

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

August 31, 1995

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS [GREER] *SIG ANT*
DIVISION OF LEGAL SERVICES [BARONE] *HR*

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

AGENDA: 9/12/95 - REGULAR AGENDA - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\ [REDACTED]

CASE BACKGROUND

Section 364.16 (4), Florida Statutes, which became effective on July 1, 1995, requires the Commission to ensure the implementation of a temporary number portability solution prior to the introduction of competition in the local exchange market on January 1, 1996. The statute requires the parties, under the direction of the Commission, to set up a number portability standards group by no later than September 1, 1995 for the purposes of investigation and development of appropriate parameters, costs and standards for number portability. However, since the Commission is required to ensure the establishment of a temporary number portability solution by January 1, 1996, it was impossible to establish a hearing schedule that met the timeline of the statute. Therefore, it became necessary, in order to meet the deadlines of the statute, to develop a hearing schedule which required the parties to be on a faster timeline than required by the statute.

On June 29, 1995, the Commission established this docket to investigate the appropriate temporary local number portability solution as contemplated by the statute. The hearing for this docket, which will run concurrently with resale, unbundling and interconnection, is scheduled for October 25 - 28, 1995. Staff held a workshop on July 20, 1995 to address the following topics:

1. Establishment of the Number Portability Standards Group
2. Appropriate Issues for the October hearing.
3. The possibility of stipulating the issues in this proceeding.
4. Staff's intention to investigate a permanent number portability solution once the temporary solution had been established

DOCUMENT NUMBER-DATE

08516 AUG 31 95

FPSC-RECORDS/REPORTING

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Since the initial workshop, the parties and staff have met on four separate occasions (August 3, August 15, August 22, and August 25) in an attempt to develop a stipulation for the issues in this proceeding. The parties have since submitted a stipulation which addresses some, but not all, of the issues identified in this docket. If the Commission approves the stipulation, the parties will only have to file testimony related to what is the appropriate price for remote call forwarding, the temporary number portability solution identified in the stipulation.

The parties are scheduled to file testimony on the price issues on September 1, 1995, with supplemental testimony due on September 22, 1995 for the proposed stipulated issues if the stipulation is not approved by the Commission.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the attached stipulation?

RECOMMENDATION: Yes, the Commission should approve the stipulation attached to this recommendation. However, note that the portion of the stipulation purporting to bind the Commission to take certain future action has no legal effect.

STAFF ANALYSIS: Section 364.16 (4), Florida Statutes, requires the parties to negotiate the prices, terms, and conditions of a temporary number portability solution. If the parties are unable to successfully negotiate these items, the Commission is required to establish a temporary number portability solution no later than January 1, 1996. The attached stipulation is an attempt by the parties to negotiate as many issues in this proceeding as possible in order to limit the Commission's hearing on temporary number portability to only those issues which are in dispute. At this point, the parties are still negotiating price issues.

As stated in the stipulation, an agreement has been reached as to the methods of providing temporary number portability. The parties have agreed that the LECs shall offer Remote Call Forwarding to certificated ALECs as a temporary number portability mechanism, effective January 1, 1996. Likewise, the ALECs shall offer Remote Call Forwarding to LECs as a temporary number portability mechanism, effective the date they begin to provide local exchange telephone service. The stipulation requires all existing local exchange companies and alternative local exchange companies which sign the stipulation to provide remote call forwarding on a nondiscriminatory basis at a recurring per line, per month charge.

The parties also agree that Flexible Direct Inward Dialing (Flex DID) is an alternative temporary number portability mechanism. However, they state that Flex DID involves certain technical and administrative issues that have not yet been fully addressed. Therefore, the parties have agreed that the LECs will continue to negotiate with the ALECs who desire to utilize Flex DID. Further, the stipulation states that in the event the parties are unable to satisfactorily negotiate the price, terms and conditions either party may petition the Commission which shall, within 120 days after receipt of the petition and after opportunity for hearing, determine whether Flex DID is technically and economically feasible, and if so, set nondiscriminatory rates, terms and conditions for Flex DID.

Although Remote Call Forwarding is identified as the appropriate temporary number portability solution, the parties agree to leave open the possibility to negotiate a future temporary number portability solution as alternatives are developed. Further, the parties agree to work together with the 911 coordinators to ensure the successful integration of ALEC information into the existing

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911/E911 systems. In addition, the parties have identified several compensation issues such as access charges and interconnection that will be addressed in other proceedings currently underway.

Staff has listened to the parties as they have discussed the appropriate parameters, costs and standards for a temporary number portability solution and concurs that Remote Call Forwarding is an appropriate method for meeting the requirements of the statute.

Regarding Flex DID, it became apparent during the workshops that Flex DID may not be able to be implemented by the January 1, 1996, deadline because of technical and administrative constraints. Nonetheless, staff agrees with the parties that this is an appropriate alternative that can be explored further. However, staff cannot support the parties' attempt to bind the Commission to specific acts or to act within a specific time frame.

First, it should be noted that Section 364.16(4), Florida Statutes, the section pertaining to number portability, does not address alternative solutions nor does it state that the Commission shall act within 120 days. It does state that the Commission shall establish a number portability solution by January 1, 1996, if the parties are unable to successfully negotiate the prices, terms, and conditions of a temporary number portability solution. At this point, the parties are still in the process of negotiating prices and this stipulation has not been approved, thus the Commission must still proceed to establish a temporary number portability solution by January 1, 1996.

Further, this Commission has previously found that it cannot be bound to a specific course of action by parties through the approval of a stipulation. See Order No. PSC-94-0172-FOF-TL. Notwithstanding the parties' attempt to bind the Commission to a specific time frame, the Commission is not precluded from approving the stipulation. Since the parties are without authority to bind the Commission, such provisions are void ab initio vis a vis the Commission. At best, such language may be viewed as aspirational in order to encourage the Commission to resolve the potential controversy in an expeditious manner.

Staff believes the stipulation addresses three of the eight issues identified in the modified Procedural Order No. PSC-95-1073-PCO-TP issued on August 28, 1995. Although staff was hopeful that the parties would stipulate the entire proceeding, it believes approving this stipulation is appropriate since it will limit the scope of the hearing to the pricing issues which are in dispute. Therefore, staff recommends that the stipulation be approved.

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ISSUE 2: Should the Commission close this docket?

RECOMMENDATION: No, the Commission should leave this docket open pending resolution of the remaining issues in Docket No. 950737-TP.

STAFF ANALYSIS: Since the stipulation does not address all of the issues identified in Docket No. 950737-TP, the Commission should leave this docket open until final resolution of those issues.

STIPULATION AND AGREEMENT

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

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

The parties agree that Chapter 364.16(4), Florida Statutes, requires a service provider temporary number portability solution. Service provider number portability allows an end user at a given location to change service from a local exchange

company (LEC) to an alternative local exchange company (ALEC) or vice versa, or between two ALECs, without changing local telephone numbers.

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

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

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

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

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

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

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

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

(SIGNATURES BEGIN ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this
Stipulation and Agreement as of the 30th day of August, 1995.

BELLSOUTH TELECOMMUNICATIONS, INC.
D/B/A SOUTHERN BELL TELEPHONE AND
TELEGRAPH COMPANY

By: *Percy H. Sims*

GENERAL TELEPHONE COMPANY OF FLORIDA,
INC.

By: _____

SPRINT/UNITED TELEPHONE COMPANY OF
FLORIDA

By: _____

SPRINT/CENTRAL TELEPHONE COMPANY OF
FLORIDA

By: _____

METROPOLITAN FIBER SYSTEMS OF FLORIDA,
INC.

By: _____

MCI METRO ACCESS TRANSMISSION SERVICES,
INC.

By: *Rio D. Mesa*

IN WITNESS WHEREOF, the parties have executed this
Stipulation and Agreement as of the 30th day of August, 1995.

BELLSOUTH TELECOMMUNICATIONS, INC.
D/B/A SOUTHERN BELL TELEPHONE AND
TELEGRAPH COMPANY

By: _____

GENERAL TELEPHONE COMPANY OF FLORIDA,
INC.

By:  _____

SPRINT/UNITED TELEPHONE COMPANY OF
FLORIDA

By: _____

SPRINT/CENTRAL TELEPHONE COMPANY OF
FLORIDA

By: _____

METROPOLITAN FIBER SYSTEMS OF FLORIDA,
INC.

By: _____

NCI METRO ACCESS TRANSMISSION SERVICES,
INC.

By: _____

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Stipulation and Agreement as of the 30th day of August, 1995.

BELLSOUTH TELECOMMUNICATIONS, INC.
D/B/A SOUTHERN BELL TELEPHONE AND
TELEGRAPH COMPANY

By: _____

GENERAL TELEPHONE COMPANY OF FLORIDA,
INC.

By: _____

SPRINT/UNITED TELEPHONE COMPANY OF
FLORIDA

By: F. B. Bag

SPRINT/CENTRAL TELEPHONE COMPANY OF
FLORIDA

By: F. B. Bag

METROPOLITAN FIBER SYSTEMS OF FLORIDA,
INC.

By: _____

MCI METRO ACCESS TRANSMISSION SERVICES,
INC.

By: _____

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Stipulation and Agreement as of the 30th day of August, 1995.

BELLSOUTH TELECOMMUNICATIONS, INC.
D/B/A SOUTHERN BELL TELEPHONE AND
TELEGRAPH COMPANY

By: _____

GENERAL TELEPHONE COMPANY OF FLORIDA,
INC.

By: _____

SPRINT/UNITED TELEPHONE COMPANY OF
FLORIDA

By: _____

SPRINT/CENTRAL TELEPHONE COMPANY OF
FLORIDA

By: _____

METROPOLITAN FIBER SYSTEMS OF FLORIDA,
INC.

By:  _____

NCI METRO ACCESS TRANSMISSION SERVICES,
INC.

By: _____

TIME WARNER AXS

By: 

DIGITAL MEDIA PARTNERS

By: 

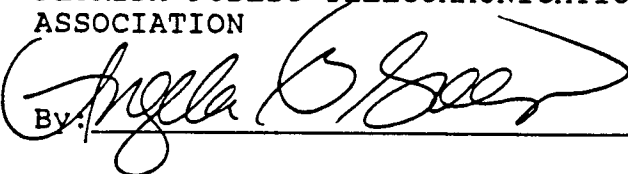
FLORIDA CABLE TELECOMMUNICATIONS
ASSOCIATION, INC.

By: 

AT&T COMMUNICATIONS OF THE SOUTHERN
STATES, INC.

By: 

FLORIDA PUBLIC TELECOMMUNICATIONS
ASSOCIATION

By: 

INTERMEDIA COMMUNICATIONS OF FLORIDA,
INC.

By: _____

SPRINT COMMUNICATIONS COMPANY,
LIMITED PARTNERSHIP

By: _____

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ATTACHMENT
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TIME WARNER AXS

By: _____

DIGITAL MEDIA PARTNERS

By: _____

FLORIDA CABLE TELECOMMUNICATIONS
ASSOCIATION, INC.

By: _____

AT&T COMMUNICATIONS OF THE SOUTHERN
STATES, INC.

By: _____

FLORIDA PUBLIC TELECOMMUNICATIONS
ASSOCIATION

By: _____

INTERMEDIA COMMUNICATIONS OF FLORIDA,
INC.

By: Patricia A. Kelli

SPRINT COMMUNICATIONS COMPANY,
LIMITED PARTNERSHIP

By: _____

TIME WARNER AXS

By: _____

DIGITAL MEDIA PARTNERS

By: _____

FLORIDA CABLE TELECOMMUNICATIONS
ASSOCIATION, INC.

By: _____

AT&T COMMUNICATIONS OF THE SOUTHERN
STATES, INC.

By: _____

FLORIDA PUBLIC TELECOMMUNICATIONS
ASSOCIATION

By: _____

INTERMEDIA COMMUNICATIONS OF FLORIDA,
INC.

By: _____

SPRINT COMMUNICATIONS COMPANY,
LIMITED PARTNERSHIP

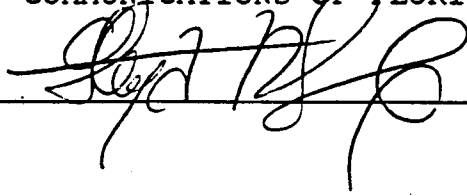
By: Jonny H. Key

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ATTACHMENT
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MCCAW COMMUNICATIONS OF FLORIDA, INC.

By: _____

A handwritten signature in black ink, appearing to be "S. J. ...", is written over a horizontal line. The signature is stylized and somewhat illegible.