications Company	(EWK - 1) CONFIDENTIAL	Estimated Access Savings
Gabel	OPC	(A - 1)	Estimation of The In-Plant Factor
Gabel	OPC	(A - 2)	Estimation of The Retail Cost Allocator
Gabel	OPC	(A - 3) CONFIDENTIAL	List of Proprietary Files Provided to Staff and BellSouth
Gabel	OPC	(A - 4)	Curriculum Vitae
Ostrander	OPC	(BCO - 1)	Qualifications
Ostrander	OPC	(BCO - 1) Part B	Qualifications
Ostrander	OPC	(BCO - 2)	Rate Impact

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Witness	Proffered By	I.D. No.	Description
Ostrander	OPC	(BCO-1) Rebuttal CONFIDENTIAL	Comparison of ILEC Residential and Business Local Rate Increases Compared to IXC Propose Split for Residential and Business Long Distance Rate Reductions
Cooper	AARP	(MNC – 1) CONFIDENTIAL	Basic Service Costs and Contribution When Loop Is A Shared Cost
Cooper	AARP	(MNC – 2) CONFIDENTIAL	Basic Local Residential Cost, Vertical Services And Access Contribution
Cooper	AARP	(MNC – 3)	Competition In The Local Telephone Market
Cooper	AARP	(MNC – 4)	BellSouth States, CLEC Penetration In Residential/Small Business Market
Cooper	AARP	(MNC – 5)	Residential CLEC Lines As A Percent OF CLEC Lines
Cooper	AARP	(MNC – 6)	Allocation Of Rate Rebalancing Revenue Increases)
Ollila	STAFF	(SMO – 1)	Telecommunications Markets in Florida – 2002 Annual Report on Competition

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

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

OPC's First Motion to Compel Production of Document and Responses to Interrogatories from BellSouth, filed September 15, 2003. OPC represented at the prehearing conference that this motion had been resolved between the parties.

OPC's Second Motion to Compel Responses to Interrogatories and PODs from BellSouth, filed September 23, 2003, and OPC's Third Motion to Compel Responses to Interrogatories from BellSouth, filed September 24, 2003.

A separate order is being prepared to address these two motions.

Attorney General's Motion for Summary Final Order, filed November 17, 2003.

This Motion will be taken up at the beginning of the technical hearing on December 10, 2003.

Joint Motion of Verizon, Sprint, and BellSouth for Reconsideration or Clarification of Prehearing Officer's Second Order Modifying Procedure for Consolidated Dockets to Reflect Additional Docket, Associated Issues, and Filing Dates, Filed November 20, 2003.

This Motion will also be taken up at the start of the technical hearing on December 10, 2003.

XII. PENDING CONFIDENTIALITY MATTERS

The following confidentiality requests will be addressed by separate orders:

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Verizon Florida - November 19, 2003 - Request for Confidential Classification of Portions of Testimony of Witnesses Danner and Leo.

Verizon Florida - November 20, 2003 - Request for Confidential Classification of Portions of Supplemental Response to Staff's 1st Set of Interrogatories No. 25

Verizon LD - November 19, 2003 - Request for Confidential Classification of Portions of Direct Testimony of Witness Broden's Direct at pp. 5 and 6

Sprint-Florida - November 20, 2003 - Request for Confidential Classification of Supplemental Responses to OPC's 1st Set of PODs to Sprint No. 6

Sprint LD - November 19, 2003 - Request for Confidential Classification of Information on pages 4 and 9 of Witness Kapka's Direct and Exhibit EWK-1

BellSouth's Request for Confidential Classification filed August 27, 2003

BellSouth's Revised Request for Confidential Classification filed September 12, 2003

BellSouth's Request for Confidential Classification filed September 30, 2003

BellSouth's Request for Confidential Classification filed October 10, 2003

BellSouth's Request for Confidential Classification filed October 17, 2003

BellSouth's Request for Confidential Classification filed October 21, 2003

BellSouth's Request for Confidential Classification of Portions of Witnesses Gabel and Cooper's testimony and exhibits - Filed November 21, 2003

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

Parties have stated in their prehearing statements that there are no decisions that will impact our deliberations in this case.

XIV. RULINGS

A. The pending Petitions for Intervention filed by BellSouth Long Distance, Inc., the Attorney General, Sprint Communications Company, Limited Partnership, Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, NYNEX Long Distance Company d/b/a

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Verizon Enterprise Solutions and Verizon Select Services Inc., Common Cause, Inc., and Sugar Mill Woods Civic Association, Inc. are hereby granted.

B. AT&T's Motion for Temporary Protective Order Regarding Witness Guepe's Testimony, filed November 20, 2003, and MCI's Motion for Temporary Protective Order, filed November 20, 2003, are covered by the protective provisions of Order No. PSC-03-1268-PCO-TL, issued November 10, 2003, and therefore, are moot. I emphasize that the protective provisions of Order No. PSC-03-1268-PCO-TL are intended to govern the dissemination of information in this proceeding to any party, including those that have joined the case since the issuance of the Order. Any information disseminated in accordance with the provisions of that Order shall be treated as proprietary confidential business information, which is exempt from the provisions of Section 119.07(1), Florida Statutes, as set forth in Section 364.183(2), Florida Statutes.

C. The parties have agreed that opening statements are not necessary, and as such, shall not be entertained.

D. Closing arguments will be limited to 8 minutes. Parties are instructed to be sure to include argument on the following issue in their closing arguments: *To what extent, if any, is the Commission authorized to consider benefits to toll customers in making its determination on the ILECs' access charge reduction petitions.*

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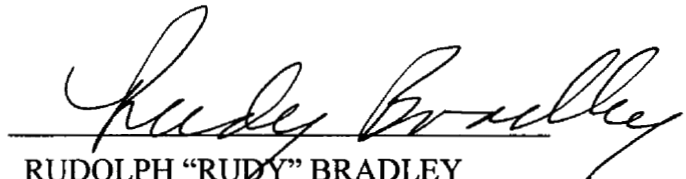
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It is therefore,

ORDERED by Commissioner Rudolph "Rudy" Bradley, 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 3rd day of December, 2003.


RUDOLPH "RUDY" BRADLEY
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 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; or (2) judicial review by the Florida Supreme Court, in

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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 the Commission Clerk and Administrative Services, 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.