

346
per

MACFARLANE AUSLEY FERGUSON & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

111 MADISON STREET, SUITE 2300
P.O. BOX 1531 (ZIP 33601)
TAMPA, FLORIDA 33602
(813) 273-4200 FAX (813) 273-4396

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(904) 224-9115 FAX (904) 222-7560

400 CLEVELAND STREET
P.O. BOX 1669 (ZIP 34617)
CLEARWATER, FLORIDA 34615
(813) 441-8966 FAX (813) 442-8470

October 12, 1994

IN REPLY REFER TO:
Tallahassee

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

ORIGINAL
FILE COPY

Re: In re: Expanded Interconnection Phase II and
Local Transport Restructure; Docket Nos. 921074-TP,
930955-TL, 940014-TL, 940020-TL and 931196-TL

Dear Ms. Bayo:

Enclosed for filing in the above-styled docket are the original and fifteen (15) copies of United Telephone Company of Florida's and Central Telephone Company of Florida's Posthearing Brief.

We are also submitting the Posthearing Brief on the enclosed 3.5", high-density diskette generated on a DOS computer in Word Perfect 5.1 format.

- ACK _____
- AFA _____ Please acknowledge receipt and filing of the above by stamping
- APP _____ the duplicate copy of this letter and returning the same to this
- CAF _____ writer.
- CAF _____ Thank you for your assistance in this matter.
- (EMU) *Reith*
- CTR _____
- EAG _____
- LEG *Carson* _____
- LIN *4* _____
- OPC *JPF/csu* _____
- RCH _____
- SEC *1 cc:* Parties of Record (w/encl.)
- WAS _____ *ucd\921074.byo*
- OTH _____

RECEIVED & FILED
FPC-BUREAU OF RECORDS

Yours truly,
John P. Fons
John P. Fons

DOCUMENT NUMBER-DATE
10430 OCT 12 94
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Expanded Interconnection) Docket Nos. 921074-TP,
Phase II and Local Transport) 930955-TL, 940014-TL,
Restructure) 940020-TL, and 931196-TL
_____) Filed: October 12, 1994

UNITED TELEPHONE COMPANY OF FLORIDA'S
AND CENTRAL TELEPHONE COMPANY OF
FLORIDA'S POSTHEARING BRIEF

Pursuant to Order No. PSC-94-0277-PCO-TL, United Telephone Company of Florida ("United") and Central Telephone Company of Florida ("Centel") (collectively the "Companies"), through their undersigned counsel, file their Posthearing Brief.

STATEMENT OF BASIC POSITION

Authorizing switched access expanded interconnection is a natural step in the evolutionary direction of competition in local exchange telecommunications. However, it is not a step without risk to the local exchange companies (LECs) and their customers. United and Centel are not opposed to authorizing switched access expanded interconnection so long as it is implemented in a manner that is fair to all parties and so long as the Companies are given the tools necessary to mitigate some of the risk associated with exposing to competition additional services and the contributions from those services. Without such contributions - which are used to support universal service and carrier of last resort obligations - there will be additional pressure to increase basic local exchange service prices. In this regard, the Companies must be given cost-driven, rate-deaveraged pricing flexibility.

DOCUMENT NUMBER-DATE

10430 OCT 12 1994

Importantly, the availability of such flexibility should not be dependent on the type of interconnection the Companies offer the interconnecting competitors. Finally, the Commission can avoid the legal and practical pitfalls of mandating any particular form of collocation, and still adhere to its pro-competitive policies, by instituting rules and regulations that allow and encourage the parties to negotiate mutually acceptable interconnection agreements.

ISSUES AND POSITIONS

STIPULATED ISSUE 1: How is switched access provisioned and priced today?

* **POSITION:** Switched access service uses a local exchange company's switching facilities to provide a communications pathway between an interexchange company's terminal location and an end user's premises. Switched access is provisioned under a feature group arrangement. There are four feature groups: FGA, FGB, FGC, and FGD. These categories are distinguished by their technical characteristics, e.g., the connection to the central office is line side or trunk side. Rate elements differ by name according to the respective local exchange company. Rate elements typically include local switching, carrier common line, local transport, and carrier access capacity. Rate elements are currently priced under the equal charge rule. This means that each unit is priced the same as the next unit for a given rate element. Rates and charges include recurring, nonrecurring, and usage. *

STIPULATED ISSUE 2: How is local transport structured and priced today?

* **POSITION:** Local transport, as mentioned in Issue 1, is one of the switched access rate elements. Local transport is currently priced on a usage sensitive basis. The rate is applied on a per minute of use basis. Regardless of distance, all transport minutes of use are assessed the same rate per minute of use. *

ISSUE 3: Under what circumstances should the Commission impose the same or different forms and conditions of expanded interconnection than the F.C.C.?

**** POSITION:** In view of the user's ability to send both intrastate and interstate traffic across the same facility, the terms and conditions for use of the facility should be the same regardless of jurisdiction, to avoid forum shopping. However, the FCC's pricing flexibility plan does not provide adequate flexibility for appropriate company-competitive responses. This Commission should grant the Companies' request to implement zone density pricing in addition to contract service arrangements (CSAs). **

As the record in this phase of the proceeding demonstrates, much of what is occurring in the further introduction of competition into the provision of local access is being driven by federal decisions designed to enlarge consumer choice. United/Centel are not opposed to the federal decisions or their implementation in Florida on an intrastate basis. Quite frankly, because most telecommunications facilities located in Florida carry a combination of intrastate and interstate traffic and/or services, it would be difficult, if not impossible, to have different jurisdictional treatment for expanded interconnection purposes. Therefore, this Commission should impose the same forms and conditions of expanded interconnection as the FCC. (Poag, Tr. 784.)

On the other hand, the types of competitive responses and the timing of those responses can be jurisdictionally different. Although the FCC has permitted pricing flexibility in the form of zone density pricing, the FCC has restricted the LEC from implementing such pricing flexibility until expanded interconnection offerings are operational. (Order No. PSC-94-0285-

FOF-TP, p. 22). As this Commission properly determined in Phase I of this proceeding, zone density pricing should be permitted, whether or not competitive entry has occurred. (Order No. PSC-94-0285-FOF-TP, p. 22). (Poag, Tr. 785.)

In addition to the timing limitation on implementing zone density pricing, the FCC also imposed price floors for zone density pricing that do not reflect incremental cost. The establishment of price floors above incremental cost will create improper pricing signals to competitors and will deprive consumers the full benefits of competition. Therefore, it is important that this Commission judge whether the Companies' market-based prices for competitive access services cover incremental cost, not some arbitrary/cost allocation price floor. (Poag, Tr. 785.)

Finally, while the Companies are seeking Commission approval of zone density pricing in response to expanded switched, as well as special, interconnection, the Companies also request continued availability of Contract Service Arrangements (CSAs). Zone density pricing is appropriate to send switched and special access pricing signals to commercial customers in general, while CSAs provide the vehicle for meeting competitive access proposals to individual customers where circumstances demand a tailor-made response. (Poag, Tr. 785-86.) Only by granting the Companies the pricing flexibility, which they propose in this proceeding, will the Companies be able to compete in the newly-opened, vastly-lucrative access market. Without this ability to compete, the Companies will be forced to watch the erosion of revenues and contribution from

access services which historically have been used to support residential local exchange prices. (Poag, Tr. 788-90.)

ISSUE 4: Is expanded interconnection for switched access in the public interest? (The following should be discussed within this issue: Potential separations impact; Potential revenue impact on LECs, their ratepayers, and potential competitors; Potential ratepayer impact.?)

**** POSITION:** The Companies believe that if all parties are given the same opportunities to compete on the basis of price, quality and technology, in the long run, the competitive provisioning of switched access transport service is in the public interest and will provide some customers the benefits of product innovation, higher quality service, network diversity, and lower prices. However, customers who do not qualify for expanded interconnection alternatives may pay more for their same service.**

Although the competition which will be fostered by expanded interconnection is inevitable, it must be recognized that this competition is aimed squarely at access services which historically have produced significant contribution to the support of common overheads and residential local exchange service prices. (Poag, Tr. 808.) Competition will erode this contribution in the following ways: One way will be from the loss of access customers (IXCs and end users) to alternative access vendors; another way will be from the access price reductions which the Companies must make to remain competitive and thereby retain some of the current contribution stream; and, finally, from the switching out of higher-priced switched access with lower-priced special access whenever the price of special access presents an economically attractive reason to do so. (Poag, Tr. 789-90.) Consequently, the Companies must be provided with the mechanisms to respond to

competition so that the customers that qualify for expanded interconnection will receive the full benefits of competition - not just the illusory benefits of uneconomic bypass - and the Companies' customers that do not qualify will, nonetheless, receive the benefit of a continued - albeit somewhat reduced - contribution stream. (Poag, Tr. 791-93.)

It is the very nature of competition that the marketplace sets the prices of products and services. Consumers will desert any provider that cannot price its services similar to its competitors, assuming that technology and quality are equally available. By the same token, however, consumers will not reap the full benefits of competition if one of the competitors is artificially constrained by arbitrary pricing limits, thereby erecting a pricing umbrella. This pricing umbrella allows the inefficient provider to survive and the efficient provider to reap excessive profits. (Poag, Tr. 805-06.) Only if the Companies are allowed to price competitively will all consumers benefit. Over time, the introduction of switched access expanded interconnection will cause a realignment of prices, both for switched access, as well as for the services which have benefited from the enormous level of contribution flowing from switched access. (Poag, Tr. 787.)

As noted previously in the Companies' discussion of Issue 3, authorizing expanded interconnection for switched access is just another step in the policymaker's inexorable efforts to open the local exchange market to competition. Indeed, most of those entities providing alternative access services, either directly or

through subsidiaries or affiliates, have plans to provide traditional residential and business local exchange service using the very same networks being installed to provide switched and dedicated access services. (Smith, Tr. 577(13); Andreassi, Tr. 750-51.) In view of these plans and the inevitable risk to the Companies and their local exchange customers, the Companies must be permitted to meet the new entrants in these formerly monopoly markets with pricing plans that reflect realities of a competitive marketplace. Only by treating all of the competitors equally, in terms of pricing and marketing requirements, will all consumers reap the benefits of competition, and only then can this step in the competitive continuum be viewed as in the public interest. (Poag, Tr. 792-93.)

ISSUE 5: Is the offering of dedicated and switched services between non-affiliated entities by non-LECs in the public interest?

**** POSITION:** If allowing customers more options for their telecommunications service requirements is deemed to be in the public interest, then permitting dedicated and switched services to be provisioned between non-affiliated entities by non-LECs could be considered in the public interest. However, as customer options increase, more competitive inroads into traditional LEC service areas are developed and the overall public interest will not be served if competitive opportunities are expanded without providing any additional flexibility to the LECs. **

The current Sections 364.335(3) and 364.337(3)(a), Florida Statutes, limits alternative access vendors (AAVs) to providing private line service between an entity and its facilities at another location or dedicated access service between an end-user and an interexchange carrier. The effect of this limitation is to

prevent AAVs from providing "switched" services. This restriction is designed to replicate the local exchange companies' similar tariff restrictions that prohibit the provisioning of private line services between non-affiliated entities. The rationale for the restriction is simple; namely, it assures that large users remain on the public switched network, rather than encouraging a plethora of private networks. The advantage to all other users is obvious: the more users and usage on the network the lower the unit costs and all users thereby benefit from economies of scope and scale. Allowing the AAVs to provide dedicated services between non-affiliated entities simply exacerbates the impact of competition by not only reducing revenues and contributions, but also by reducing the economies of scope and scale otherwise present when all users share the benefits of a single network.

With respect to the offering of switched services between non-affiliated entities by non-LECs, e.g., AAVs, this constitutes the opening of the local network to competition. The very essence of local exchange service is the switching of voice and data traffic between non-affiliated entities.

This is not the proceeding to address these two crucial changes in the make-up of local exchange service provisioning. Indeed, allowing entities other than the LECs to provide dedicated or switched services between non-affiliated entities without addressing the issues of universal service and carrier of last resort obligations and the terms, conditions and prices for local interconnection will put the cart before the horse. There are

simply too many critical, interrelated issues to be resolved before addressing such a complicated, far-reaching issue in a proceeding addressing issues with a much narrower scope.

ISSUE 6: Does Chapter 364, Florida Statutes, allow the Commission to require expanded interconnection for switched access?

**** POSITION:** Yes. However, there is nothing in Chapter 364, Florida Statutes, which allows the Commission to impose mandatory physical collocation requirements as an integral part of any expanded interconnection decision. **

ISSUE 7: Does a physical collocation mandate raise federal or state constitutional questions about the taking or confiscation of LEC property?

**** POSITION:** Yes. Mandated physical collocation constitutes an unlawful taking of the Companies' property. There is nothing in the Florida Constitution or state statutes, including Chapter 364, Florida Statutes, that would legitimize mandated physical collocation in Florida. Please see the Companies' position on Issue 23a. **

ISSUE 8: Should the Commission require physical and/or virtual collocation for switched access expanded interconnection?

**** POSITION:** No. United and Centel are opposed to being unconditionally required to provide any specific form of collocation, either physical or virtual, for switched access expanded interconnection. Please see the Companies' Response to Issue 23a. **

STIPULATED ISSUE 9: Which LECs should provide switched access expanded interconnection?

*** POSITION:** Only tier 1 LECs (Southern Bell, GTEFL, United and Centel) shall be required to offer switched access expanded interconnection.

If a non-Tier 1 LEC receives a bona fide request for expanded interconnection but the terms and conditions cannot be negotiated by the parties, the Commission shall review such a request on a

case-by-case basis. If the parties agree on expanded interconnection, the terms and conditions shall be set by individual negotiation. *

STIPULATED ISSUE 10: From what LEC facilities should expanded interconnection for switched access be offered? Should expanded interconnection for switched access be required from all such facilities?

* **POSITION:** Expanded interconnection shall be offered out of all LEC offices, which include central offices, end offices, tandems, and remotes, that are used as rating points for switched access services and have the necessary space and technical capabilities. Initially, expanded interconnection shall be offered out of those central offices that are identified in the proposed tariffs in the interstate jurisdiction. Additional offices shall be added within 90 days of a written request to the LEC by an interconnector. *

STIPULATED ISSUE 11: Which entities should be allowed expanded interconnection for switched access?

* **POSITION:** Any entity shall be allowed to interconnect on an intrastate basis its own basic transmission facilities associated with terminating equipment and multiplexers except entities restricted pursuant to Commission rules, orders and statutes. *

ISSUE 12: Should collocators be required to allow LECs and other parties to interconnect with their networks?

** **POSITION:** With respect to LEC interconnection with interconnectors' networks, interconnection reciprocity is appropriate. However, interconnection within the central office between two expanded interconnection customers is appropriate only if the interconnectors use LEC facilities and services to accomplish the interconnection. **

There are no legal or economic reasons, nor is there any sound regulatory policy, for excusing collocators from interconnecting their networks with those of the LECs and other end users. It is not a question of competition or level playing field. It is, instead, a question of whether customers are going to have the full

benefits of introducing competition. There surely are and will be instances in which the collocator will have existing network or switching facilities available that a LEC's customer could use to complete the customer's service requirement instead of the LEC having to build new facilities for this one customer. (Poag, Tr. 810-112.)

Arguments advanced by opponents of reciprocal interconnection are without merit. The suggestion that reciprocal interconnection will subvert the introduction of viable competition is a smoke screen. The fact is, reciprocal interconnection will hasten the development of competition by increasing consumer options as to how and in what combinations service can be provided. Moreover, it optimizes network development and avoids the creation of separate, duplicate, non-interconnected networks.

STIPULATED ISSUE 13: Should the Commission allow switched access expanded interconnection for non-fiber optic technology?

* **POSITION:** Yes. The Commission shall allow expanded interconnection of non-fiber optic technology on a central office basis where facilities permit. The actual location of microwave technology shall be negotiated between the LEC and the interconnector. *

ISSUE 14: Should all switched access transport providers be required to file tariffs?

** **POSITION:** Yes. United and Centel advocate that any party, whether dominant or non-dominant, offering transport services be subject to tariffing requirements. Non-dominant providers have more streamlined tariffing procedures before the FCC, but must tariff nonetheless. The tariffing requirement should be no less in Florida. **

In order for the consumers to have the broadest range of information to make rational decisions as to which provider is offering the best switched access transport price and on what terms and conditions, it is essential that all providers file tariffs containing that information. Of course, when the consumers are more knowledgeable than they are today about the options and prices available to them, no provider should have to file tariffs. In the interim, however, the worst possible scenario for the development of fair competition would be for the so-called "dominant" provider to be required to file tariffs, while the "non-dominant" providers could use the dominant providers' published prices as the vehicle for structuring individual, customized proposals to customers. While the "non-dominant" provider would profit in that situation, the customer would probably not get the most competitive price. As long as the "dominant" provider is required to file tariffs with average prices - whether in zone 1 or zone 3 - the "non-dominant" provider has the luxury of finding those customer situations that are below the average and negotiating a price that is just below the average, tariffed price, but well above the "non-dominant" providers' cost, and pocket the difference as profit. (Poag, Tr. 812.)

ISSUE 15: Should the proposed LEC flexible pricing plans for private line and special access services be approved?

**** POSITION:** Yes. Flexible pricing plans are essential if the Companies are to be able to compete with entities benefiting from expanded interconnection opportunities. Approval of United's and Centel's zone density pricing plan in Florida will begin the

necessary transition toward market-based prices for the Companies' private line and dedicated access services. **

Please see the Companies' discussion of Issue 18.

ISSUE 16: Should the LECs proposed intrastate private line and special access expanded interconnection tariffs be approved?

**** POSITION:** No. United's and Centel's private line and special access expanded interconnection tariffs need to be revised to remove the physical collocation requirement. **

ISSUE 17: Should the LECs proposed intrastate switched access interconnection tariffs be approved?

**** POSITION:** No. United's and Centel's switched access expanded interconnection tariffs need to be revised to remove the physical collocation requirement. **

ISSUE 18: Should the LECs be granted additional pricing flexibility? If so, what should it be?

**** POSITION:** Yes. The Companies believe that expanded interconnection will accelerate competition in the local exchange market and thereby create pressure for significant changes in regulatory policy relative to local exchange pricing. The Companies must be given the same opportunities to compete on the basis of price, quality and technology, and they must be granted zone density pricing flexibility. **

By approving expanded interconnection of switched and dedicated access services, the Commission is setting in motion a significant change in the ability of United and Centel to support residential local exchange service prices with the contributions flowing from switched and special access services. It is undisputed that the prices for switched access service are well above the cost of providing the service. Indeed, it is this very

price/cost disparity that has created the pressure for other access providers to enter the market. It is no secret that the Companies' largest access customers, the IXCs, have fomented a competitive access environment in order to receive lower switched access prices. (Poag, Tr. 792.)

In order for United and Centel to meet this new competition and to retain some of the contributions available from access services, it is essential that the Commission approve the Companies' flexible pricing plan for private line and special access services. This pricing plan essentially mirrors the zone density pricing plan filed with the FCC. (Poag, Tr. 793.) Not only should this Commission approve the zone density pricing plan, it should also allow the implementation of this plan upon implementation of expanded interconnection. Otherwise, the Companies will be severely disadvantaged in their ability to respond timely to competitive inroads into the lucrative access business. (Poag, Tr. 797.) Moreover, without the Companies being effective competitors, consumers will not receive economically efficient, cost-based prices from the new entrants. Instead, new entrants will be able to price just below the Companies' artificially constrained access prices and still snare away the Companies' more profitable customers.

In addition to approving the Companies' zone density pricing plan, the Commission should also improve the current Contract Service Arrangement (CSA) process by eliminating the current requirement that the customer have a pending competitive offer

before the Companies can respond with a CSA. With this flexibility, the Companies can assure that the customers qualifying for pricing treatment that more closely reflects the cost of providing access service to that customer will actually receive those benefits. Likewise, the customers currently benefiting from residual pricing and from contributions flowing from access service will continue to have some benefit from the Companies' ability to compete. (Poag, Tr. 797-98.)

ISSUE 19: Should the Commission modify its pricing and rate structure regarding switched transport service?

- a) With the implementation of switched expanded interconnection.
- b) Without the implementation of switched expanded interconnection.

**** POSITION:** Yes. The restructure of local transport (LTR) has merit even if it is not in the context of expanded interconnection. However, it is critical that if switched access expanded interconnection is implemented, that it be accompanied by Local Transport Restructure. **

ISSUE 20: If the Commission changes its policy on the pricing and rate structure of switched transport service, which of the following should the new policy be based on:

- a) The intrastate pricing and rate structure of local transport should mirror each LEC's interstate filing, respectively.
- b) The intrastate pricing and rate structure of local transport should be determined by competitive conditions in the transport market.
- c) The intrastate pricing and rate structure of local transport should reflect the underlying cost based structure.

- d) **The intrastate pricing and rate structure of local transport should reflect other methods.**

**** POSITION:** United's and Centel's LTR filings essentially mirror the tariffs filed in the interstate jurisdiction. However, those filings incorporate elements of both b) and c) above. By restructuring local transport such that dedicated transport rates are based on existing special access rates, local transport becomes more cost-based as well as more market-based. ******

The current Commission policy on switched access local transport prices and price structure is out of date and needs to be changed regardless of whether it approves switched access interconnection. However, if switched access interconnection is authorized, then local transport service must be restructured. (Poag, Tr. 806.) United and Centel will not be able to compete in the switched access local transport market if they cannot structure and price their services in the same manner as the alternative access vendors (AAVs) and other providers. It is essential, therefore, that the local transport tariffs filed by the Companies, which reflect market conditions and cover the cost of providing the service, be approved as filed. (Poag, Tr. 805.)

Switched access local transport service represents a significant part of the total switched access service, so much so that the FCC, in recognition of the potential revenue loss to the LECs from implementing expanded switched interconnection, created a new switched access pricing element to recapture the bulk of the revenues that would be lost to the local transport restructure, especially when the IXCs use AAVs rather than the LECs to provide local transport. (Poag, Tr. 789; Guedel, Tr. 152.) This pricing element, the residual interconnection charge or RIC, is a usage-

based charge and is applied to the access switching element. (Guedel, Tr. 157.) However, it is not cost-based, is not intended to endure, and is bypassable. (Poag, Tr. 789; Guedel, Tr. 156; Hendrix, Tr. 533-343.) Accordingly, despite some parties' contention that the combination of the RIC and local transport restructure "guarantees" that the LECs will not be harmed by the introduction of switched access competition, United and Centel believe that with the changes taking place in the industry and the pressure being applied to reduce switched access prices, the Companies and their customers will, in time, surely be harmed. (Guedel, Tr. 163-64; Andreassi, Tr. 756-58.) The degree of harm will depend upon the level of pricing flexibility granted to the Companies.

Several small and mid-sized IXCs have challenged the Companies' restructured local transport prices, alleging that they should be based strictly on the cost and cost differentials of providing DS1 and DS3 service. (Gillan, Tr. 593-98.) The Companies acknowledge that the local transport prices should and do cover cost. (Poag, Tr. 827; Late-Filed Ex. 43.) The pricing, however, should reflect market factors, not just cost factors. Two major, non-cost factors in the pricing decision are how other competitors are pricing their services and what are the prices of cross-elastic services. (Poag, Tr. 828-29.) The proposal of one party, IAC, totally ignores these factors.

IAC contends that the price for local transport must closely reflect the number of DS1 facilities derived from a DS3 facility.

Under the IAC proposal, the ratio of DS1 to DS3 would rely on cost differences only and would be around 24:1 (Gillan, Tr. 613-15), rather than the Companies' market-based ratio of 11:1. (Ex. 44, p. 50.) Further, as shown in Late-Filed Exhibit 43, the 24:1 ratio advocated by IAC is not the correct cost ratio for United or Centel. (Late-Filed Ex. 43, Attachment A, pp. 1 and 2 of 6.) IAC's proposal ignores the fact that the Companies' access competitors price their access transport services based on market consideration. TCG's witness testified that TCG has a range of rates filed in its interstate tariffs for DS1 and DS3 services, and the minimum price is based upon a ratio of 3.17:1, and the maximum price is based upon a ratio of 7.8:1. (Andreassi, Tr. 1017-18.) In the face of how the competitors price their DS1 and DS3 services, if the Companies were to use IAC's recommendation, then, the Companies' local transport prices would be too high with respect to the market price. (Late-Filed Ex. 43, p. 2.)

Similarly, because switched access and dedicated access are substitutable services, if the Companies were to use IAC's recommended ratio, the Companies' local transport prices would be too low with respect to the cross-over point between switched access and special access. (Late-Filed Ex. No. 43, pp. 2-3.) When the price of local transport service is too low in relation to switched access, there is greater incentive for the IXCs to purchase special access in lieu of switched access. This pricing relationship cannot be ignored if the Companies are to maintain a

reasonable contribution stream from access services. (Poag, Tr. 829.)

ISSUE 21: Should the LECs proposed local transport restructure tariffs be approved? If not, what changes should be made to the tariffs?

**** POSITION:** Yes. United's and Centel's LTR filings should be approved. This restructuring has already occurred in the interstate jurisdiction, and is a natural phase in the evolution of switched access rates becoming more reflective of costs. Moreover, the current local transport rate structure is incompatible with attempts to increase competition for switched transport services, i.e., switched access expanded interconnection. **

ISSUE 22: Should the Modified Access Based Compensation (MABC) agreement be modified to incorporate a revised transport structure (if local transport restructure is adopted) for intralATA toll traffic between LECs?

**** POSITION:** Once a revised transport structure is approved, the MABC plan should be modified to reflect the new transport structure. However, any modification of the MABC plan should be addressed in a separate proceeding. **

ISSUE 23: How should the Commission's imputation guidelines be modified to reflect a revised transport structure (if local transport restructure is adopted)?

**** POSITION:** United and Centel believe that access imputation would be better addressed outside of this proceeding. The Commission's imputation guidelines should, in any event, be modified to reflect the average transport cost, not rate, per access minute of use. Additionally, the requirement for a separate access line for the LEC's high volume toll offerings should be eliminated. **

ISSUE 23a: Should the Commission modify the Phase I Order in light of the decision by the United States Court of Appeals for the District of Columbia Circuit?

**** POSITION:** Yes. This Commission must modify its Phase I Order in order both to comply with the U.S. Court of Appeals' decision

that mandatory physical collocation is an unlawful taking and to avoid inconsistent jurisdictional treatment resulting from the FCC's Order in Docket CC91-141, released July 25, 1994, ordering virtual collocation expanded interconnection. **

The United States Court of Appeals decision requires that the Commission modify its Order No. PSC-94-0285-FOF-TP. Not only does the Court of Appeals decision clearly demonstrate that mandatory physical collocation constitutes a taking of the LECs' property, it also creates the potential for inconsistent federal and state treatment. That potential has been taken a step further with the FCC's order of July 14, 1994, directing the LECs to provide expanded interconnection through virtual collocation. (Poag, Tr. 802.)

In addition to the legality issue and the practical problems of a Florida Commission-mandatory physical collocation requirement, there are significant economic reasons for this Commission modifying its Phase I Order. This Commission approved competition by AAVs for LEC services in Order No. 24877, issued August 2, 1991, in Docket No. 890183-TL. That order provides these competitors with the opportunity to physically bypass the LEC's networks in competition with the LECs. Thus, because the AAVs do not have to rely on any LEC-provided facilities to compete, the LECs do not have a bottleneck and have no way to hinder the AAVs from competing with the LECs. With the implementation of expanded interconnection, the AAVs now have an opportunity to reach a larger customer base. At the same time, expanded interconnection presents the LECs with a business opportunity to lease available floor space

to AAVs, IXC's or any end user. There are, therefore, equal and compelling incentives for the LECs and AAVs to negotiate mutually advantageous collocation arrangements. (Poag, Tr. 802-03.)

In these negotiations, both parties will recognize that floor space is a valuable asset which should be priced based on the market value to any of the potential lessors. United and Centel should not be forced to make this resource available to a specific class of customers for specific purposes when there may be other potential users. Each decision to lease or not lease a valuable, limited asset should be decided on the unique circumstances of the marketplace and considering all possible opportunities. (Poag, Tr. 803.)

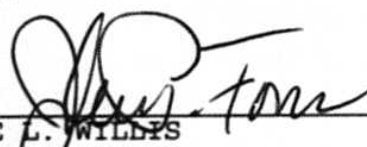
In the increasingly competitive environment, United and Centel cannot afford to waste valuable resources, conversely they should not be mandated to a use which does not reflect the proper market value of the resource. To do otherwise produces a misallocation of valuable resources. (Poag, Tr. 803.)

The Companies have leased floor space to IXC's, information services providers and an AAV. These transactions were negotiated and concluded without any regulatory intervention or assistance. These business opportunities have benefited the general body of ratepayers by producing revenues that may not have otherwise been possible if rates had been predetermined and published in a tariff. Clearly, given the rapidly changing and increasingly competitive marketplace, inflexible, predetermined values are inappropriate. (Poag, Tr. 804.)

ISSUE 24: Should these dockets be closed?

**** POSITION: No position. ****

DATED this 12th day of October, 1994.



LEE L. WILLIPS
JOHN P. FONS
Macfarlane Ausley Ferguson
& McMullen
P. O. Box 391
Tallahassee, Florida 32302
(904) 224-9115

ATTORNEYS FOR UNITED TELEPHONE
COMPANY OF FLORIDA AND CENTRAL
TELEPHONE COMPANY OF FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 12th day of October, 1994, to the following:

Daniel V. Gregory
Quincy Telephone Company
P. O. Box 189
Quincy, FL 32351

John A. Carroll, Jr.
Northeast Florida Telephone
P. O. Box 485
Macclenny, FL 32063-0485

Michael W. Tye
AT&T Communications
106 E. College Ave., Suite 1410
Tallahassee, FL 32301

Joseph Gillan
Florida Interexchange Carriers
P. O. Box 541018
Orlando, FL 32854

Brad E. Mutschelknaus
Rachel J. Rothstein
Ann M. Szemplenski
Wiley, Rein & Fielding
1775 K Street, N.W.
Washington, DC 20006

Laura L. Wilson
Florida Cable Television Assn.
P. O. Box 10383
Tallahassee, FL 32302

Patrick K. Wiggins
Kathleen Villacorta
Wiggins & Villacorta
P. O. Drawer 1657
Tallahassee, FL 32302

Vicki Gordon Kaufman
McWhirter, Reeves, et al.
315 S. Calhoun St., Suite 716
Tallahassee, FL 32301

Jack Shreve
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison St., Rm. 812
Tallahassee, FL 32399-1400

C. Everett Boyd, Jr.
Ervin, Varn, et al.
305 S. Gadsden Street
Tallahassee, FL 32301

Chanthina R. Bryant
Sprint
3065 Cumberland Circle
Atlanta, GA 30339

Janis Stahlhut
Time Warner Cable
Corporate Headquarters
300 First Stamford Place
Stamford, CT 06902-6732

Jodie L. Donovan
Teleport Communications Group
1 Teleport Drive, Suite 301
Staten Island, NY 10311

Kenneth A. Hoffman
Floyd R. Self
Messer, Vickers, et al.
P. O. Box 1876
Tallahassee, FL 32302

Donna L. Canzano *
Division of Legal Services
Florida Public Service Comm.
101 East Gaines Street
Tallahassee, FL 32301

Marshall M. Criser, III
Southern Bell Telephone
and Telegraph Company
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

Mickey Henry
MCI Telecommunications Corp.
780 Johnson Ferry Road
Suite 700
Atlanta, GA 30342

Richard D. Melson
Hopping, Boyd, Green & Sams
P. O. Box 6526
Tallahassee, FL 32314

Peter Dunbar
Pennington, Haben, et al.
306 No. Monroe Street
Tallahassee, FL 32301

Douglas S. Metcalf
Communications Consultants, Inc.
P. O. Box 1148
Winter Park, FL 32790-1148

Harriet Eudy
ALLTEL Florida, Inc.
P. O. Box 550
Live Oak, FL 32060

Beverly Menard
c/o Richard Fletcher
GTE-Florida
106 E. College Ave., Suite 1440
Tallahassee, FL 32301

Intermediate Communications
V.P., External Affairs
9280 Bay Plaza Blvd., Suite 720
Tampa, FL 32063



Attorney