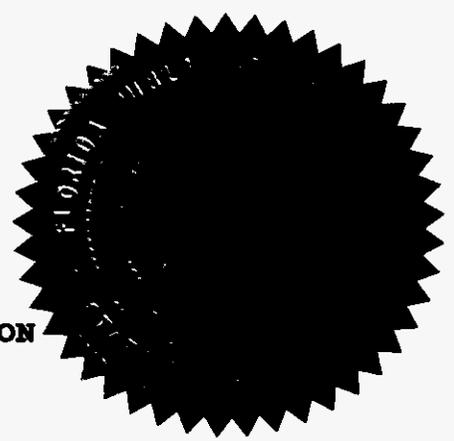


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of :
Resolution of petition(s) : DOCKET NO. 950985-TP
to establish nondiscrimi- :
natory rates, terms, and :
conditions for intercon- :
nection involving local :
exchange companies and :
alternative local exchange :
companies pursuant to :
Section 364.162, F.S. :

DOCKET NO. 950985-TP



FIRST DAY - MORNING SESSION

VOLUME 1

Pages 1 through 184

PROCEEDINGS: HEARING
BEFORE: CHAIRMAN SUSAN F. CLARK
COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA
DATE: Wednesday, January 10, 1996
TIME: Commenced at 9:00 a.m.
PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
FLORIDA PUBLIC SERVICE COMMISSION
(904) 413-6732

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 0345 JAN 11 86

FPSC-RECORDS/REPORTING

1 APPEARANCES:

2 JODIE DONOVAN-MAY, 1133 21st Street, N. W.,
3 Suite 400, Washington, D. C. 20036, and **KENNETH A.**
4 **HOFFMAN** and **WILLIAM B. WILLINGHAM**, Rutledge, Ecenia,
5 Underwood, Purnell & Hoffman, P. A., Post Office Box
6 551, Tallahassee, Florida 32303, Telephone No. (904)
7 681-6788, appearing on behalf of **Teleport**
8 **Communications Group, Inc.**

9 DONALD L. CROSBY, 7800 Belfort Parkway,
10 Suite 270, Jacksonville, Florida 32256-6925, appearing
11 on behalf of **Continental Cablevision, Inc.**

12 JAMES C. FALVEY, Swidler & Berlin,
13 Chartered, 3000 K Street, N. W., Suite 300,
14 Washington, D. C. 20007, Telephone No. (202) 424-7604,
15 appearing on behalf of **Metropolitan Fiber Systems of**
16 **Florida, Inc.**

17 RICHARD D. MELSON, Hopping Green Sams and
18 Smith, Post Office Box 6526, Tallahassee, Florida
19 32314, Telephone No. (904) 222-7500, and **MICHAEL J.**
20 **HENRY**, Suite 700, 780 Johnson Ferry Road, Atlanta,
21 Georgia 30346, Telephone No. (404) 843-6373 appearing
22 on behalf of **MCI Metro Access Transmission Services,**
23 **Inc.**

24

25

1 APPEARANCES CONTINUED:

2 **DOUGLAS R. LACKEY** and **NANCY B. WHITE**, and
3 **PHILIP CARVER**, c/o Southern Bell Telephone and
4 Telegraph Company, 150 South Monroe Street, Room 400,
5 Tallahassee, Florida 32302, Telephone No. (904)
6 222-1201, appearing on behalf of **BellSouth**
7 **Telecommunications, Inc., d/b/a Southern Bell**
8 **Telephone and Telegraph Company.**

9 **MICHAEL W. TYE**, 101 North Monroe Street,
10 Suite 700, Tallahassee, Florida 32301, Telephone No.
11 (904) 425-6360, and **ROBIN DUNSON**, Promenade I, Room
12 4038, Atlanta, Georgia 30309, appearing on behalf of
13 **AT&T Communications of the Southern States, Inc.**__

14 **LAURA L. WILSON**, Florida Cable
15 Telecommunications Association, Inc., 310 North Monroe
16 Street, Tallahassee, Florida 32301, Telephone No.
17 (904) 681-1990, appearing on behalf of **Florida Cable**
18 **Telecommunications Association, Inc.**

19 **PATRICK K. WIGGINS**, Wiggins & Villacorta,
20 P. A., Post Office Drawer 1657, Tallahassee, Florida
21 32302, Telephone No. (904) 222-1574, appearing on
22 behalf of **Intermedia Communications of Florida, Inc.**

23
24
25

1 APPEARANCES CONTINUED:

2 **FLOYD R. SELF, and NORMAN H. HORTON, JR.,**
3 Messer, Vickers, Caparello, Madsen, Goldman & Metz.
4 P. O. Box 1876, Tallahassee, Florida 32302-1876,
5 Telephone No. (904) 222-0720, appearing on behalf of
6 **McCaw Communications of Florida, Inc. and its Florida**
7 **regional affiliates.**

8 **C. EVERETT BOYD, JR.,** Ervin, Varn, Jacobs,
9 Odom & Ervin, P. O. Drawer 1170, Tallahassee, Florida
10 32302, Telephone No. (904) 224-9135 and **BENJAMIN W.**
11 **FINCHER,** 3100 Cumberland Circle, Atlanta, Georgia
12 30339, Telephone No. (404) 649-5145, appearing on
13 behalf of **Sprint Communications Company Limited**
14 **Partnership.**

15 **SUE E. WEISKE,** 160 Inverness Drive West, Englewood,
16 Colorado 80112, Telephone No. (303) 799-5513, appearing on
17 behalf of **Time Warner Communications.**

18 **DONNA CANZANO, ROBERT V. ELIAS, SCOTT**
19 **EDMONDS** and **TRACY HATCH,** Florida Public Service
20 Commission, Division of Legal Services, 2540 Shumard
21 Oak Boulevard, Tallahassee, Florida 32399-0870,
22 Telephone No. (904) 413-6199, appearing on behalf of
23 **the Commission Staff.**

24

25

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P R O C E E D I N G S

(Hearing convened at 9:00 a.m.)

CHAIRMAN CLARK: Let's read the notice.

MS. CANZANO: Pursuant to an amended notice issued December 22nd, in Docket No. 950985-TP a hearing was set for January 9th, 1996. Because of the snowstorm and a request by one of the parties, this hearing was continued until today and an order was issued yesterday. Also, all of the parties were notified.

CHAIRMAN CLARK: We'll take appearances.

MR. HOFFMAN: Madam Chairman, I'm Kenneth A. Hoffman. Appearing with me in this case is William B. Willingham, of the firm of Rutledge, Ecenia, Underwood, Purnell and Hoffman, P. O. Box 551 Tallahassee, Florida 32302. I would also like to enter an appearance for Jodie Donovan-May, 1133, 21st Street Northwest, Suite 400, Washington, D. C. 20036, all on behalf of Teleport Communications, Group, Inc. and TCG South Florida.

MS. WILSON: Laura Wilson, representing the Florida Cable Telecommunications Association, 310 North Monroe Street, Tallahassee, Florida, 32301.

MR. CROSBY: Donald Crosby. I'm Regulatory Counsel for southeastern region of Continental

1 Cablevision, at 7800 Belfort Parkway, Suite 270 in
2 Jacksonville, Florida 32256.

3 MS. WEISKE: Sue Weiske with Time Warner
4 Communications, 160 Inverness Drive, Englewood,
5 Colorado 80112.

6 MS. WHITE: Nancy White, Doug Lackey and
7 Phil Carver for BellSouth Telecommunications, 675 West
8 Peachtree Street, Atlanta, Georgia 30375.

9 MR. MELSON: Richard Melson of the law firm
10 Hopping Green Sams and Smith, P.A., P. O. Box 6526
11 Tallahassee, on behalf of MCI Metro Access
12 Transmission Services, Inc. Also appearing with me is
13 Michael J. Henry of MCI in Atlanta.

14 MS. DUNSON: Robin Dunson appearing on
15 behalf of AT&T, 1200 Peachtree Street, Atlanta,
16 Georgia 30309. Also appearing with me is Michael Tye
17 on behalf of AT&T.

18 MR. HORTON: Norman H. Horton, Jr., and
19 Floyd R. Self of the Messer, Caparello law firm, P. O.
20 Box 1876 Tallahassee, Florida, on behalf of McCaw
21 Communications of Florida, Inc. and it's Florida
22 regional affiliates.

23 MR. BOYD: I'm C. Everett Boyd, Jr., of the
24 law firm of Ervin, Varn, Jacobs, Odom and Ervin, 305
25 South Gadsden Street, Tallahassee, Florida. I'm

1 appearing on behalf of Sprint Communications Company,
2 Limited Partnership. I want to also enter an
3 appearance for Mr. Benjamin W. Fincher of the Sprint
4 legal office in Atlanta, 3100 Cumberland Circle,
5 Atlanta, Georgia 30339.

6 MR. FALVEY: James C. Falvey on behalf of
7 Metropolitan Fiber Systems. I'm with Swidler and
8 Berlin, 3000 K Street Northwest, Suite 300,
9 Washington, D.C. 20007.

10 CHAIRMAN CLARK: Would you spell your last
11 name for me?

12 MR. FALVEY: Sure. It's F as in Frank,
13 A-L-V as in Victor, E-Y.

14 MR. WIGGINS: Patrick K. Wiggins, law firm
15 of Wiggins and Villacorta, P. O. Box 1657,
16 Tallahassee, on behalf of Intermedia Communications of
17 Florida, Inc.

18 MS. CANZANO: Donna Canzano, Scott Edmonds,
19 Robert Elias and Tracy Hatch on behalf of the
20 Commission Staff, 2540 Shumard Oak Boulevard,
21 Tallahassee, Florida.

22 CHAIRMAN CLARK: Ms. Canzano, are there any
23 preliminary matters we need to take up at this time?

24 MR. HOFFMAN: Madam Chairman, Teleport will
25 not be presenting any witnesses. I do not intend to

1 cross examine any witnesses during the course of the
2 hearing and for those reasons, I would ask to be
3 excused for the remainder of the hearing.

4 CHAIRMAN CLARK: Mr. Hoffman, you may be
5 excused.

6 MR. HOFFMAN: Thank you.

7 CHAIRMAN CLARK: Mr. Canzano, do you have
8 any preliminary matters?

9 MS. CANZANO: Yes, I have one. I've got
10 Staff's list of a request for official recognition
11 which I've handed out to the parties and to the
12 Commissioners. There are two -- in this docket there
13 are two Public Service Commission orders we'd like to
14 take official recognition of and two orders from other
15 states that were produced to us through discovery, and
16 if any party would like a copy of those, just notify
17 Staff.

18 MR. FALVEY: Madam Chairman, under the
19 circumstances I also have one additional matter. I
20 would request that the --

21 CHAIRMAN CLARK: Just a minute. I'm not
22 through dealing with --

23 MR. FALVEY: I'm sorry. I apologize.

24 CHAIRMAN CLARK: I have -- the list I should
25 be dealing with is the short list?

1 MS. CANZANO: Yes, the one that's listed
2 under Docket No. 950985.

3 CHAIRMAN CLARK: Okay. Is there any
4 objection to the Commission taking official notice of
5 these orders? Okay, we will take official notice of
6 the Florida orders and the orders from New York and
7 Connecticut --

8 MS. CANZANO: That's correct.

9 CHAIRMAN CLARK: -- that are listed on the
10 handout Staff has provided to us. Please make sure
11 the court reporter has a copy of that list.

12 MS. CANZANO: The court reporter was handed
13 a copy already.

14 CHAIRMAN CLARK: Anything else?

15 MS. CANZANO: Not that I'm aware of.

16 CHAIRMAN CLARK: Ms. Wilson, did you have
17 something you wanted to bring up at this time?

18 MS. WILSON: Yes. Thank you.

19 Similar to Teleport we do not have a witness
20 in this proceeding. I plan to stick around just in
21 case an issue arises that I don't anticipate at this
22 point, but I don't have any cross examination for the
23 witnesses so I would request permission to be able to
24 come and go as we see fit.

25 CHAIRMAN CLARK: You may be excused from

1 participating in the hearing.

2 Mr. Crosby.

3 MR. CROSBY: Madam Chairman, Continental
4 finds itself in the same posture and would ask for the
5 same relief.

6 CHAIRMAN CLARK: You may be excused as well,
7 Mr. Crosby.

8 I have a question. Did I miss it or was
9 there an appearance entered on behalf of Time Warner?

10 MS. WEISKE: I did and I'm not --

11 COMMISSIONER KIESLING: I can't hear you.

12 CHAIRMAN CLARK: I need to ask you to use
13 the microphone.

14 MS. WEISKE: And I'm not planning to ask to
15 be excused from the hearing.

16 CHAIRMAN CLARK: All right. And you will be
17 the only one appearing on behalf of Time Warner?

18 MS. WEISKE: That's correct.

19 CHAIRMAN CLARK: Okay. Mr. Melson.

20 MR. MELSON: I'm not going to ask to be
21 excused, but I do have some official recognition that
22 I'd like to take up. We'd like to ask the Commission
23 to take official recognition of the order you recently
24 entered in the universal service docket, Order No.
25 PSC-95-1592-FOF-TP.

1 CHAIRMAN CLARK: We will take official
2 recognition of that order.

3 MR. MELSON: We would also ask that the
4 Commission take official recognition of the transcript
5 of the hearing held on April 12, 1995, of the House
6 Committee on Utilities and Telecommunications. And in
7 conjunction with that transcript, we would also ask
8 that you take official recognition of the copy of the
9 bill that was under consideration at that time,
10 PCBUT-95-01D and Amendment No. 44. I have got a copy
11 of the PCB and the amendment here. The transcript
12 should be en route to me. It is a portion of the same
13 transcript that the Commission took official
14 recognition of in the universal service docket in
15 October.

16 CHAIRMAN CLARK: Mr. Melson, refresh my
17 memory as to the basis on which we take official
18 recognition of those items?

19 MR. MELSON: The case of Jacksonville
20 Electric Authority versus Department of Revenue, 486
21 So.2d 1350. It was an appeal of a case where a
22 statutory construction was at issue, and the Court
23 said basically they could take official recognition of
24 the House journals, but beyond that if there were
25 other items of legislative history it should be

1 developed at the trial level and they had remanded for
2 the trial court to take additional evidence of
3 legislative history.

4 CHAIRMAN CLARK: All right. We will take
5 official recognition of the transcript of the house
6 meeting on April 12th, 1995 as well as -- is it PCB
7 14?

8 MR. MELSON: PCBUT-95-01D and Amendment No.
9 44. I have copies of those I will hand out.

10 CHAIRMAN CLARK: We will take official
11 recognition of the transcript, the bill and Amendment
12 44, and I would ask that you do provide copies of
13 those documents to everyone.

14 MR. LACKEY: Madam Chairman.

15 CHAIRMAN CLARK: Mr. Lackey.

16 MR. LACKEY: Can we have the record note my
17 objection to taking official notice of that
18 transcript? I understand that we argued about this at
19 the earlier proceeding and that the Commission ruled
20 it admissible. We still object. It's certainly not
21 probative. It's not evidence and it's not subject to
22 cross examination. We object to it.

23 CHAIRMAN CLARK: Thank you, Mr. Lackey.

24 Mr. Lackey, just so I'm clear, you are only
25 objecting to the transcripts; is that correct?

1 MR. LACKEY: Yes, ma'am.

2 CHAIRMAN CLARK: Okay. Mr. Melson, do you
3 have anything further?

4 MR. MELSON: Nothing.

5 CHAIRMAN CLARK: Ms. Dunson? Mr. Horton?

6 MR. HORTON: No.

7 CHAIRMAN CLARK: Mr. Wiggins?

8 MR. WIGGINS: As with Mr. Hoffman and the
9 others, I'd like to be excused if possible.

10 CHAIRMAN CLARK: You may be excused.
11 Mr. Falvey.

12 MR. FALVEY: Yes, that's correct. We have
13 cited a series of state orders in our direct
14 testimony, and I don't have available this minute a
15 list of those state orders which we would like you to
16 take official recognition, but I can provide that by
17 the end of the day.

18 CHAIRMAN CLARK: We'll take official
19 recognition of them at the time you provide us with
20 the list.

21 MR. FALVEY: Okay. That's fair.

22 CHAIRMAN CLARK: Assuming it is appropriate
23 to take official recognition of them.

24 MR. FALVEY: Right.

25 CHAIRMAN CLARK: Okay. Anything else?

1 MR. FALVEY: Well, under the circumstances
2 with the snowstorm and so on, I would request that our
3 witness who is currently scheduled to be the lead-off
4 witness be moved to -- I think ideally -- I don't have
5 a list of witnesses in front of me, but after the last
6 competitive witness, witness for a competitive
7 carrier. I have a box of documents, for example, that
8 I was supposed to have with me and which are arriving
9 on a 9:20 flight.

10 CHAIRMAN CLARK: Where is your witness and
11 when do you expect him to arrive?

12 MR. FALVEY: My witness is Timothy T.
13 Devine, and he's here with me. I arrived on an 8:15
14 flight. And along with several other passengers, some
15 of my bags were delayed in Atlanta, including a box of
16 documents which includes Tim's opening statement,
17 unfortunately. So all I would request is that we be
18 given enough time to get the documents and put things
19 in order and change the order of Tim's testimony.

20 CHAIRMAN CLARK: Do you have a Prehearing
21 Order in front of you?

22 MR. FALVEY: Yes, I do. Okay. Looking at
23 this, we have Mr. Guedel as the fourth witness, and I
24 would request that Timothy T. Devine appear after
25 Mr. Guedel, assuming there are no objections from

1 other parties.

2 CHAIRMAN CLARK: Let me ask Staff something,
3 on what page is the order of witnesses?

4 MS. CANZANO: Page 7 of the Prehearing
5 Order.

6 CHAIRMAN CLARK: Okay. You want Mr. Devine
7 to appear after Mr. Guedel.

8 MR. FALVEY: That's right.

9 CHAIRMAN CLARK: Are there any objections to
10 that?

11 MR. TYE: Madam Chairman, on behalf of AT&T,
12 AT&T is not a petitioner in this case; it's an
13 intervenor. We don't have a problem with Mr. Devine
14 going after Dr. Cornell, but it appears to us that MFS
15 ought to put their case on before we put our
16 intervenor witness on. So I would object to that.

17 MR. FALVEY: Madam Chairman, I can
18 appreciate that, and I would be more than happy to
19 have Mr. Devine on go after Dr. Cornell with the
20 caveat that his opening statement is physically not
21 here and he doesn't have it memorized. I have every
22 reason to believe I'll have it in the next half hour
23 or so, so I don't expect it to be a problem.

24 CHAIRMAN CLARK: Let me ask you a question.
25 Do you have a copy of his statement anywhere where you

1 can have it faxed? Would that get it here faster?

2 MR. FALVEY: I have a disk and I could get
3 it faxed. I can't get it faxed. It's at my home.
4 I've been working out of my house for the last two
5 days. But I have a disk which we might be able to
6 pull it off of. I honestly expect it to be here by
7 quarter of ten. It's on the next flight. Maybe we
8 can address it if necessary after Dr. Cornell.

9 MR. HATCH: We can print it if he has the
10 diskette.

11 MR. FALVEY: Okay. If we could make that
12 arrangement.

13 CHAIRMAN CLARK: So just so I'm clear, your
14 proposal is that Mr. Price testify, then Dr. Cornell,
15 then Mr. Devine and then we go in the order of the
16 witnesses.

17 MR. FALVEY: That's correct.

18 CHAIRMAN CLARK: Is there any objection to
19 that? Mr. Lackey.

20 MR. LACKEY: Madam Chairman, I don't mean to
21 be a grinch.

22 CHAIRMAN CLARK: You need to speak louder.

23 MR. LACKEY: I don't mean to be a grinch
24 about it, but I've got exhibits that I was going to
25 use with Mr. Devine that he was going to identify that

1 I was then going to use with subsequent witnesses. I
2 relied on the order of witnesses in the Prehearing
3 Order in preparing the examination. On top of that
4 my examination of Mr. Devine appears that it's going
5 to be quite lengthy and I'm not even sure that we've
6 got the materials. I didn't think we were going to
7 get these on the witnesses later. I'll make do if you
8 order they go out of order, but particularly with
9 regard to the exhibit that I have in mind it presents
10 a bit of a problem for me.

11 CHAIRMAN CLARK: Anyone else?

12 MR. HATCH: No objection, Madam Chairman,
13 but I would suggest that we'll probably have the
14 opening statement printed within the next five to ten
15 minutes if you want to avoid any -- or if you want to
16 get cranking now.

17 CHAIRMAN CLARK: Well, why don't we go ahead
18 and take a break until 9:30 and get it printed so we
19 can go in the order of witnesses. I think that would
20 be the best approach to take. But let me ask, are
21 there any other preliminary matters we could take up
22 and get out of way at this time?

23 MS. CANZANO: None that I'm aware of.

24 MR. MELSON: Commissioner Clark.

25 CHAIRMAN CLARK: Let me ask a question.

1 What about the interrogatories? Mr. Melson, were you
2 going to -- is somebody going to ask about the
3 introduction of answers to interrogatories that were
4 answered in another docket?

5 MR. MELSON: In the 984 docket, the next
6 docket.

7 CHAIRMAN CLARK: All right. Let me be
8 clear. That comes up in the 984 docket.

9 MR. MELSON: That comes up the next time we
10 do preliminary matters.

11 I would ask that the document that I handed
12 out, of which the Commission has taken official
13 recognition, and the transcript which we plan to
14 provide, be marked as Exhibit 1 for identification. I
15 understand it would not be admitted because you've
16 taken official recognition but that would give us a
17 way to cite it in posthearing briefs.

18 CHAIRMAN CLARK: I think that's a good idea
19 since it isn't an order. We will mark it as
20 Exhibit 1. And it will be admitted without objection
21 except there is an objection to the transcript, and as
22 a composite exhibit consisting of the transcript, the
23 bill, and the amendment.

24 (Exhibit No. 1 marked for identification.)

25 COMMISSIONER DEASON: Where is the

1 transcript?

2 CHAIRMAN CLARK: It's not here yet.

3 MR. MELSON: It's being copied.

4 CHAIRMAN CLARK: And that's on behalf of MCI
5 Metro Access, right?

6 MR. MELSON: Correct.

7 CHAIRMAN CLARK: Anything further?

8 MS. CANZANO: Not that I know of.

9 CHAIRMAN CLARK: I do have a question of the
10 parties. It appeared to me in looking through the
11 Prehearing Order and in the testimony there is
12 agreement on some of the issues at any rate. Is there
13 any chance, although you may not reach an overall
14 stipulation in the docket, you can stipulate to
15 certain issues? It occurred to me that some of the
16 positions were just further elaborations of something
17 you all agreed to. And I, for one, would appreciate
18 it if you would agree on a position on an issue so it
19 isn't something that we have to address in a
20 recommendation, it would be on reviewing it and
21 understanding it.

22 MR. MELSON: Commissioner Clark, I think
23 that's a good idea, and we will work toward that. We
24 feel like we have been a little frustrated in that in
25 negotiations the position has been that there's no

1 agreement on anything until there's an agreement on
2 everything, and for that reason, we had not separately
3 pursued stipulating on the specific issues. Because
4 while I think we are probably close or very close on
5 some of them, there are some basic issues that remain
6 unresolved and without a package I'm not sure we will
7 be able to obtain a stipulation on some of the
8 subsidiary issues.

9 CHAIRMAN CLARK: Well, it just appeared to
10 me there was no disagreement on some of them. I would
11 appreciate you reviewing that and letting us know that
12 there's no disagreement. I don't see any reason to
13 belabor it. I understand you can't agree on some
14 points and that we may have to decide that, but I'd
15 like to get it down to those things we absolutely have
16 to decide.

17 MR. LACKEY: We agree, Madam Chairman. For
18 instance, Issue 2 about whether we file this as a
19 tariff or contract with the Commission after we reach
20 an agreement, it looked like to me that with the
21 verbiage there was a yes in there for most of the
22 players, so we'll try to do that.

23 CHAIRMAN CLARK: Okay. I appreciate that.

24 MR. FALVEY: We also are willing to do that.
25 As Mr. Melson mentioned, you know, we have been

1 negotiating since July, and we have put some very
2 specific language down on the table. And up until a
3 point this fall, if we couldn't come together on
4 universal service we couldn't have any agreement at
5 all.

6 CHAIRMAN CLARK: I understand that.

7 MR. FALVEY: You understand the history.

8 CHAIRMAN CLARK: But we're at the point of a
9 hearing, and I want to know where you differ on
10 issues.

11 MR. FALVEY: Okay. I'd also add that if
12 it's not in detail in writing, we won't be able to
13 agree on it. But by all means, I think can we proceed
14 on sort of two tracks where we continue to have some
15 negotiations and try to hammer down some of these
16 issues.

17 CHAIRMAN CLARK: I would appreciate that.
18 We'll take a break until 20 until ten.

19 (Brief recess)

20

21 CHAIRMAN CLARK: We'll call this hearing
22 back to order.

23 Mr. Devine, if you would stand, I'll swear
24 you in. And I'd like to also ask that every witness
25 to this proceeding that is present today please stand

1 and be sworn in at the same time.

2 (Witnesses sworn collectively.)

3 Go ahead, Mr. Falvey.

4 - - - - -

5 **TIMOTHY T. DEVINE**

6 was called as a witness on behalf of Metropolitan
7 Fiber Systems of Florida, Inc. and, having been duly
8 sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 BY MR. FALVEY:

11 Q Mr. Devine, do you have before you the
12 direct testimony of Metropolitan Fiber Systems of
13 Florida in this case and the accompanying petition
14 that was filed on November 13, 1995?

15 A Yes, I do.

16 Q Do you have any corrections to that
17 testimony?

18 A Yes, I do.

19 Q If you could just walk through those?

20 A On Page 7, Line 3, if you could strike
21 "CMFS-Florida is currently negotiating with other
22 major LECs in Florida."

23 On Page 10, Line 9, the third word, if you
24 could change that from "have" to "has," H-A-S.

25 On Page 13, Lines 4 and 5, if you could

1 strike "whether or not it will impede the competition
2 is."

3 Q And you have no further corrections?

4 A Yes, that's correct.

5 Q And do you have before you the rebuttal
6 testimony of Metropolitan Fiber Systems of Florida
7 filed in this docket on December 11th?

8 A Yes, I do.

9 Q And is it correct that you have no --

10 MR. MELSON: Excuse me. Chairman Clark, my
11 understanding was that we were doing direct and
12 rebuttal separately, and I just wanted to ensure that
13 was the other party's understanding.

14 MR. LACKEY: It was my understanding that
15 that was something that we deferred to the beginning
16 of the hearing. I have no objection to doing direct
17 and rebuttal at the same time; since we're starting a
18 day late, it may facilitate matters and shorten them.

19 MR. FALVEY: To be honest, I wasn't trying
20 to push the issue. In fact, to the extent that it
21 would move things along, I'd be more than happy to do
22 the direct and rebuttal together. My understanding
23 was that AT&T had some concern in at least one of the
24 dockets; and if that's the case, maybe we can
25 accommodate that by letting AT&T do their testimony

1 last or something, their rebuttal last.

2 CHAIRMAN CLARK: Mr. Melson.

3 MR. MELSON: Commissioner Clark, the concern
4 was MCI's, and it related specifically to this docket.
5 And on further reflection, it relates specifically to
6 the testimony of Dr. Cornell.

7 We have no objection to combining
8 Mr. Price's direct and rebuttal or to combining the
9 direct and rebuttal of any other witnesses.

10 The economic testimony is somewhat
11 technical. There is substantial response to
12 Dr. Cornell by D. Banerjee, and there's substantial
13 rebuttal by Dr. Cornell. And in that instance, we
14 thought the Commission's understanding would be aided
15 by hearing from Dr. Banerjee before we heard Dr.
16 Cornell's rebuttal.

17 With that one exception, we'd be willing to
18 combine any of the testimony the parties wish to
19 combine either in this docket or in the 984 docket
20 that comes up next.

21 CHAIRMAN CLARK: Just so I'm clear, at least
22 with respect to Mr. Devine, you don't have an
23 objection to taking his rebuttal?

24 MR. MELSON: Correct.

25 CHAIRMAN CLARK: Mr. Tye.

1 MR. TYE: Chairman Clark, the AT&T concern
2 was in Docket 984, and it had to do with the fact that
3 AT&T has one witness that has no direct, just strictly
4 has rebuttal. And there was concern with BellSouth
5 that they would like to go last, and the way it
6 evolved is we would not do direct and rebuttal
7 together in that docket because we don't want to put
8 our rebuttal witness up until he has something to
9 rebut. That's essentially what the problem was there.

10 CHAIRMAN CLARK: Then help me out. With
11 respect to Docket 985, let me ask the Commissioners,
12 is there any concern about taking up rebuttal with
13 direct? With respect to Mr. Devine, we will take up
14 his direct and rebuttal. Mr. Price, direct and
15 rebuttal?

16 MR. MELSON: That's fine, yes, ma'am.

17 CHAIRMAN CLARK: Then we will take up
18 Dr. Cornell, direct only. Mr. Guedel?

19 MR. TYE: He has only direct, Chairman.

20 CHAIRMAN CLARK: And then we will take up
21 BellSouth's witness. Would you pronounce his last
22 name for me?

23 MR. LACKEY: Dr. Banerjee.

24 Mr. Scheye is the first witness, and the
25 second witness is Dr. Banerjee. I am perfectly

1 willing to put both the direct and rebuttal of
2 Mr. Scheye on the record, and I am perfectly willing
3 to put the testimony of Dr. Banerjee on the record
4 together at the same time and let Dr. Cornell go once
5 with her direct and once with her rebuttal if that's
6 what they want to do, that's fine with us, in this
7 docket.

8 CHAIRMAN CLARK: Mr. Melson.

9 MR. MELSON: That's fine, Chairman Clark.

10 CHAIRMAN CLARK: Okay. All right. Then
11 Dr. Cornell will be the last witness, as I understand
12 it, and she will be giving her rebuttal testimony at
13 that time.

14 Okay. Go ahead, Mr. Falvey.

15 MR. FALVEY: Thank you.

16 Q (By Mr. Falvey) Do you have before you, Mr.
17 Devine, your rebuttal testimony of December 11th?

18 A Yes, I do.

19 Q And is it true that you do not have any
20 corrections to that testimony?

21 A That is correct.

22 Q And with the corrections to your direct and
23 your rebuttal testimony, do you affirm the correctness
24 of your testimony in this docket?

25 A Yes, I do.

1 Q Are you adopting and sponsoring Exhibits
2 TTD-1 through TTD-4 in connection with your direct
3 testimony?

4 A Yes, I am.

5 Q Okay. And are you adopting and sponsoring
6 Exhibit TTD-5 that was attached to your rebuttal
7 testimony?

8 A Yes, I am.

9 MR. FALVEY: All right.

10 Madam Chairman, I would move that
11 Mr. Devine's direct and rebuttal testimony be inserted
12 into the record, and that the accompanying Exhibits
13 TTD-1 through TTD-5 be marked for identification and
14 inserted into the record.

15 MR. LACKEY: I have an objection, Madam
16 Chairman.

17 CHAIRMAN CLARK: Can I enter the testimony
18 into the record?

19 MR. LACKEY: No, that's what I'm going to
20 object to.

21 CHAIRMAN CLARK: Okay. Go ahead,
22 Mr. Lackey.

23 MR. LACKEY: It's only portions of them,
24 Madam Chairman, and a small portion.

25 What I really object to are the Exhibits 1

1 through 4. And what I've done is I've identified the
2 testimony that he's just offered -- I've identified
3 those sections of the testimony he's just offered that
4 relate to those exhibits.

5 My difficulty is that that testimony and
6 those exhibits all relate to settlement negotiations
7 that were conducted between the parties pursuant to
8 statute, the statute that required the parties to try
9 to negotiate out these issues if they could. And what
10 Mr. Devine has done is include in this record his
11 understandings, records, conversations, records of
12 conversations relating to those settlement
13 discussions, and I don't believe that matters and
14 compromise in settlement are admissible evidence in
15 Florida.

16 More than that, to the extent that these are
17 supposed to be full and free negotiations between the
18 parties, having your negotiating position laid out on
19 the public record in a hearing process like this has a
20 chilling effect.

21 Most of you have done negotiations before;
22 you know that sometimes you take difficult positions
23 and hard positions at one phase with the intent of
24 changing your position later. You have your
25 negotiating posture; and now we end up with all of

1 this in a public record somewhere to be used, you
2 know, for whatever purpose it could be used without
3 any context.

4 And so I object to Exhibits TTD-1 through 4,
5 and the portions of the testimony that I would like to
6 have stricken -- or not admitted at this time,
7 actually -- is Page 32, Lines 6 through 11; Page 47,
8 Lines 6 through 10.

9 MR. FALVEY: Excuse me. If we could address
10 the general objection before we go into the detail, I
11 would appreciate it.

12 CHAIRMAN CLARK: I need to know what
13 testimony he's objecting to so I can look at it so I
14 can better understand the arguments.

15 MR. FALVEY: Okay. If you could start at
16 the beginning of the list so that I can follow you.

17 CHAIRMAN CLARK: He indicated that he's
18 objecting to Exhibits TTD-1 through 4, and then the
19 testimony on Page 32, Lines 6 through 11; Page 47
20 lines 6 through 10.

21 Go ahead, Mr. Lackey.

22 MR. LACKEY: Yes, ma'am. Page 52, Lines 15
23 through 18; Page 60, Lines 16 through 19; Page 61,
24 Lines 11 through 13; Page 67, 15 through 17.

25 MR. FALVEY: If I could respond?

1 CHAIRMAN CLARK: I'm just taking a moment to
2 look at what is precisely in the testimony.

3 MR. LACKEY: My red light won't come on.

4 CHAIRMAN CLARK: When you don't press it, we
5 try to make up for your error on it. We'll start
6 playing tag here.

7 MR. LACKEY: You have taken on a major task,
8 Madam Chairman.

9 CHAIRMAN CLARK: Go ahead, Mr. Falvey. You
10 can address Mr. Lackey's objection.

11 MR. FALVEY: Well, I'd like to begin by just
12 raising the issue of the timing of this objection.
13 This is literally the first time that I've heard about
14 this objection. Our petition was filed in November,
15 back when the weather was clear and we were all nice
16 and warm, and this is literally the first time this
17 has come to my attention.

18 We have conducted discovery on this petition
19 as it is drafted. We have a total of five exhibits at
20 this time, and he's objecting to four of them. That
21 we have been regularly discussing, all of the parties
22 to this proceeding have received and looked over. To
23 the extent that there was a right to protest the
24 confidentiality of these exhibits, it's long since
25 been waived. It's something that might have been --

1 we might have been able to look at on November 15th,
2 somewhere in that time frame. But on January 10th it
3 seems really like an effort to sandbag our petition by
4 deleting significant references.

5 Second of all, nobody ever signed any kind
6 of protective agreement with respect to these
7 negotiations, so there's nothing formally in writing
8 in which MFS agrees that they will not divulge the
9 contents of these negotiations.

10 Thirdly, many of the documents are
11 documents -- letters that we sent to BellSouth,
12 particularly the fourth exhibit. It's simply -- and
13 by that I mean TTD-4 -- is a policy document that is
14 critical to our position in this negotiations
15 whether -- I mean, that's a public document that we've
16 provided all over the world literally and that we
17 continue to provide, so that I don't see any right for
18 BellSouth to say we can't put that into the record.

19 I might mention that the issue of settlement
20 discussions has been raised on the record in
21 depositions by Mr. Lackey and basically divulging that
22 certain talks were going on. But I think -- and this
23 is really just to close -- I think this is a critical
24 point: The statute has told the parties to go away
25 and negotiate and to come back only if necessary, only

1 if there's a problem in those negotiations. And
2 without that negotiating record, there's no basis for
3 a petition. I don't each know where to begin. I
4 don't know where to begin talking about what we agree
5 upon and what we disagree upon, why we are here in the
6 first place. I think all of us would much prefer it
7 if we can't --

8 CHAIRMAN CLARK: Let me understand your
9 argument on this.

10 MR. FALVEY: Right.

11 CHAIRMAN CLARK: You're saying that it's
12 necessary for you to provide that information about
13 the negotiations because the statute requires you to
14 try to negotiate a settlement prior to coming to the
15 Commission.

16 MR. FALVEY: I think that's correct. If I
17 could add --

18 CHAIRMAN CLARK: I'm just trying to
19 understand what you're saying.

20 MR. FALVEY: By all means. By all means.
21 I'd like to just put one twist on that, and that is
22 that the issues that we bring to the Commission are
23 those that we cannot negotiate. And I see this entire
24 process as a process of untying the knots in this
25 negotiating process. If we don't have any record of

1 what those knots are -- and what better record than
2 these public documents that have been circulating in
3 public for the last two months, what better record of
4 what we said and what they said and what we could
5 agree on and what they could not agree on.

6 And to be honest, I don't know -- we're
7 going to be at a serious disadvantage without these
8 documents. Exhibit TTD-4 is a very -- is an excellent
9 detailed outline of what we're asking for.

10 CHAIRMAN CLARK: Do I understand correctly
11 that 4 is your proposal?

12 MR. FALVEY: That's correct. This is the
13 most recent version. In fact, that is a version --

14 CHAIRMAN CLARK: I just want to know, is
15 this your document, MFS document?

16 MR. FALVEY: It's our document. What I was
17 going to add is that it's a proposal that we put in --
18 it's an updated version -- I don't even know that it
19 was provided during negotiations. There was an
20 October version of that document in negotiations, and
21 we provided a November one. It's described in our
22 petition that we say, "By the way, here's an updated
23 version of our document." So that one really is not
24 on the table, as far as I'm concerned.

25 But I'm just amazed that this issue is

1 coming up at this time and that any of these documents
2 are being considered as something that should not go
3 in the record.

4 CHAIRMAN CLARK: Mr. Lackey, can you give me
5 some more rationale and basis for your objection other
6 than simply that information on negotiations are not
7 admissible?

8 MR. LACKEY: Yes, ma'am. Am I on? Yes,
9 ma'am.

10 And first of all, let me say that I'm not
11 taking the position that these are confidential
12 documents and that people can't know about them. All
13 I've objected to is their admissibility.

14 And the Florida Rules of Evidence, and
15 particularly Section 90.408, is the closest thing I
16 was able to find on point. That, of course, goes to
17 offers of settlement and compromise are not admissible
18 as to a party's liability or as to the amount of the
19 damages. It's more akin, of course, to a civil -- or
20 more applicable really in a civil matter. But the
21 principle is still the same, and I think it's a
22 principle we're all familiar with. And that is,
23 people take positions in settlement negotiations to
24 try to avoid exactly what we're going through now, and
25 when they're having settlement negotiations, we're not

1 talking about unsolicited letters. This was a part of
2 an ongoing negotiation process; the parties shouldn't
3 be able to enter that on the record in the manner that
4 we're talking about here.

5 It's a question of admissibility, not a
6 question of hiding the information.

7 CHAIRMAN CLARK: Mr. Tye.

8 MR. TYE: Commissioner Clark, I have to
9 agree with Mr. Lackey that with respect to settlement
10 negotiations, the first thing I learned in law school
11 was if you mention settlement in court, the next word
12 you'll hear will be mistrial.

13 But I don't believe that what we're talking
14 about here are, in effect, settlement negotiations.
15 In fact, there was no dispute and the petition could
16 not be filed until the negotiations failed to produce
17 a binding agreement. So you know if, in fact, the
18 petition had been filed, there was a dispute among the
19 parties, and they engaged in negotiations to settle
20 this case, I think I would agree with Mr. Lackey.

21 On the other hand, I don't think that's the
22 case. I think these -- this is a statutory period
23 where negotiations have to be conducted, but there was
24 no dispute that would lead to true settlement
25 negotiations until the petition was filed.

1 So, you know, it appears to me that these
2 documents ought to go in evidence. They're almost
3 like in a contract suit where the meaning of the
4 contract isn't clear, you can introduce evidence with
5 respect to the negotiations that led up to the binding
6 contract.

7 CHAIRMAN CLARK: Go ahead, Mr. Lackey.

8 MR. LACKEY: Just one more thing, Madam
9 Chairman, if you look at my point. If you'll look at
10 Exhibit TTD-2. And this is in response to Mr. Tye's
11 point, I should add. That appears --

12 CHAIRMAN CLARK: I'm looking at TTD-2.

13 MR. LACKEY: Yes, which is labeled
14 "Affidavit of Timothy T. Devine. And again, this is
15 in response to Mr. Tye's point. If you'll see what we
16 have here, is we have what is apparently a voice
17 message that was left by Mr. Scheye to Mr. Devine
18 regarding settlement discussions. It's got proposals
19 in it, which I'm not going to read because I don't
20 want to put them in the record, but it's clearly in
21 the nature of settlement negotiations. It's not like
22 a building contract where it's discussed as a
23 preliminary entering into the contract, or anything
24 else. It's a statement of position and what we're
25 willing to do and where we're willing to go.

1 We're perfectly willing to stipulate that we
2 negotiated and that the negotiations to this point
3 have failed if that's the purpose. What we're worried
4 about is they're trying to advance substantive
5 positions based on our negotiating papers.

6 MR. FALVEY: Madam Chairman, if I can add
7 one final word.

8 CHAIRMAN CLARK: One final word.

9 MR. FALVEY: I've made a point as to why
10 TTD-4 should not under consideration. TTD-3, and
11 again it's explained in the petition, was circulated
12 during the number portability docket to all parties to
13 that docket, and not as a settlement, just as -- none
14 of this is a settlement. This is a negotiation to
15 come up with business arrangements between the
16 parties. This is two parties sitting down, which we
17 might have been able to do without the statutory
18 framework, to try and figure out what arrangements are
19 appropriate. And so 3 is off the table, and these are
20 definitely not settlement negotiations.

21 And, you know, I don't know if this -- when
22 the idea of calling this a settlement negotiation
23 arose, but I don't know where Mr. Lackey was on
24 January 5th at the prehearing conference. I mean,
25 this is way late, and it's a surprise, and MFS does

1 not have any opportunity to respond to it. And I
2 think it's totally inappropriate to even be
3 considering this at this time.

4 CHAIRMAN CLARK: Mr. Hatch, do you have
5 anything to add?

6 MR. HATCH: No, ma'am, I do not.

7 CHAIRMAN CLARK: Does the Staff have any
8 recommendations?

9 MS. CANZANO: The Exhibit that Staff really
10 is concerned about is TTD-1, that's the one that we're
11 interested in using.

12 CHAIRMAN CLARK: I'm going to allow the
13 exhibit to be entered into the record. Mr. Lackey,
14 I'm persuaded by the fact that these were not
15 negotiations in settlement of a petition, but they
16 were negotiations contemplated by statute as a
17 precursor to the proceeding; and for that reason, I'm
18 going to allow the exhibits in the testimony. But let
19 me formally admit the testimony and exhibits.

20 But I have one other question to ask. I
21 have an additional piece of testimony marked 950985-C,
22 and it's the direct testimony of Timothy T. Devine,
23 but it just adopts the November 13th testimony. Can
24 somebody clarify what this is?

25 MR. FALVEY: I would like to speak to that.

1 I don't have my files with me, and I don't want to go
2 into any detail about where I have been the last three
3 days, but I don't have my files with me. There's been
4 a lot of testimony and a lot of various subdockets.

5 In our subdocket, which is actually B -- I
6 think what you may have, if I'm not mistaken, and
7 maybe Mr. Melson could speak to this, is an MCI piece
8 of testimony.

9 CHAIRMAN CLARK: We can cut this all short.
10 If you just tell me I can throw this out, I'm happy.
11 All right. There we go.

12 MS. CANZANO: I could clarify how this was
13 filed. The whole docket was structured by when the
14 petitions were actually filed and so everybody had two
15 weeks to respond to those. So until somebody actually
16 was a petitioner, they were acting as an intervenor so
17 there are testimonies in five different petitions, so
18 it's repetitive. And that's where that confusion
19 arose.

20 CHAIRMAN CLARK: Then I will simply rely on
21 you all to make sure that I'm entering the right
22 testimony into the record.

23 COMMISSIONER KIESLING: May I inquire just
24 to one thing?

25 CHAIRMAN CLARK: Go ahead.

1 COMMISSIONER KIESLING: Within TTD-1, is a
2 document that has "Privileged and confidential subject
3 to attorney-client privilege and work product
4 doctrine" stamped on every page, and I guess I'm
5 trying to figure out if that -- how that fits in, too.

6 MR. FALVEY: If I can clarify that. Does
7 the first page say "Co-carrier stipulation and
8 agreement" at the top?

9 COMMISSIONER KIESLING: No, it doesn't.

10 MR. FALVEY: If you could identify the
11 document.

12 COMMISSIONER KIESLING: This is what it
13 looks like (indicating).

14 MR. FALVEY: Okay. What's the date of that
15 document?

16 COMMISSIONER KIESLING: 9-25-95.

17 CHAIRMAN CLARK: Commissioner Kiesling, what
18 was the exhibit number, again?

19 COMMISSIONER KIESLING: TTD-1. It begins
20 with a letter addressed to Tom Hamby, followed by --

21 MR. FALVEY: I can clarify that. That's
22 actually the TCG stipulation, which has since been
23 filed with the Commission. It was a proposal of
24 BellSouth's to say why don't you -- are you interested
25 in signing on to what TCG signed on to, so that's very

1 much a public and, I believe, a tariffed document.

2 CHAIRMAN CLARK: Okay. Any other questions?

3 COMMISSIONER KIESLING: No.

4 CHAIRMAN CLARK: Okay. The prefiled direct
5 testimony of Mr. Timothy T. Devine, filed in Docket
6 950985, dated November 13th, will be inserted in the
7 record as though read, and the exhibits attached to
8 that testimony labeled TTD-1 through 4 will be marked
9 for identification as Exhibit 2. The prefiled
10 rebuttal testimony of Timothy T. Devine, filed in
11 Docket 950985, will be entered into the record as
12 though read. And the exhibit marked TTD-5 will be
13 marked as Exhibit 3.

14 MR. FALVEY: Madam Chairman, just a point of
15 clarification, my understanding is that Exhibits TTD-1
16 through 4 are consolidated and considered Exhibit 2.

17 CHAIRMAN CLARK: That's correct.

18 MR. FALVEY: Thank you.

19 (Composite Exhibit No. 2 and Exhibit No. 3
20 marked for identification.)

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**DIRECT TESTIMONY OF TIMOTHY T. DEVINE
ON BEHALF OF
METROPOLITAN FIBER SYSTEMS OF FLORIDA, INC.
Docket No. 950985-TP**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A.**My name is Timothy T. Devine. My business address is MFS
3 Communications Company, Inc. ("MFSCC"), 250 Williams St., Ste. 2200,
4 Atlanta, Georgia 30303.

5 **Q. WHAT IS YOUR POSITION WITH MFS?**

6 **A.**I am the Senior Director of External and Regulatory Affairs for the Southern
7 Region for MFSCC, the indirect parent company of Metropolitan Fiber
8 Systems of Florida.

9 **Q. WHAT ARE YOUR RESPONSIBILITIES IN THAT POSITION?**

10 **A.**I am responsible for the regulatory oversight of commission dockets and
11 other regulatory matters and serve as MFSCC's representative to various
12 members of the industry. I am also responsible for coordinating co-carrier
13 discussions with Local Exchange Carriers within the Southern Region.

14 **Q. PLEASE DESCRIBE YOUR PREVIOUS PROFESSIONAL
15 EXPERIENCE AND EDUCATIONAL BACKGROUND.**

16 **A.**I have a B.S. in Political Science from Arizona State University and an
17 M.A. in Telecommunications Policy from George Washington University. I
18 began work in the telecommunications industry in April 1982 as a sales
19 representative for packet switching services for Graphnet, Inc., one of the

Direct Testimony of Timothy T. Devine
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1 first value-added common carriers in the United States. From 1983 until
2 1987, I was employed at Sprint Communications Co., in sales, as a tariff
3 analyst, as a product manager, and as Manager of Product and Market
4 Analysis. During 1988, I worked at Contel Corporation, a local exchange
5 carrier, in its telephone operations group, as the Manager of Network
6 Marketing. I have been working for MFSCC and its affiliates since January
7 1989. During this time period, I have worked in product marketing and
8 development, corporate planning, regulatory support, and regulatory affairs.
9 Most recently, from August 1994 until August 1995, I have been
10 representing MFSCC on regulatory matters before the New York,
11 Massachusetts, and Connecticut state commissions and was responsible for
12 the MFSCC Interim Co-Carrier Agreements with NYNEX in New York and
13 Massachusetts, as well as the execution of a co-carrier Joint Stipulation in
14 Connecticut.

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1 **Q. PLEASE DESCRIBE THE OPERATIONS OF MFS**
2 **COMMUNICATIONS COMPANY, INC. AND ITS SUBSIDIARIES.**

3 **A.** MFSCC is a diversified telecommunications holding company with
4 operations throughout the country, as well as in Europe. MFS Telecom,
5 Inc., an MFSCC subsidiary, through its operating affiliates, is the largest
6 competitive access provider in the United States. MFS Telecom, Inc.'s
7 subsidiaries, including MFS/McCourt, Inc., provide non-switched,
8 dedicated private line and special access services.

9 MFS Intelenet, Inc. ("MFSI") is another wholly owned subsidiary of
10 MFSCC. It causes operating subsidiaries to be incorporated on a state-by-
11 state basis. MFSI's operating subsidiaries collectively are authorized to
12 provide switched interexchange telecommunications services in 48 states and
13 have applications to offer such service pending in the remaining states.

14 Where so authorized, MFSI's operating subsidiaries offer end users a single
15 source for local and long distance telecommunications services with quality
16 and pricing levels comparable to those achieved by larger communications
17 users. Apart from Florida, MFSI subsidiaries have been authorized to
18 provide competitive local exchange service in twelve states. Since July
19 1993, MFS Intelenet of New York, Inc. has offered local exchange services

Direct Testimony of Timothy T. Devine
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1 in competition with New York Telephone Company. MFS Intelenet of
2 Maryland, Inc. was authorized to provide local exchange services in
3 competition with Bell Atlantic-Maryland, Inc. in April 1994 and recently
4 has commenced operations. On June 22, 1994, MFS Intelenet of
5 Washington, Inc. was authorized to provide local exchange services in
6 competition with US West Communications, Inc. On July 20, 1994, MFS
7 Intelenet of Illinois, Inc. was certificated to provide local exchange services
8 in competition with Illinois Bell Telephone Company and Central Telephone
9 Company of Illinois. MFS Intelenet of Ohio was certificated to provide
10 competitive local exchange service in competition with Ohio Bell on August
11 3, 1995. MFS Intelenet of Michigan, on May 9, 1995, was certificated to
12 provide competitive local exchange service in competition with Ameritech-
13 Michigan. MFS Intelenet of Connecticut was dedicated to provide local
14 exchange service in competition with Southern New England Telephone
15 Company on June 28, 1995. MFS Intelenet of Texas, Inc. was authorized
16 to provide local exchange service in Texas in competition with Southwestern
17 Bell Telephone Company by Order signed on October 25, 1995. MFS
18 Intelenet of Georgia, Inc. was authorized to provide competitive local
19 exchange service in Georgia on October 27, 1995. MFS Intelenet of

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1 Pennsylvania, Inc. was authorized to provide local exchange service in
2 Pennsylvania by Order entered October 4, 1995. Finally, MFS Intelenet of
3 Massachusetts was certificated on March 9, 1994 to operate as a reseller of
4 both interexchange and local exchange services in the Boston Metropolitan
5 Area in competition with New England Telephone.

6 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS**
7 **COMMISSION?**

8 **A.** Yes. On August 14, 1995 and September 8, 1995, respectively, I filed
9 direct and rebuttal testimony in the universal service docket. *In re:*
10 *Determination of funding for universal service and carrier of last resort*
11 *responsibilities*, Docket No. 950696-TP. On September 1 and September
12 29, 1995, respectively, I filed direct and rebuttal testimony in the temporary
13 number portability docket. *In re: Investigation into temporary local*
14 *telephone portability solution to implement competition in local exchange*
15 *telephone markets*, Docket No. 950737-TP. On September 15 and
16 September 29, 1995, respectively, I filed direct and rebuttal testimony in the
17 TCG Interconnection Petition docket. *Resolution of Petition(s) to establish*
18 *nondiscriminatory rates, terms, and conditions for interconnection involving*

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1 *local exchange companies and alternative local exchange companies*
2 *pursuant to Section 364.162, Florida Statutes, Docket No. 950985-TP.*

3 **Q. ARE ANY OF THE PARTIES UPON WHOSE BEHALF YOU ARE**
4 **TESTIFYING CURRENTLY CERTIFICATED TO PROVIDE**
5 **SERVICE IN FLORIDA?**

6 **A. Yes. Metropolitan Fiber Systems of Florida, Inc., a certificated Alternative**
7 **Access Vendor ("AAV") has notified the Commission of its intent to**
8 **provide switched local exchange service in Florida. The Commission**
9 **acknowledged this notification on September 12, 1995, and MFS-FL is now**
10 **a certificated alternative local exchange company.**

11 **I. PURPOSE AND SUMMARY**

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
13 **PROCEEDING?**

14 **A. MFS-FL has filed its interconnection petition in this docket, as well as a**
15 **parallel petition in the unbundling docket, because its negotiations with**
16 **BellSouth (and, to date, only BellSouth) have failed to yield acceptable co-**
17 **carrier arrangements, including an agreement on the pricing of**
18 **interconnection. (MFS-FL is currently negotiating with other major LECs**
19 **in Florida.) MFS-FL therefore is petitioning the Commission, in**

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1 accordance with Florida Statute Section 364.162, to establish
2 nondiscriminatory rates, terms, and conditions for interconnection.
3 ~~CMFS-FL is currently negotiating with other major LECs in Florida.)~~ This
4 testimony supplements the information contained in the Petition with respect
5 to the co-carrier arrangements required by MFS-FL to provide economically
6 viable competitive local exchange service in Florida. Principally, MFS-FL
7 could not come to an agreement with BellSouth because BellSouth insisted,
8 contrary to statute, that the universal service issue be addressed in these
9 negotiations. Moreover, BellSouth's proposal that MFS-FL pay switched
10 access terminating access rates would not permit MFS-FL to compete with
11 BellSouth in an environment where end-user pricing is flat-rated. In this
12 manner, and in other respects I discuss herein, the TCG interconnection
13 settlement with BellSouth is not acceptable to MFS-FL.

14 **Q. AS A THRESHOLD MATTER, WHAT IS "INTERCONNECTION"?**

15 **A.** The term "interconnection" is very broad and, for purposes of this
16 proceeding, it will be helpful to distinguish among several types of
17 interconnection. As a general matter, "interconnection" encompasses any
18 arrangement involving a connection among different carriers' facilities,
19 regardless of the form or purpose. For example, if one carrier resells a

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1 second carrier's transmission or switching services instead of constructing
2 its own facilities to provide this service to the end user, the two carriers are
3 "interconnected." Except where the second carrier controls a bottleneck
4 facility, however, this form of interconnection of facilities is an optional and
5 voluntary business arrangement, since the first carrier could perform the
6 same function by adding facilities to its own network.

7 When two or more carriers are providing local exchange service,
8 however, a different type of interconnection becomes essential. In that case,
9 competing networks must be able to exchange traffic (including the
10 exchange of signaling and billing information, and access to other service
11 platforms that support local exchange service), because of the overriding
12 public interest in preserving universal connectivity. In short, every
13 telephone user in Florida must be able to call (and receive calls from) every
14 other user, regardless of which carrier provides each user with local
15 exchange service.

16 **Q. WHY IS INTERCONNECTION AN IMPORTANT ISSUE?**

17 **A.** It is important because today nearly every Florida business or residence that
18 has a telephone is connected to BellSouth's network. If MFS-FL customers
19 cannot place calls to, and receive calls from, customers of BellSouth, then

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1 MFS-FL will be unable, as a practical matter, to engage in business in
2 Florida, even if it is authorized to do so as a matter of law. No one will
3 buy a telephone service that does not permit calling to all other numbers.
4 Moreover, even if MFS-FL customers can place calls to BellSouth
5 customers located in the same community, but only at excessive cost or with
6 inconvenient dialing patterns, poor transmission quality, or lengthy call set-
7 up delays, then MFS-FL will not be able to offer a service that customers
8 would be interested in using. Equitable co-carrier arrangements are
9 necessary before new entrants can compete in the provision of local
10 exchange service.

11 **Q. WHAT IS MEANT BY THE TERM "CO-CARRIER**
12 **ARRANGEMENTS"?**

13 **A.** By "co-carrier" arrangements, I refer to a variety of arrangements that will
14 have to be established to allow ALECs and BellSouth to deal with each other
15 on a reciprocal, non-discriminatory, and equitable basis. Once the basic
16 principles for such arrangements are established by the Commission, the
17 affected carriers should be directed to implement specific arrangements in
18 conformance with the principles. The term "co-carrier" signifies both that
19 the two carriers are providing local exchange service within the same

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1 territory, and that the relationship between them is intended to be equal and
2 reciprocal—that is, neither carrier would be treated as subordinate or
3 inferior.

4 **Q. SPECIFICALLY WHAT CO-CARRIER ARRANGEMENTS ARE**
5 **REQUIRED FOR MFS-FL TO PROVIDE VIABLE COMPETITIVE**
6 **LOCAL EXCHANGE SERVICE?**

7 **A.** MFSI-FL believes that certain co-carrier requirements should apply equally
8 and reciprocally to all local exchange carriers, LECs and ALECs alike. The
9 Florida statute ^{has} ~~have~~ recognized the necessity for such arrangements by
10 requiring LECs to negotiate both interconnection and unbundling
11 arrangements. Fla. Stat. § 364.162. The following are the co-carrier
12 arrangements required by MFS-FL: 1) Number Resources Arrangements;
13 2) Meet-point Billing Arrangements, including Tandem Subtending; 3)
14 Reciprocal Traffic Exchange and Reciprocal Compensation; 4) Shared
15 Network Platform Arrangements; 5) Unbundled Exchange Service
16 Arrangements; and 6) Local Telephone Number Portability Arrangements.
17 All of these issues will be addressed herein, with the exception of
18 unbundling the local loop which will be addressed in a separate parallel
19 petition and testimony.

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1 **Q. SHOULD THE MFS-FL INTERCONNECTION AND UNBUNDLING**
2 **PETITIONS BE CONSOLIDATED?**

3 **A.** Yes. The Commission, pursuant to statute, should consolidate these two
4 petitions in order to streamline the consideration of these petitions which
5 both stem from the same negotiations with BellSouth. The statute states
6 that: "If the commission receives one or more petitions relating to both
7 interconnection and resale of services and facilities, the commission shall
8 conduct separate proceedings for each." Fla. Stat. § 364.162 (emphasis
9 added). The statute appears to provide for petitions from several different
10 companies, based on separate negotiating histories, that would address both
11 interconnection and unbundling issues. The statute merely requires that
12 petitions from different companies be addressed in separate proceedings.
13 MFS-FL has filed separate interconnection and unbundling petitions due to
14 the establishment of two separate dockets, but it would be entirely consistent
15 with statute, and significantly more efficient, if the Commission were to
16 consolidate these two MFS-FL petitions. Moreover, there would be no
17 prejudice to BellSouth which would share in the efficiencies created by the
18 consolidation. If the Petitions are not consolidated, Petitioner respectfully
19 requests that they be considered on a coordinated procedural schedule.

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1 **Q. WAS THERE AGREEMENT ON ANY OF THESE CO-CARRIER**
2 **ISSUES WITH BELLSOUTH?**

3 **A.**BellSouth would not come to an agreement on any interconnection or
4 unbundling issue absent an agreement on universal service. Therefore,
5 while the parties appeared to be in agreement as to several issues, no formal
6 agreement was reached on any issue. The opportunity for an agreement on
7 a subset of interconnection issues was squandered by BellSouth's insistence
8 on including universal service.

9 **Q. WHY IS BELLSOUTH'S INSISTENCE ON INCLUDING THE ISSUE**
10 **OF UNIVERSAL SERVICE IN INTERCONNECTION**
11 **NEGOTIATIONS DIRECTLY CONTRARY TO THE**
12 **LEGISLATURE'S STATUTORY FRAMEWORK?**

13 **A.**BellSouth, by including the issue of universal service in interconnection
14 negotiations, has directly contravened the intent of the Legislature. The
15 statute states that negotiations shall address "mutually acceptable prices,
16 terms, and conditions of interconnection and for the resale of services and
17 facilities." Fla. Stat. § 364.162(1). The Legislature deliberately addressed
18 the issue of an interim universal service mechanism separately (Fla. Stat.
19 § 364.125), as reflected by the separate docket opened by the Commission.

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1 The Legislature considered the BellSouth approach of linking universal
2 service and interconnection but rejected it:

3 One of the provisions of the bill that has been questioned in terms of
4 whether or not it will impede competition is ~~whether or not it will~~
5 ~~impede competition is~~ . . . the linking of the interconnection rate to a
6 charge or surcharge or premium, as it has been called, to cover the
7 cost of universal service and carrier of last resort. And there are
8 people who argue that if you link those costs to interconnection, that
9 the new entrant into the market will never be able to establish itself,
10 because the cost of interconnection will be uneconomic. In an effort
11 to address this issue, I and other providers, including the local
12 exchange industry, have offered some language here that would, in
13 fact, de-link these issues, interconnection and universal service and
14 carrier of last resort.

15 Meeting of the House of Representatives Committee on Utilities and
16 Telecommunications, Transcript at 22 (April 5, 1995). By linking universal
17 service and interconnection, BellSouth is flouting the intent of the
18 Legislature.

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1 **Q. HAS BELLSOUTH ISSUED AN INTERCONNECTION TARIFF**
2 **CONTRARY TO THE PROCEDURAL PROCESS ESTABLISHED BY**
3 **THE LEGISLATURE?**

4 **A. Yes. Contrary to the procedure established by the Legislature, BellSouth**
5 has issued a tariff incorporating the provisions in the TCG Stipulation.
6 BellSouth's tariff is premature in light of the proceeding established by the
7 Legislature.

8 **II. NUMBER RESOURCES ARRANGEMENTS**

9 **Q. WAS AGREEMENT REACHED ON THE ISSUE OF NUMBER**
10 **RESOURCES?**

11 **A. No. Although there appears to be some consistency between BellSouth and**
12 MFS on this issue, agreement was not reached.

13 **Q. AS A CO-CARRIER, TO WHAT NUMBER RESOURCES IS MFS-FL**
14 **ENTITLED?**

15 **A. As a co-carrier, MFS-FL is entitled to the same nondiscriminatory number**
16 resources as any Florida LEC under the Central Office Code Assignment
17 Guidelines ("COCAG"). BellSouth, as Central Office Code Administrator
18 for Florida, should therefore support all MFS requests related to central
19 office (NXX) code administration and assignments in an effective and timely

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1 manner. MFS-FL and BellSouth will comply with code administration
2 requirements as prescribed by the Federal Communications Commission, the
3 Commission, and accepted industry guidelines. As contemplated by the
4 COCAG, MFS-FL will designate within the geographic NPA with which
5 each of its assigned NXX codes is associated, a Rate Center area within
6 which it intends to offer Exchange Services bearing that NPA-NXX
7 designation, and a Rate Center point to serve as the measurement point for
8 distance-sensitive traffic to or from the Exchange Services bearing that
9 NPA-NXX designation. MFS-FL will also designate a Rating Point for
10 each assigned NXX code. MFS-FL may designate one location within each
11 Rate Center as the Rating Point for the NPA-NXXs associated with that
12 Rate Center; alternatively, MFS-FL may designate a single location within
13 one Rate Center to serve as the Rating Point for all the NPA-NXXs
14 associated with that Rate Center and with one or more other Rate Centers
15 served by MFS within the same LATA.

16 **Q. IS THIS PROPOSAL GENERALLY CONSISTENT WITH THE**
17 **STIPULATION ENTERED INTO BETWEEN TCG AND**
18 **BELLSOUTH?**

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1 A. Yes. *See* TCG Stipulation, Appendix B, at 4. (Although BellSouth and
2 TCG classified number resources as an unbundling issue, MFS-FL believes
3 that number resources are a fundamental right associated with
4 interconnection.)

5 **III. TANDEM SUBTENDING AND MEET-POINT BILLING**

6 **Q. WHAT IS MEANT BY TANDEM SUBTENDING?**

7 A. MFS-FL proposes that if BellSouth operates an access tandem serving a
8 LATA in which MFS-FL operates, it should be required, upon request, to
9 provide tandem switching service to any other carrier's tandem or end office
10 switch serving customers within that LATA, thereby allowing MFS-FL's
11 switch to "subtend" the tandem. This arrangement is necessary to permit
12 IXCs to originate and terminate interLATA calls on an ALEC's network
13 without undue expense or inefficiency. Similar arrangements already exist
14 today among LECs serving adjoining territories -- there are many instances
15 in which an end office switch operated by one LEC subtends an access
16 tandem operated by a different LEC in the same LATA.

17 **Q. HOW SHOULD INTERCARRIER BILLING BE HANDLED**
18 **WHEN TANDEM SUBTENDING ARRANGEMENTS ARE**
19 **USED?**

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1 A. Where tandem subtending arrangements exist, LECs divide the local
2 transport revenues under a standard "meet-point billing" formula established
3 by the national standards group known as the Ordering and Billing Forum
4 ("OBF") and set forth in FCC and state tariffs. The same meet-point billing
5 procedures should apply where the tandem or end office subtending the
6 tandem is operated by an ALEC as in the case of an adjoining LEC.

7 MFS-FL and BellSouth should establish meet-point billing
8 arrangements to enable the new entrants to provide switched access
9 services^{1/} to third parties via a BellSouth access tandem switch, in
10 accordance with the Meet-Point Billing and Provisioning guidelines adopted
11 by the OBF.

12 Except in instances of capacity limitations, BellSouth should enable
13 MFS to subtend the BellSouth access tandem switch(es) nearest to the MFS
14 Rating Point associated with the NPA-NXX(s) to or from which the
15 switched access services are homed. In instances of capacity limitation at a
16 given access tandem switch, MFS-FL shall be allowed to subtend the next-

¹E.g., Feature Group B, Feature Group D, 800 access, and 900 access.

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1 nearest BellSouth access tandem switch in which sufficient capacity is
2 available.

3 As I will discuss later in my Testimony, interconnection for the
4 meet-point arrangement will occur at the Designated Network
5 Interconnection Point ("D-NIP") at which point MFS-FL and BellSouth will
6 interconnect their respective networks for inter-operability within that
7 LATA. Common channel signaling ("CCS") will be utilized in conjunction
8 with meet-point billing arrangements to the extent such signaling is resident
9 in the BellSouth access tandem switch. ALECs and BellSouth should,
10 individually and collectively, maintain provisions in their respective federal
11 and state access tariffs sufficient to reflect this meet-point billing
12 arrangement.

13 **Q. WHAT PROVISIONS SHOULD APPLY FOR THE EXCHANGE OF**
14 **BILLING INFORMATION?**

15 **A.** MFS-FL and BellSouth will in a timely fashion exchange all information
16 necessary to accurately, reliably and promptly bill third parties for switched
17 access services traffic jointly handled by MFS-FL and BellSouth via the
18 meet-point arrangement. Information will be exchanged in Electronic
19 Message Record ("EMR") format, on magnetic tape or via a mutually

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1 acceptable electronic file transfer protocol. Furthermore, MFS and
2 BellSouth should employ the calendar month billing period for meet-point
3 billing, and should provide each other, at no charge, the appropriate usage
4 data (i.e., call detail records, interstate/intrastate/intraLATA percent of use
5 factors, carrier name and billing address, carrier identification codes,
6 serving wire center designation, etc., associated with such switched access
7 traffic.)

8 **Q. HOW SHOULD BILLING TO THIRD PARTIES BE**
9 **ACCOMPLISHED?**

10 **A.** Initially, billing to third parties for the switched access services jointly
11 provided by MFS-FL and BellSouth via the meet-point billing arrangement
12 should be according to the single-bill/multiple tariff method. This method is
13 a standard offering by RBOCs. *See, e.g.,* NYNEX Tariff F.C.C. No. 1
14 Second Revised Page 2-45 § 2.4.7. Subsequently, billing to third parties for
15 the switched access services jointly provided by MFS-FL and BellSouth via
16 the meet-point arrangement shall be, at MFS-FL's preference, according to
17 the single-bill/single tariff method, single-bill/multiple-tariff method,
18 multiple-bill/single-tariff method, or multiple-bill/multiple-tariff method.
19 Should MFS-FL prefer to change among these billing methods, MFS-FL

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1 would be required to notify BellSouth of such change in writing, 90 days in
2 advance of the date on which such change was to be implemented.

3 **Q. HOW WOULD SWITCHED ACCESS CHARGES TO THIRD**
4 **PARTIES BE CALCULATED?**

5 **A.** Switched access charges to third parties would be calculated utilizing the
6 rates specified in MFS-FL's and BellSouth's respective federal and state
7 access tariffs, in conjunction with the appropriate meet-point billing factors
8 specified for each meet-point arrangement either in those tariffs or in the
9 NECA No. 4 tariff. MFS-FL shall be entitled to the balance of the switched
10 access charge revenues associated with the jointly handled switched access
11 traffic, less the amount of transport element charge revenues to which
12 BellSouth is entitled pursuant to the above-referenced tariff provisions.
13 Significantly, this does not include the interconnection charge, which is to
14 be remitted to the end office provider, which in this case would be MFS-FL.

15 Where MFS-FL specifies one of the single-bill methods, BellSouth
16 shall bill and collect from third parties, promptly remitting to MFS-FL the
17 total collected switched access charge revenues associated with the jointly-
18 handled switched access traffic, less only the amount of transport element
19 charge revenues to which BellSouth is otherwise entitled.

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1 Meet-point billing will apply for all traffic bearing the 800, 888, or
2 any other non-geographic NPA which may be likewise designated for such
3 traffic in the future, where the responsible party is an IXC. In those
4 situations where the responsible party for such traffic is a LEC, full
5 switched access rates will apply.

6 **Q. WHAT ARE THE MAJOR DIFFERENCES OF BELLSOUTH WITH**
7 **RESPECT TO TANDEM SUBTENDING AND MEET-POINT**
8 **BILLING?**

9 **A.** There are two major differences. First, BellSouth would not treat MFS-FL
10 as a co-carrier with respect to meet-point billing arrangements, proposing
11 that instead of applying the OBF guidelines, separate meet-point billing
12 guidelines apply to ALECs. There is no reason that ALEC co-carriers
13 should not be treated pursuant to the same guidelines that apply to all other
14 LECs. If competition is to develop in the Florida local exchange market,
15 and if "nondiscriminatory" arrangements are to be established, the
16 Commission must adopt rules that provide the same billing procedures for
17 both LECs and ALECs.

18 Second, BellSouth believes that it should, as the tandem provider,
19 bill the residual interconnection charge ("RIC"). TCG acceded to this

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1 position in its Stipulation with BellSouth (TCG Stipulation at 4-5), but this is
2 completely inconsistent with arrangements between LECs and arrangements
3 established with competitive carriers in other states, including New York
4 and Massachusetts. It is MFS-FL's position, based on its experience in
5 other states, that the carrier providing the end office switching (*i.e.*,
6 MFS-FL) is the carrier that receives the RIC.

7 Third, BellSouth would only offer multiple bill, single tariff billing,
8 and would not consider alternative preferences of MFS-FL. This insistence
9 will make it impossible for MFS-FL and other ALECs to choose the most
10 efficient billing system for its purposes. As noted below in the context of
11 the discussion of "bill and keep" compensation, the implementation of
12 billing systems entails significant costs for ALECs. If BellSouth imposes its
13 preferred method of billing, additional, unnecessary costs will be imposed
14 upon ALECs.

15 **IV. RECIPROCAL TRAFFIC EXCHANGE AND RECIPROCAL**
16 **COMPENSATION**

17 **A. Traffic Exchange Arrangements**

18 **Q. WHAT TRAFFIC EXCHANGE ARRANGEMENTS MUST BE**
19 **ESTABLISHED FOR THE EXCHANGE OF LOCAL TRAFFIC?**

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1 A. To effectuate the exchange of traffic, MFS-FL proposes that interconnection
2 be accomplished through interconnection points, with each carrier
3 responsible for providing trunking to the interconnection points for the hand
4 off of combined local and toll traffic and each carrier responsible for
5 completing calls to all end users on their network. In order to establish
6 interconnection points, carriers would pass both local and toll traffic over a
7 single trunk group, utilizing a percent local utilization ("PLU") factor
8 (similar to the currently utilized percent interexchange utilization ("PIU")
9 factor) to provide the proper jurisdictional call types, and subject to audit.
10 (As I discuss below, BellSouth's proposal that it must "have sufficient
11 information to make a determination as to whether the traffic is local or toll"
12 (TCG Stipulation at 5) is an open-ended invitation for BellSouth to charge
13 higher switched access rates for traffic that is in fact local traffic.)

14 MFS-FL proposes that, within each LATA served, MFS-FL and
15 BellSouth would identify a wire center to serve as the interconnection point
16 (as MFS-FL defines herein Default Network Interconnection Point
17 ("D-NIP")) at which point MFS-FL and BellSouth would interconnect their
18 respective networks for inter-operability within that LATA. Where MFS-
19 FL and BellSouth interconnect at a D-NIP, MFS-FL would have the right to

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1 specify any of the following interconnection methods: a) a mid-fiber meet at
2 the D-NIP or other appropriate point near to the D-NIP; b) a digital cross-
3 connection hand-off, DSX panel to DSX panel, where both MFS-FL and
4 BellSouth maintain such facilities at the D-NIP; or c) a collocation facility
5 maintained by MFS-FL, BellSouth, or by a third party. In extending
6 network interconnection facilities to the D-NIP, MFS-FL would have the
7 right to extend its own facilities or to lease dark fiber facilities or digital
8 transport facilities from BellSouth or a third party. Such leased facilities
9 would extend from any point designated by MFS-FL on its own network
10 (including a co-location facility maintained by MFS at a BellSouth wire
11 center) to the D-NIP or associated manhole or other appropriate junction
12 point. MFS-FL would also have the right to lease such facilities from
13 BellSouth under the most favorable tariff or contract terms BellSouth offers.

14 Where an interconnection occurs via a collocation facility, no
15 incremental cross-connection charges would apply for the circuits. Upon
16 reasonable notice, MFS-FL would be permitted to change from one
17 interconnection method to another with no penalty, conversion, or rollover
18 charges.

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1 Although one meet-point is the minimum necessary for connectivity,
2 more than one meet-point could be established if mutually acceptable, but
3 should not be mandated. Moreover, if an additional mutually acceptable
4 meet-point is established, the cost of terminating a call to that meet-point
5 should be identical to the cost of terminating a call to the D-NIP. Any two
6 carriers could establish specialized meet-points to guarantee redundancy. To
7 ensure network integrity and reliability to all public switched network
8 customers, it is desirable to have at least two meet-points. In this way, if
9 one set of trunks is put out of service for any reason, such as a failure of
10 electronic components or an accidental line cut, traffic could continue to
11 pass over the other set of trunks and the impact upon users would be
12 minimized. Each carrier should be responsible for establishing the
13 necessary trunk groups from its switch or switches to the D-NIP(s).

14 At a minimum, each carrier should be required to establish facilities
15 between its switch(es) and the D-NIP in each LATA in sufficient quantity
16 and capacity to deliver traffic to and receive traffic from other carriers.

17 **Q. IS THE USE OF A D-NIP OR NEUTRAL INTERCONNECTION**
18 **POINT STANDARD PRACTICE IN THE INDUSTRY?**

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1 A. Yes. The concept of a neutral interconnection point was adopted at least by
2 the Connecticut Department of Utility Control in its recent interconnection
3 proceeding. Investigation into the unbundling of Southern New England
4 Telephone's Local Communications Network, Connecticut Docket
5 No. 94-10-02, Order, at 85 (Sept. 22, 1995).

6 **Q. HOW DOES MFS-FL'S D-NIP PROPOSAL MAXIMIZE THE**
7 **EFFICIENCY OF THE NETWORK?**

8 A. MFS-FL's proposal permits the interconnecting parties—who understand
9 their networks best and have the greatest incentive to achieve
10 efficiencies—to determine where interconnection should take place. At the
11 same time, minimum interconnection requirements are established to ensure
12 that interconnection will take place between all carriers. MFS-FL opposes
13 any interconnection plan that mandates too specifically where
14 interconnection should take place. If carriers are not given flexibility as to
15 where they can interconnect, inefficiencies will result. MFS-FL would
16 therefore oppose any proposal that does not permit carriers to maximize the
17 efficiency of their networks.

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1 **Q. WHAT DOES MFS PROPOSE WITH RESPECT TO TRUNKING,**
2 **SIGNALING, AND OTHER IMPORTANT INTERCONNECTION**
3 **ARRANGEMENTS?**

4 **A.** BellSouth should exchange traffic between its network and the networks of
5 competing carriers using reasonably efficient routing, trunking, and
6 signaling arrangements. ALECs and BellSouth should reciprocally
7 terminate LATA-wide traffic^{2/} originating on each other's network, via two-
8 way trunking arrangements. These arrangements should be jointly
9 provisioned and engineered.

10 Moreover, each local carrier should be required to engineer its
11 portion of the transmission facilities terminating at a D-NIP to provide the
12 same grade and quality of service between its switch and the other carrier's
13 network as it provides in its own network. At a minimum, transmission
14 facilities should be arranged in a sufficient quantity to each D-NIP to
15 provide a P.01 grade of service. MFS-FL and BellSouth should use their
16 best collective efforts to develop and agree upon a Joint Interconnection

²The term "LATA-wide traffic" refers to calls between a user of local exchange service where the new entrant provides the dial tone to that user, and a user of a BellSouth-provided local exchange service where BellSouth provides the dial tone to that user and where both local exchange services bear NPA-NXX designations associated with the same LATA.

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1 Grooming Plan prescribing standards to ensure that trunk groups are
2 maintained at this grade of service. Carriers should provide each other the
3 same form and quality of interoffice signaling (*e.g.*, in-band, CCS, etc.) that
4 they use within their own networks, and SS7 signaling should be provided
5 where the carrier's own network is so equipped. (A more detailed
6 description of these proposed arrangements is described in the proposed
7 MFS-FL Stipulation, included in Exhibit TTD-1 to the MFS-FL Petition.
8 Proposed MFS-FL Stipulation at 13-14).

9 ALECs should provide LEC-to-LEC CCS to one another, where
10 available, in conjunction with LATA-wide traffic, in order to enable full
11 inter-operability of CLASS features and functions. All CCS signaling
12 parameters should be provided, including automatic number identification,
13 originating line information, calling party category, charge number, etc.
14 BellSouth and MFS-FL should cooperate on the exchange of Transactional
15 Capabilities Application Part ("TCAP") messages to facilitate full inter-
16 operability of CCS-based features between their respective networks. CCS
17 should be provided by Signal Transfer Point-to-Signal Transfer Point
18 connections. Given that CCS will be used cooperatively for the mutual
19 handling of traffic, link facility and link termination charges should be

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1 prorated 50% between the parties. For traffic for which CCS is not
2 available, in-band multi-frequency, wink start, and E&M channel-associated
3 signaling will be forwarded. The Feature Group D-like ("FGD-like")
4 trunking arrangements used by either party to terminate LATA-wide traffic
5 may also be employed to terminate any other FGD traffic to that party,
6 subject to payment of the applicable tariffed charges for such other traffic,
7 *e.g.*, interLATA traffic.

8 In addition to transmitting the calling party's number via SS7
9 signaling, the originating carrier should also be required to transmit the
10 privacy indicator where it applies. The privacy indicator is a signal that is
11 sent when the calling party has blocked release of its number, either by per-
12 line or per-call blocking. The terminating carrier should be required to
13 observe the privacy indicator on calls received through traffic exchange
14 arrangements in the same manner that it does for calls originated on its own
15 network.

16 Each carrier should be required to provide the same standard of
17 maintenance and repair service for its trunks terminating at the D-NIP as it
18 does for interoffice trunks within its own network. Each carrier should be
19 required to complete calls originating from another carrier's switch in the

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1 same manner and with comparable routing to calls originating from its own
2 switches. In particular, callers should not be subject to diminished service
3 quality, noticeable call set-up delays, or requirements to dial access codes or
4 additional digits in order to complete a call to a customer of a different
5 carrier.

6 **Q. HOW SHOULD MFS-FL COMPENSATE BELLSOUTH FOR**
7 **TRANSITING TRAFFIC?**

8 **A.** MFS-FL should only be required to pay for the BellSouth intermediary
9 function of transiting traffic in the limited circumstances in which two
10 ALECs that are not cross-connected at the D-NIP and do not have direct
11 trunks utilize BellSouth trunks to transit traffic. In all cases, ALECs should
12 have an opportunity to cross-connect. In fact, the New York Commission
13 has ordered that ALECs shall be permitted to cross-connect in serving wire
14 centers where more than one ALEC is collocated. New York Case
15 No. 94-C-0095, Order Instituting framework for Directory Listings, Carrier
16 Interconnection, and Intercarrier compensation (September 27, 1995). In
17 those instances where MFS-FL must pay for this intermediary function, it
18 should pay the lesser of: 1) BellSouth's interstate or intrastate switched

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1 access per minute tandem switching element; or 2) a per minute rate of
2 \$0.002.

3 **Q. WHY SHOULD CARRIERS BE REQUIRED TO USE TWO-WAY**
4 **TRUNKING ARRANGEMENTS?**

5 **A.** Carriers should be required to interconnect using two-way trunk groups
6 wherever technically feasible. Use of two-way trunking arrangements to
7 connect the networks of incumbent LECs is standard in the industry.
8 Two-way trunk groups represent the most efficient means of interconnection
9 because they minimize the number of ports each carrier will have to utilize
10 to interconnect with all other carriers.

11 **Q. SHOULD INCUMBENT CARRIERS AND NEW ENTRANTS BE**
12 **REQUIRED TO PROVIDE BLV/I TRUNKS TO ONE ANOTHER?**

13 **A.** MFS-FL and BellSouth should provide LEC-to-LEC Busy Line Verification
14 and Interrupt ("BLV/I") trunks to one another to enable each carrier to
15 support this functionality. MFS-FL and BellSouth should compensate one
16 another for the use of BLV/I according to the effective rates listed in
17 BellSouth's federal and state access tariffs, as applicable.

18 **Q. HOW DID BELLSOUTH'S TRAFFIC EXCHANGE PROPOSAL**
19 **DIFFER FROM THAT OF MFS-FL?**

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1 A. BellSouth proposed to interconnect with MFS-FL at each BellSouth tandem
2 and/or wire center for originating/terminating local traffic within the LATA.
3 BellSouth opposed the D-NIP concept and would utilize existing
4 terminology to describe the new arrangements proposed by MFS-FL.
5 BellSouth would not agree to a mid-fiber meet-point with MFS-FL.
6 BellSouth would not agree to waive charges for the cross-connection of
7 collocation facilities, and would apply current tariff charges for
8 rearrangements, conversions, and rollovers. October 6, 1995 Letter,
9 Exhibit TTD-1 at 1. This latter proposal is more stringent than BellSouth's
10 agreement with TCG, which would consider each ALEC's interconnection
11 reconfigurations "individually" as to the application of a charge. TCG
12 Stipulation at 5. (The TCG Stipulation does not otherwise address
13 interconnection in the same detail as MFS-FL has in its negotiations with
14 BellSouth.) BellSouth does not appear to be close to agreement with
15 MFS-FL on much of the MFS-FL traffic exchange proposal.

16 **B. Reciprocal Compensation**

17 **Q. WHY IS EQUAL AND RECIPROCAL COMPENSATION CRITICAL**
18 **TO THE DEVELOPMENT OF LOCAL EXCHANGE COMPETITION**
19 **IN FLORIDA?**

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1 A. Equal and reciprocal compensation arrangements for exchange of local
2 traffic, including traffic traditionally known as intraLATA toll traffic, will
3 be critical to the success or failure of local competition. The level of these
4 charges will have a considerably more dramatic impact on ALECs than on
5 BellSouth. While virtually all of the traffic originated by ALEC customers
6 will terminate on BellSouth's network, only a small percentage of calls
7 placed by BellSouth customers will terminate on an ALEC's network. If
8 "bill and keep" is not adopted, ALECs will be affected much more seriously
9 than BellSouth. The compensation scheme for interconnection that is
10 established in this proceeding can determine a significant portion of an
11 ALEC's cost of doing business and is therefore critical to ensuring that the
12 business of providing competitive local exchange service in Florida is a
13 viable one.

14 **Q. WHY DOES MFS-FL ADVOCATE THAT COMPETITORS UTILIZE**
15 **A "BILL AND KEEP" SYSTEM OF RECIPROCAL**
16 **COMPENSATION?**

17 A. The "bill and keep" method of reciprocal compensation is administratively
18 simple, avoids complex economic analysis which is at best subject to further
19 questioning, and is fair. What is more, bill and keep is already the most

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1 commonly used method of reciprocal compensation between LECs
2 throughout the country.

3 **Q. HOW DOES "BILL AND KEEP" WORK?**

4 **A.** Under the "bill and keep" method of reciprocal compensation for
5 interconnection, each carrier would be compensated in two ways for
6 terminating local calls originated by customers of other carriers. First, each
7 carrier would receive the reciprocal right to receive termination of local
8 calls made by its own customers to subscribers on the other carrier's
9 network without cash payment, often referred to as payment "in kind." In
10 addition, the terminating carrier is compensated for call termination by its
11 own customer, who pays the terminating carrier a monthly fee for service,
12 including the right to receive calls without separate charge.

13 **Q. WHAT ARE THE ADVANTAGES OF "BILL AND KEEP"?**

14 **A.** One of the principal advantages of bill and keep, as compared with the per-
15 minute switched access charges advocated by BellSouth, is that it
16 economizes on costs of measurement and billing. Additionally, since
17 BellSouth now has flat-rated residential service, BellSouth may have to put
18 measurement systems in place to monitor outbound traffic in order to
19 measure and audit BellSouth outbound calling. With present technology,

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1 carriers are unable to measure the number of local calls that they terminate
2 for any other given carrier. Measurement and billing costs could
3 significantly increase the TSLRIC of the switching function for terminating
4 traffic and could result in higher prices for consumers.

5 **Q. WHAT IS THE IMPACT OF THIS INCREASED COST STEMMING**
6 **FROM MEASUREMENT AND BILLING OF PER-MINUTE**
7 **TERMINATION FEES?**

8 **A.** The overall impact on the cost of providing local exchange service could be
9 devastating for both business and residential consumers. In order for this
10 significantly increased cost of providing local exchange service to be
11 justified, there would have to be a very large imbalance in traffic to make
12 such measurement worthwhile for society. Moreover, the costs of
13 measurement would create entry barriers and operate to deter competition,
14 since they would be added to entrants' costs for nearly all calls (those
15 terminated on the BellSouth's network), while being added only to a small
16 fraction of BellSouth calls (those terminated on an ALEC's network).

17 **Q. WHAT OTHER ADVANTAGES TO "BILL AND KEEP" DO YOU**
18 **PERCEIVE?**

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1 A. The bill and keep method of compensation also provides incentives to
2 carriers to adopt an efficient network architecture, one that will enable the
3 termination of calls in the manner that utilizes the fewest resources. A
4 compensation scheme in which the terminating carrier is able to transfer
5 termination costs to the originating carrier reduces the incentive of the
6 terminating carrier to utilize an efficient call termination design.

7 **Q. HAS BILL AND KEEP BEEN ADOPTED IN OTHER STATES?**

8 A. The use of the bill and keep method of compensation as long as traffic is
9 close to being in balance (within 5%) has been adopted by the Michigan
10 Public Service Commission. Likewise, the Iowa Utilities Board ordered use
11 of the bill and keep method of compensation on an interim basis, pending
12 the filing of cost studies. The Washington Utilities and Transportation
13 Commission also adopted bill and keep in an order recently adopted.
14 Finally, the California Public Utilities Commission recently endorsed bill
15 and keep on an interim basis:

16 "In the interim, local traffic shall be terminated by the LEC for the
17 CLC [Competitive Local Carrier] and by the CLC for the LEC over
18 the interconnecting facilities described in this Section on the basis of
19 mutual traffic exchange. Mutual traffic exchange means the

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1 exchange of terminating local traffic between or among CLCs and
2 LECs, whereby LECs and CLCs terminate local exchange traffic
3 originating from end users served by the networks of other LECs or
4 CLCs without explicit charging among or between said carriers for
5 such traffic exchange."

6 *Order Instituting Rulemaking on the Commission's Own Motion into*
7 *Competition for Local Exchange Service*, R.95-04-043, I.95-04-044,
8 Decision 95-07-054 (Cal. P.U.C., July 25, 1995). Other states,
9 including Texas (Texas Public Utility Regulatory Act of 1995) and
10 Connecticut (Connecticut Docket No. 94-10-02, Order
11 (Sept. 22, 1995)).

12 **Q. HAS "BILL AND KEEP" BEEN SUCCESSFULLY INSTITUTED BY**
13 **INCUMBENT LECS?**

14 **A.** While BellSouth opposes the bill and keep method of compensation
15 proposed by its potential competitors, incumbent LECs throughout the
16 United States have endorsed this compensation method by employing it with
17 other LECs. "Bill and keep" arrangements and similar arrangements that
18 approximate "bill and keep" are common throughout the United States
19 between non-competing LECs in exchanging extended area service calls.

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1 **Q. DOES MFS HAVE GOOD REASON TO BELIEVE THAT TRAFFIC**
2 **WILL BE IN BALANCE BETWEEN BELLSOUTH AND ALECS?**

3 **A.** Yes. Although incumbents often argue that, if traffic is not in balance
4 between two carriers, "bill and keep" is an imperfect method of
5 compensation, this theory is discredited by MFS-FL's experience in New
6 York, where MFS-FL is terminating more calls from NYNEX customers
7 than NYNEX is terminating from MFS-FL customers. In the face of
8 evidence that it is terminating more minutes of intercarrier traffic in New
9 York than the incumbent LEC, and hence would profit from a compensation
10 system that measures usage, MFS-FL's support for the bill and keep method
11 of compensation is all the more credible.

12 **Q. WHAT HAS BELLSOUTH PROPOSED FOR TERMINATING**
13 **ACCESS RATES IN NEGOTIATIONS WITH MFS-FL AND IN THE**
14 **TCG STIPULATION?**

15 **A.** In negotiations and in the TCG Stipulation, BellSouth has proposed that
16 unequal compensation be paid as between BellSouth and ALECs. This is a
17 direct result of its unacceptable insistence that the issue of universal service
18 be considered in this docket, despite the fact that BellSouth has yet to
19 establish the existence of a universal service subsidy. BellSouth proposed

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1 that the tariffed transport and local switching switched access rate elements
2 be paid by both LECs and ALECs. Although BellSouth would not charge
3 the RIC and the CCL switched access rate elements, it would still require
4 that an amount equal to these elements be paid into a universal service fund.
5 BellSouth agreed to an interim modified bill and keep proposal in its TCG
6 Stipulation, but in two years its proposed switched access rates would
7 become effective.

8 **Q. WHY WILL BASING TERMINATING ACCESS ON SWITCHED**
9 **ACCESS MAKE IT IMPOSSIBLE FOR ALECS TO COMPETE?**

10 **A.** Given the flat-rated local exchange rates of BellSouth, payment of switched
11 access as proposed by BellSouth would not permit economically viable local
12 exchange competition. If MFS-FL must pay switched access rates and
13 compete with BellSouth retail rates, the resulting price squeeze would render
14 it impossible for ALECs such as MFS-FL to compete in the Florida local
15 exchange market. Accordingly, efforts by BellSouth to impose additional
16 costs on ALECs through the imposition of a number of additional, often
17 excessive, charges — switched access interconnection charges, universal
18 service surcharges, additional trunking costs, unbundled loop charges, and

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1 interim number portability charges, etc. — must not be permitted in the
2 co-carrier arrangements mandated by the Commission.

3 **Q. DIDN'T TCG IN FACT DEMONSTRATE IN ITS**
4 **INTERCONNECTION PETITION THAT SWITCHED ACCESS**
5 **RATES ARE UNACCEPTABLE?**

6 **A.** Yes. TCG itself has aptly demonstrated that ALECs cannot compete with
7 BellSouth in the local exchange market if forced to pay switched access rates
8 for terminating access. TCG Testimony at 33. The TCG comparison of flat
9 rates charged by BellSouth to residential customers with usage-based rates
10 charged by BellSouth to competitors for terminating access demonstrates a
11 classic price squeeze. It is by virtue of this simple price squeeze that
12 BellSouth will ensure that competition does not take root in Florida.
13 Significantly, as the TCG Chart demonstrates, particularly in a flat-rate
14 environment, the price squeeze is most acute for larger customers. Thus,
15 ALECs will have an even more difficult time competing for customers with
16 800 monthly minutes of use than for customers with 600 or 460 minutes of
17 use. TCG Testimony at 33. This makes the price squeeze a particularly
18 effective means of crippling competitors.

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1 **Q. COULD YOU ELABORATE ON THE CONCEPT OF A PRICE**
2 **SQUEEZE?**

3 **A.** A price squeeze occurs where a firm with a monopoly over an essential
4 input needed by other firms to compete with the first firm in providing
5 services to end users sells the input to its competitor at a price that prevents
6 the end user competitor from meeting the end user price of the first firm,
7 despite the fact that the competitor is just as efficient as the first firm. A
8 price squeeze is anticompetitive and deters entry into the market because, by
9 raising entrants' costs, it forces an entrant who wishes to match the
10 incumbent's prices to absorb losses as a price of entry. Because of their
11 anticompetitive nature, price squeezes are condemned as contrary to the
12 public policy and prohibited by the antitrust laws. *See, e.g., United States*
13 *v. Aluminum Co. of America*, 148 F.2d 416, 437-38 (2d Cir. 1945); *Illinois*
14 *Cities of Bethany v. F.E.R.C.*, 670 F.2d 187 (D.C.Cir. 1981); *Ray v.*
15 *Indiana & Michigan Elect. Co.*, 606 F.Supp. 757 (N.D. Ind. 1984). The
16 Commission can ensure that a price squeeze will not be implemented by
17 applying imputation principles.

18 **Q. WOULD IT BE POSSIBLE FOR ALEC'S TO USE LOCAL**
19 **EXCHANGE SERVICE AS A LOSS-LEADER, BUT RECOUP THE**

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1 **LOSS AND MAKE A PROFIT THROUGH OTHER SERVICES, SUCH**
2 **AS INTRALATA TOLL AND INTERLATA SERVICES?**

3 A. As has been recognized in other jurisdictions, if local exchange competition
4 is to succeed, competition must be possible in all segments of the local
5 exchange market, without cross-subsidization from other services. As the
6 Illinois Commerce Commission recently observed:

7 "The issue is not whether a new LEC ultimately can scrape
8 together revenues from enough sources to be able to afford
9 Illinois Bell's switched access charge. The crucial issue is
10 the effect of a given reciprocal compensation proposal on
11 competition. . . . [A]doption of Illinois Bell's [switched
12 access based] proposal and rationale would force new LECs
13 to adopt either a premium pricing strategy or use local calling
14 as a 'loss-leader'. That is not just or reasonable."

15 *Illinois Bell Telephone Proposed Introduction of a Trial of Ameritech's*
16 *Customers First Plan in Illinois*, Docket No. 94-0096, at 98 (Ill. Comm.
17 Comm'n., April 7, 1995). The Commission must ensure that inflated
18 pricing for interconnection does not preclude ALECs from achieving
19 operating efficiency by developing their own mixture of competitive

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1 products over time, including if a LEC so opts, the provision of local
2 exchange service alone.

3 **Q. WHY IS A USAGE-BASED SWITCHED ACCESS RATE FOR ALECS**
4 **PARTICULARLY INAPPROPRIATE IN AN ENVIRONMENT IN**
5 **WHICH BELL SOUTH CHARGES ITS END-USER CUSTOMERS ON**
6 **A FLAT-RATE BASIS?**

7 **A.** As discussed above, the usage-based switched access rates proposed by
8 BellSouth result in a price squeeze, a result which is exacerbated at higher
9 calling volumes. Unless usage-based terminating access rates are set at
10 considerably lower levels, ALECs are forced to charge usage-based rates to
11 end-user customers to recover their costs. This precludes ALECs from
12 offering customers a choice of flat-rate or measured service, as Florida
13 LECs currently offer. Not only would ALECs be limited to measured usage
14 services but, as discussed above, even charging usage-based rates, ALECs
15 cannot begin to compete when paying switched access. Conversely, this
16 will have no effect on BellSouth because most BellSouth calls will terminate
17 on its own network, resulting in no reciprocal compensation payments by
18 BellSouth.

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1 **Q. HOW WILL "BILL AND KEEP" PRECLUDE THE POSSIBILITY OF**
2 **A PRICE SQUEEZE?**

3 **A. With "bill and keep" there is no possibility whatsoever of a price squeeze**
4 **for local calling. Perhaps the most likely and pernicious impediment to the**
5 **development of local exchange competition in Florida is a terminating access**
6 **rate that effects a price squeeze on ALECs. To the extent that "bill and**
7 **keep" precludes this possibility, the Commission should adopt this proposal**
8 **for terminating access in Florida.**

9 **V. SHARED NETWORK PLATFORM ARRANGEMENTS**

10 **Q. WHAT ARE THE "SHARED PLATFORM" ARRANGEMENTS TO**
11 **WHICH YOU REFERRED EARLIER?**

12 **A. There are a number of systems in place today that support the local**
13 **exchange network and provide customers with services that facilitate use of**
14 **the network. Some of these service platforms must be shared by competing**
15 **carriers in order to permit customers to receive seamless service. These**
16 **platforms include the following:**

- 17 a. Interconnection Between MFS-FL and Other
18 Collocated Entities;
19 b. 911 and E-911 systems;

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- 1 c. Information Services Billing and Collection;
- 2 d. Directory Listings and Distribution;
- 3 e. Directory Assistance Service;
- 4 f. Yellow Page Maintenance;
- 5 g. Transfer of Service Announcements;
- 6 h. Coordinated Repair Calls;
- 7 i. Busy Line Verification and Interrupt;
- 8 j. Information Pages; and
- 9 k. Operator Reference Database.

10 **Q. WHAT ARE MFS-FL'S VIEWS ON THE PROPOSED SHARED**
11 **PLATFORM ARRANGEMENTS IN THE TCG STIPULATION**
12 **AGREEMENT?**

13 **A.** With the exception of compensation issues, MFS-FL would be
14 amenable to entering into similar shared platform arrangements with
15 BellSouth. Specifically, MFS-FL agrees in principal with the TCG
16 Stipulation proposals made on the following shared platform
17 arrangements: (1) 911/E911 Access; (2) Directory Listings and
18 Directory Distributions; (3) Busy Line Verification/Emergency
19 Interrupt Services; (4) Number Resource Arrangements; (5) CLASS

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1 Interoperability; (6) Network Design and Management; (7) Network
2 Expansion; and (8) Signaling. However, as I discussed at greater
3 length later in my testimony, MFS-FL does not agree with the
4 pricing of many of these arrangements.

5 The TCG Stipulation also does not address a number of
6 shared platform arrangements necessary to provide customers with
7 seamless local exchange services including: (1) interconnection
8 between MFS-FL and other collocated entities; (2) information
9 services billing and collection; (3) directory assistance; (4) Yellow
10 Page maintenance; (5) transfer of service announcements; (6)
11 coordinated repair calls; (7) information pages; and (8) operator
12 reference database.

13 I will address all of these shared platform arrangements in
14 further detail below.

15 **Q. WHAT STANDARDS SHOULD BE ADOPTED FOR**
16 **INTERCONNECTION BETWEEN MFS-FL AND OTHER**
17 **COLLOCATED FACILITIES?**

18 **A.** BellSouth should enable MFS-FL to directly interconnect to any
19 other entity which maintains a collocation facility at the same

1 BellSouth wire center at which MFS-FL maintains a collocation
2 facility, by effecting a cross-connection between those collocation
3 facilities, as jointly directed by MFS-FL and the other entity. For
4 each such cross-connection, BellSouth should charge both MFS-FL
5 and the other entity one-half the standard tariffed special access
6 cross-connect rate. BellSouth's proposal that normal tariff rates
7 apply for each interconnector that utilizes a collocation arrangement
8 would be a barrier to competition because ALECs would be required
9 to pay excessive rates for collocation arrangements. *See* Latham
10 Letter at 2 (October 6, 1995).

11 **Q. WHAT STANDARDS SHOULD BE ADOPTED FOR THE**
12 **PROVISION OF 911/E911 SERVICES?**

13 **A. MFS-FL will need BellSouth to provide trunk connections to its 911/E-911**
14 selective routers/911 tandems for the provision of 911/E911 services and for
15 access to all sub-tending Public Safety Answering Points ("PSAP").
16 Interconnection should be made at the Designated Network Interconnection

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1 Point.^{3/} BellSouth must also provide MFS-FL with the appropriate common
2 language location identifier ("CLLI") code and specifications of the tandem
3 serving area.

4 BellSouth should arrange for MFS-FL's automated input and
5 daily updating of 911/E911 database information related to MFS-FL
6 end users. BellSouth must provide MFS-FL with the Master Street
7 Address Guide ("MSAG") so that MFS-FL can ensure the accuracy
8 of the data transfer. Additionally, BellSouth should provide to
9 MFS-FL the ten-digit POTS number of each PSAP which sub-tends
10 each BellSouth selective router/9-1-1 tandem to which MFS-FL is
11 interconnected. Finally, BellSouth should use its best efforts to
12 facilitate the prompt, robust, reliable and efficient interconnection of
13 MFS-FL systems to the 911/E911 platforms.

14 **Q. WHAT ARRANGEMENTS SHOULD BE MANDATED FOR**
15 **INFORMATION SERVICES BILLING AND COLLECTION?**

³As discussed, the D-NIP is the correspondingly identified wire center at which point MFS-FL and BellSouth will interconnect their respective networks for inter-operability within that LATA.

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1 A. Where a LEC chooses to offer caller-paid information services, such as 976-
2 XXXX services, customers of competing LECs in the same service territory
3 should have the ability to call these numbers. In this case, either the LEC
4 providing the audiotext service or its customer, the information provider,
5 rather than the carrier serving the caller, determines the price of the service.
6 Therefore, a co-carrier arrangement should provide that the originating
7 carrier will collect the information service charge as agent for the service
8 provider, and will remit that charge (less a reasonable billing and collection
9 fee) to the carrier offering the audiotext service. To the extent that any
10 charges apply for the reciprocal termination of local traffic, the originating
11 carrier should also be entitled to assess a charge for the use of its network in
12 this situation. This issue should be addressed in the context of the reciprocal
13 billing and collection arrangements.

14 MFS-FL will deliver information services traffic originated
15 over its Exchange Services to information services provided over
16 BellSouth's information services platform (*e.g.*, 976) over the
17 appropriate trunks. BellSouth should at MFS-FL's option provide a
18 direct real-time electronic feed or a daily or monthly magnetic tape
19 in a mutually-specified format, listing the appropriate billing listing

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1 and effective daily rate for each information service by telephone
2 number. To the extent MFS-FL determines to provide a competitive
3 information services platform, BellSouth should cooperate with
4 MFS-FL to develop a LATA-wide NXX code(s) which MFS-FL may
5 use in conjunction with such platform. Additionally, BellSouth
6 should route calls to such platform over the appropriate trunks, and
7 MFS-FL will provide billing listing/daily rate information on terms
8 reciprocal to those specified above.

9 With respect to compensation issues, MFS-FL will bill and
10 collect from its end users the specific end user calling rates BellSouth
11 bills its own end users for such services, unless MFS-FL obtains
12 tariff approval from the Commission specifically permitting MFS-FL
13 to charge its end users a rate different than the rate set forth in
14 BellSouth's tariff for such services. MFS-FL will remit the full
15 specified charges for such traffic each month to BellSouth, less \$0.05
16 per minute, and less uncollectibles. In the event MFS-FL provides an
17 information service platform, BellSouth should bill its end users and
18 remit funds to MFS-FL on terms reciprocal to those specified above.

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1 **Q. WHAT STANDARDS SHOULD APPLY TO DIRECTORY LISTINGS**
2 **AND DIRECTORY ASSISTANCE SERVICE?**

3 **A.** The public interest requires that persons be able to obtain telephone listing
4 information for a given locality by consulting only one printed directory or
5 one directory assistance operator. No useful purpose would be served by
6 publishing a separate directory of MFS-FL's customers. MFS-FL therefore
7 proposes that BellSouth include MFS-FL's customers' telephone numbers in
8 all its "White Pages" and "Yellow Pages" directory listings and directory
9 assistance databases associated with the areas in which MFS-FL provides
10 services to such customers, and will distribute such directories to such
11 customers, in the identical and transparent manner in which it provides those
12 functions for its own customers' telephone numbers. MFS-FL should be
13 provided the same rates, terms and conditions for enhanced listings (i.e.,
14 bolding, indention, etc.) as are provided to BellSouth customers.

15 Under MFS-FL's proposal, MFS-FL will provide BellSouth
16 with its directory listings and daily updates to those listings in an
17 industry-accepted format; BellSouth will provide MFS-FL a magnetic
18 tape or computer disk containing the proper format. MFS-FL and
19 BellSouth will accord MFS-FL's directory listing information the

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1 same level of confidentiality which BellSouth accords its own
2 directory listing information, and BellSouth will ensure that access to
3 MFS-FL's customer proprietary confidential directory information
4 will be limited solely to those BellSouth employees who are directly
5 involved in the preparation of listings.

6 **Q. WHAT STANDARDS SHOULD BE ADOPTED FOR BUSY**
7 **LINE VERIFICATION AND INTERRUPT?**

8 **A.** MFS-FL and BellSouth should establish procedures whereby their
9 operator bureaus will coordinate with each other in order to provide
10 Busy Line Verification ("BLV") and Busy Line Verification and
11 Interrupt ("BLVI") services on calls between their respective end
12 users. BLV and BLVI inquiries between operator bureaus should be
13 routed over the appropriate trunks.

14 BellSouth has proposed that BLV and BLVI services be
15 provided via its existing tariffs. *See* Latham Letter at 2 (October 6,
16 1995). (The TCG Stipulation did not address compensation.) As
17 long as those tariffed rates are reasonable, MFS-FL will find them
18 acceptable.

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1 **Q. WHAT STANDARDS SHOULD BE ADOPTED FOR DIRECTORY**
2 **ASSISTANCE?**

3 **A.** At MFS-FL's request, BellSouth should: (1) provide to MFS-FL operators
4 or to an MFS-FL-designated operator bureau on-line access to BellSouth's
5 directory assistance database, where such access is identical to the type of
6 access BellSouth's own directory assistance operators utilize in order to
7 provide directory assistance services to BellSouth end users; (2) provide to
8 MFS-FL unbranded directory assistance service which is comparable in
9 every way to the directory assistance service BellSouth makes available to
10 its own end users; (3) provide to MFS-FL directory assistance service under
11 MFS-FL's brand which is comparable in every way to the directory
12 assistance service BellSouth makes available to its own end users; (4) allow
13 MFS-FL or an MFS-FL-designated operator bureau to license BellSouth's
14 directory assistance database for use in providing competitive directory
15 assistance services; and (5) in conjunction with (2) or (3), above, provide
16 caller-optional directory assistance call completion service which is
17 comparable in every way to the directory assistance call completion service
18 BellSouth makes available to its own end users. If call completion services

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1 were to be resold, BellSouth should be required to provide calling detail in
2 electronic format for MFS-FL to rebill the calling services.

3 **Q. WHAT STANDARDS SHOULD BE ADOPTED FOR YELLOW PAGE**
4 **MAINTENANCE AND TRANSFER OF SERVICE**
5 **ANNOUNCEMENTS?**

6 **A.** With regard to Yellow Page maintenance, BellSouth should work
7 cooperatively with MFS-FL to ensure that Yellow Page
8 advertisements purchased by customers who switch their service to
9 MFS-FL (including customers utilizing MFS-FL-assigned telephone
10 numbers and MFS-FL customers utilizing co-carrier number
11 forwarding) are maintained without interruption. BellSouth should
12 allow MFS-FL customers to purchase new yellow pages
13 advertisements without discrimination, at non-discriminatory rates,
14 terms and conditions. BellSouth and MFS-FL should implement a
15 commission program whereby MFS-FL may, at MFS-FL's
16 discretion, act as a sales, billing and collection agent for Yellow
17 Pages advertisements purchased by MFS-FL's exchange service
18 customers.

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1 When an end user customer changes from BellSouth to MFS-FL, or
2 from MFS-FL to BellSouth, and does not retain its original telephone
3 number, the party formerly providing service to the end user should provide
4 a transfer of service announcement on the abandoned telephone number.
5 This announcement will provide details on the new number to be dialed to
6 reach this customer. These arrangements should be provided reciprocally,
7 free of charge to either the other carrier or the end user customer.

8 **Q. WHAT STANDARDS SHOULD BE ADOPTED FOR COORDINATED**
9 **REPAIR CALLS, INFORMATION PAGES AND OPERATOR**
10 **REFERENCE DATABASE?**

11 **A.** With respect to misdirected repair calls, MFS-FL and BellSouth should
12 educate their respective customers as to the correct telephone numbers to
13 call in order to access their respective repair bureaus. To the extent the
14 correct provider can be determined, misdirected repair calls should be
15 referred to the proper provider of local exchange service in a courteous
16 manner, at no charge, and the end user should be provided the correct
17 contact telephone number. Extraneous communications beyond the direct
18 referral to the correct repair telephone number should be strictly prohibited.

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1 In addition, MFS-FL and BellSouth should provide their respective repair
2 contact numbers to one another on a reciprocal basis.

3 BellSouth should include in the "Information Pages" or comparable
4 section of its White Pages Directories for areas served by MFS-FL, listings
5 provided by MFS-FL for MFS-FL's calling areas, services installation,
6 repair and customer service and other information. Such listings should
7 appear in the manner and likenesses as such information appears for
8 subscribers of the BellSouth and other LECs.

9 BellSouth should also be required to provide operator reference
10 database ("ORDB") updates on a monthly basis at no charge in order to
11 enable MFS-FL operators to respond in emergency situations.

12 **VI. LOCAL TELEPHONE NUMBER PORTABILITY ARRANGEMENTS**

13 **Q. WHAT ASPECTS OF NUMBER PORTABILITY WERE NOT**
14 **ADDRESSED IN THE SEPARATE NUMBER PORTABILITY**
15 **PROCEEDING?**

16 **A.** The interim number portability stipulation explicitly delayed the issue of
17 "compensation for termination of ported calls and the entitlement to
18 terminating network access charges on ported calls." Number Portability
19 Stipulation at 3. To the extent that the majority of ALEC customers will

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1 initially be former LEC customers utilizing interim number portability, this
2 is a critical issue for MFS-FL and other ALECs. Switched access and local
3 compensation should apply regardless of whether a call is completed using
4 interim number portability. MFS-FL believes that this is the only approach
5 consistent with the Commission's goal of introducing competition in the
6 local exchange market.

7 **Q. WHICH CARRIER SHOULD COLLECT THE CHARGES FOR**
8 **TERMINATION OF TRAFFIC ON ITS NETWORK WHEN A CALL**
9 **IS RECEIVED VIA NUMBER RETENTION?**

10 **A.** Only if the customers' carrier collects these revenues will competition be
11 stimulated by interim number portability. Allowing the incumbent LEC to
12 retain toll access charges for calls terminated to a retained number belonging
13 to a customer of another carrier would have three adverse consequences.
14 First, it would reward the incumbent LEC for the lack of true local number
15 portability, and therefore provide a financial incentive to delay true number
16 portability for as long as possible. Second, it would help reinforce the
17 *incumbent LEC bottleneck on termination of interexchange traffic*, and
18 thereby stifle potential competition in this market. Third, it would impede
19 local exchange competition by preventing new entrants from competing for

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1 one significant component of the revenues associated with that service,
2 namely toll access charges.

3 MFS does not subscribe to the LEC conventional wisdom that access
4 charges "subsidize" local exchange service, since there is no evidence that
5 the forward-looking economic cost of the basic local exchange service
6 exceeds its price as a general matter (aside from special circumstances such
7 as Lifeline, where a subsidy may exist). Nonetheless, access charges clearly
8 provide a significant source of revenue -- along with subscriber access
9 charges, local flat-rate or usage charges, intraLATA toll charges, vertical
10 feature charges, and perhaps others -- that justify the total cost of
11 constructing and operating a local exchange network, including shared and
12 common costs. It is unrealistic to expect ALECs to make the substantial
13 capital investment required to construct and operate competitive networks if
14 they will not have the opportunity to compete for all of the services
15 provided by the LECs and all of the revenues generated by those services.
16 As long as true local number portability does not exist, the new entrants'
17 opportunity to compete for access revenue would be severely restricted if
18 they had to forfeit access charges in order to use interim number portability
19 arrangements.

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1 **Q. SHOULD COMPENSATION ARRANGEMENTS FOR THE**
2 **EXCHANGE OF LOCAL OR TOLL TRAFFIC BETWEEN LECS**
3 **VARY DEPENDING ON WHETHER INTERIM NUMBER**
4 **PORTABILITY WAS IN PLACE ON A GIVEN CALL?**

5 **A.** No. Temporary number portability is a technical arrangement that will
6 permit competition to take root in Florida. The purpose of temporary
7 number portability is to permit new entrants to market their services to
8 customers by permitting customers to retain their phone numbers when
9 switching to a new provider. Because it is necessary to bring to the public
10 the benefits of competition at this time, temporary number portability
11 benefits all callers, and has absolutely nothing to do with compensation.
12 These issues should not be mixed, and compensation should not vary
13 depending on whether temporary number portability is in place or not.

14 **Q. WHAT COMPENSATION ARRANGEMENT SHOULD APPLY TO**
15 **REDIRECTED CALLS UNDER TEMPORARY NUMBER**
16 **PORTABILITY?**

17 **A.** BellSouth should compensate MFS-FL as if the traffic had been terminated
18 directly to MFS-FL's network, except that certain transport elements should
19 not be paid to MFS-FL to the extent that BellSouth will be transporting the

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1 call on its own network. Thus, for LATA-wide calls originating on
2 BellSouth's network and terminating on MFS-FL's network, the effective
3 inter-carrier compensation structure at the time the call is placed should
4 apply. Traffic from IXCs forwarded to MFS-FL via temporary number
5 portability should be compensated by BellSouth at the appropriate
6 intraLATA, interLATA-intrastate, or interstate terminating access rate less
7 those transport elements corresponding to the use of the BellSouth network
8 to complete the call. In other words, BellSouth should receive entrance
9 fees, tandem switching, and part of the tandem transport charges. MFS-FL
10 should receive local switching, the RIC, the CCL, and part of the transport
11 charge. (The pro-rata billing share to be remitted to MFS-FL should be
12 identical to the rates and rate levels as non-temporary number portability
13 calls.) BellSouth will bill and collect from the IXC and remit the
14 appropriate portion to MFS-FL.

15 **Q. HAS BELLSOUTH AGREED TO THIS POSITION?**

16 **A.** No. In negotiations with MFS-FL, BellSouth has taken the position that
17 BellSouth will retain switched access charges on ported interLATA calls that
18 terminate through the BellSouth network. October 6, 1995 Latham Letter at
19 2. This is also the position that TCG agreed to with BellSouth. TCG

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1 Stipulation at 12. As I have discussed, this position would deprive ALECs
2 of significant revenues and impede the development of competition in
3 Florida.

4 **Q. ARE THERE ANY OTHER INTERIM NUMBER PORTABILITY**
5 **ISSUES THAT ARE UNLIKELY TO BE ADDRESSED IN THE**
6 **SEPARATE PROCEEDING?**

7 **A.** Yes. The details of how a request for interim number portability will be
8 processed and billed were not addressed. MFS-FL believes that the
9 Commission should address these issues in this proceeding to ensure that
10 interim number portability is implemented efficiently and without dispute.
11 MFS-FL attaches as Exhibit TTD-3 its proposal for these "Co-Carrier
12 Number Forwarding Arrangements" which has previously been distributed
13 to the parties to the interim number portability docket. The Commission
14 should adopt these procedures to facilitate the introduction of interim
15 number portability in Florida.

16 **VII. THE STIPULATION BETWEEN BELL SOUTH AND TCG**

17 **Q. BY WAY OF SUMMARY, COULD YOU EXPLAIN THE**
18 **PROVISIONS OF THE TCG STIPULATION THAT MFS-FL FINDS**

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1 **ACCEPTABLE AND THOSE THAT MFS-FL FINDS**

2 **UNACCEPTABLE?**

3 **A.** While certain aspects of the TCG Stipulation are acceptable to MFS-FL, the
4 agreement includes a number of provisions, such as the universal service
5 proposal, that MFS-FL believes would seriously impede the development of
6 competition in Florida.

7 **Q. WHAT ARE THE SHORTCOMINGS OF THE RECIPROCAL**
8 **COMPENSATION ARRANGEMENT AGREED TO BY MFS-FL?**

9 **A.** The greatest shortcoming is that an ALEC must accept BellSouth's universal
10 service proposal in order to come to an agreement on compensation. TCG
11 Stipulation at 1, 6, 9-11. These issues were specifically de-linked by the
12 Legislature, and yet BellSouth is holding interconnection negotiations in
13 abeyance unless it can force an agreement on universal service. As
14 MFS-FL has explained at length in the proceeding which appropriately
15 addresses the issue of universal service, BellSouth has never demonstrated
16 that there is a universal service subsidy. Until such a demonstration is
17 made, BellSouth should not be permitted to game the process of good faith
18 interconnection negotiations by interjecting this irrelevant issue.

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1 The TCG Stipulation also holds out the false promise of modified bill
2 and keep compensation, but then replaces bill and keep with switched access
3 after two years. TCG Stipulation at 3. During the first two years of
4 competition, traffic flows for ALECs will be at their lowest. Accordingly,
5 the use of bill and keep for two years is of limited value. When traffic
6 flows begin to significantly increase after the two year mark, an ALEC will
7 then be forced to pay full switched access rates, rates which are likely to
8 result in a price squeeze and which have not been demonstrated by
9 BellSouth to be anywhere close to the cost of terminating a call.

10 **Q. DOES THE TCG STIPULATION RECOGNIZE THE BENEFITS OF A**
11 **BILL AND KEEP MECHANISM?**

12 **A.** Yes. Surprisingly, the TCG Stipulation recognizes that bill and keep is an
13 effective method of compensation between LECs and ALECs. TCG
14 Stipulation at 3. TCG and BellSouth would exchange traffic on an in-kind
15 basis if "it is mutually agreed that the administrative costs associated with
16 local interconnection are no greater than the net monies exchanged." *Id.*
17 Thus, the TCG Stipulation also recognizes the primary reason for adopting
18 bill and keep, the need to avoid the unnecessary administrative costs of
19 exchanging compensation. For these same reasons, the Commission should

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1 adopt bill and keep, not only for the first two years, but on a permanent
2 basis.

3 **Q. IS THE CHARGE FOR INTERMEDIARY FUNCTIONS IN THE TCG**
4 **STIPULATION ACCEPTABLE TO MFS-FL?**

5 **A.** As I have explained, such a charge (TCG Stipulation at 4) should only be
6 assessed by BellSouth for transiting traffic when two ALECs that are not
7 cross-connected at the D-NIP and do not have direct trunks utilize BellSouth
8 trunks to transit traffic. In all cases, ALECs should have an opportunity to
9 cross-connect. In those instances where MFS-FL must pay for this
10 intermediary function, it should pay the lesser of: 1) BellSouth's interstate
11 or intrastate switched access per minute tandem switching element; or 2) a
12 per minute rate of \$0.002.

13 **Q. IS THE PROVISION PERMITTING BELLSOUTH TO RECOVER**
14 **THE RIC WHEN IT PROVIDES THE INTERMEDIARY TANDEM**
15 **FUNCTION ACCEPTABLE?**

16 **A.** No. This provision (TCG Stipulation at 4-5) is completely inconsistent with
17 the established meetpoint billing arrangements between LECs in other states.
18 It is MFS-FL's position, based on its experience in other states, that the

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1 carrier providing the end office switching (*i.e.*, MFS-FL) is the carrier that
2 receives the RIC.

3 **Q. IS THE PROVISION REQUIRING THAT THE ALEC PROVIDE**
4 **SUFFICIENT INFORMATION TO DETERMINE WHETHER**
5 **TRAFFIC IS LOCAL OR TOLL REASONABLE?**

6 **A.** No. This provision (TCG Stipulation at 5) opens the possibility that
7 significant amounts of traffic will be treated as toll rather than local traffic,
8 and could deprive TCG of compensation for terminating access. There is no
9 limit on BellSouth's resort to this provision, and no standard that TCG must
10 meet. Moreover, this system represents a departure from the typical system
11 of determining the nature of traffic. Currently, IXCs utilize a system of
12 Percent Interstate Use ("PIU") monitoring, subject to audit by LECs, to
13 determine whether traffic is inter- or intrastate. In states that have
14 addressed this issue, a similar system of ALEC Percent Local Use ("PLU")
15 monitoring, subject to audit, has been implemented. BellSouth's attempt to
16 shift the burden of proof to ALEC's on this issue would put MFS-FL and
17 other ALECs in an untenable position.

18 **Q. WHAT ARE THE SHORTCOMINGS OF THE STIPULATION'S**
19 **NUMBER PORTABILITY PROPOSAL?**

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1 A. As is the case with universal service, this issue was never intended to be the
2 subject of interconnection negotiations. The appropriate docket to address
3 this issue is the number portability docket. Because TCG is not even a party
4 to that docket, it arrived at its agreement (TCG Stipulation at 11) without
5 the benefit of the record in that docket. One of the principal issues in that
6 docket was establishing the cost of providing interim number portability,
7 and ensuring that pricing reflected the underlying cost. There is no
8 indication in the TCG Stipulation that any relationship to cost was ever
9 considered in arriving at pricing. Any decision on this issue should be
10 based on the record already established in the separate docket. As I have
11 discussed earlier in my testimony, ALECs would also be deprived under the
12 TCG Stipulation of significant switched access revenues for ported calls.
13 The TCG Stipulation also fails to address key operational issues for the
14 provisioning of interim number portability, as I have discussed.

15 **Q. DOES MFS-FL AGREE WITH THE DISPUTE RESOLUTION TERMS**
16 **AGREED TO IN THE TCG STIPULATION?**

17 A. Yes, MFS-FL generally agrees that there should be a dispute resolution
18 mechanism in place to handle such disputes. TCG Stipulation at 12. MFS-

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1 FL would add that any such mechanism should be streamlined in order to
2 ensure the timely and efficient resolution of disputes.

3 **Q. IS THE TCG STIPULATION PROPOSAL FOR THE PROVISION OF**
4 **911/E911 SERVICES SATISFACTORY?**

5 **A.** MFS-FL would be amenable to entering into a similar agreement for
6 the provision of 911/E911 services. However, the TCG Stipulation
7 does not address the issue of compensation. MFS-FL proposes that
8 the pricing of the provision 911/E-911 services be based on LRIC.

9 **Q. IS THE TCG STIPULATION PROPOSAL ON DIRECTORY**
10 **LISTINGS AND DISTRIBUTION SATISFACTORY?**

11 **A.** MFS-FL would find the TCG Stipulation on directory listings and
12 distribution generally acceptable as long as it incorporated the provisions
13 discussed above.

14 Again, however, that the TCG Stipulation does not address
15 the issue of compensation. In this regard, BellSouth has stated that it
16 would not pay MFS-FL a royalty on the sale of directory listings.

17 *See Latham Letter 2 (October 6, 1995).* MFS-FL submits that
18 BellSouth should remit a royalty payment for sales of any bulk
19 directory lists to third parties, where such lists include MFS-FL

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1 customer listings. Such royalty payments should be in proportion to
2 the number of MFS-FL listings to BellSouth listings contained in the
3 list purchased by the third party, less 10% which BellSouth may
4 retain as sales commission.

5 **Q. WHY SHOULD BELLSOUTH BE REQUIRED TO REMIT A**
6 **ROYALTY PAYMENT TO MFS-FL?**

7 **A.** BellSouth receives tangible benefits when it lists MFS-FL's
8 customers in its directories. First, BellSouth receives some revenues
9 that could be directly attributed to MFS-FL's customer listings.
10 These include (a) revenues from the sale of directory listings to third
11 parties, including, but not limited to, publishers of competing
12 directories (since the price BellSouth charges is a function of the
13 number of listings sold); (b) revenues from the sale of copies of its
14 directories to other telephone companies and to out-of-area
15 customers, since the price BellSouth charges for each directory is a
16 function of the number of pages in the directory; and (c) revenues
17 from additional directory assistance calls received as a result of
18 placing competitors' listings in the directory assistance database.

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1 Second, in addition to these direct revenues, BellSouth will receive
2 potentially much more significant indirect economic benefits from the
3 presence of competitors' listings in its directories. As the Commission is
4 well aware, the publication of Yellow Pages directories is a very profitable
5 enterprise for BellSouth, as it is for most other LECs nationwide. I believe
6 that one factor that contributes significantly to these profits is the
7 completeness of the listings; that is, the fact that nearly every resident and
8 business in a given geographic area (except those with unlisted or
9 unpublished numbers) can be found in the BellSouth directories. The
10 Yellow Pages are frequently bound together with the White Pages and
11 therefore naturally benefit from this factor. Customers find the BellSouth
12 directories convenient because they are so complete and advertisers value
13 them as an advertising medium precisely because consumers find them so
14 convenient. If end users of BellSouth's competitors were not listed in these
15 directories, they would lose some of their value to advertisers. At first, of
16 course, the loss of value would be trivial because competitors will likely
17 have a negligible share of the market. Over time, however, as competitors
18 gain a larger market share, BellSouth would have a serious problem if its
19 directories did not list a significant number of residents and businesses.

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1 Another publisher might choose to enter the market and compile a more
2 complete directory by purchasing listings from BellSouth and each of its
3 competitors. Once this threat materialized, BellSouth would no longer be in
4 a position to demand that competitors pay to list their users; rather, it would
5 have to pay the competitors for their listings in order to preserve the market
6 position of its Yellow Pages.

7 **Q. WHAT ARE MFS-FL'S VIEWS ON THE TCG STIPULATION**
8 **PROPOSAL FOR INTRALATA 800 TRAFFIC?**

9 **A.** MFS-FL agrees that BellSouth should compensate ALECs for the
10 origination of 800 traffic terminated to BellSouth pursuant to the
11 ALEC's originating switched access charges including data-base
12 queries. MFS-FL, however, takes issue with the proposal that
13 BellSouth and ALECs will mutually provide appropriate records in
14 the standard ASR format for a fee of \$0.015 per record. MFS-FL
15 believes that there should not be such a fee because it will increase
16 prices for end users. Also, BellSouth should be required to handle
17 database queries and routing of 800 calls. Of course, BellSouth will
18 be compensated for these queries by billing the IXCs switched
19 access. LECs and ALECs will be required to reciprocally exchange

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1 significant amounts of information on a number of issues as
2 competition develops. Therefore, these records should be
3 reciprocally exchanged without any fees.

4 **Q. WHAT ARE MFS-FL'S VIEWS ON THE TCG STIPULATION**
5 **PROPOSALS FOR NETWORK DESIGN AND MANAGEMENT**
6 **AND NETWORK EXPANSION?**

7 **A.** MFS-FL agrees with the TCG Stipulation proposal that BellSouth
8 and ALECs should work together to install and maintain reliable
9 interconnected telecommunications networks. Specifically,
10 cooperative efforts should include, *inter alia*, the exchange of
11 appropriate information concerning network changes that impact
12 services to local service providers, maintenance contact numbers and
13 escalation procedures. In addition, BellSouth and ALECs should
14 work cooperatively to apply sound network management principles
15 by invoking appropriate network management controls such as call
16 gapping to alleviate or prevent network congestion. MFS-FL also
17 agrees that BellSouth should not charge rearrangement,
18 reconfiguration, disconnect, or other non-recurring fees associated

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1 with the initial reconfiguration of each carrier's interconnection
2 arrangements.

3 With regard to network expansion, MFS-FL agrees that
4 BellSouth and ALECs should review engineering requirements and
5 establish forecasts for trunk utilization. New trunk groups should be
6 implemented as dictated by engineering requirements for both
7 BellSouth and the ALEC.

8 **Q. WHAT ARE MFS-FL'S VIEWS ON THE TCG STIPULATION**
9 **PROPOSALS FOR CLASS INTEROPERABILITY AND**
10 **SIGNALING?**

11 **A.** MFS-FL agrees that BellSouth and ALECs should provide Common
12 Channel Signaling ("CCS") to one another, where available, in
13 conjunction with all the appropriate trunk groups. LECs should
14 cooperate on the exchange of Transactional Capabilities Application
15 Part ("TCAP") messages to facilitate full interoperability of
16 CCS-based features between their respective networks, including all

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1 CLASS features and functions.^{4/} All CCS signaling parameters
2 should be provided including automatic number identification
3 ("ANI"), originating line information ("OLI") calling party
4 category, charge number, etc. All privacy indicators should be
5 honored. Network signaling information such as Carrier
6 Identification Parameter (CCS platform) and CIC/OZZ information
7 (non-CCS environment) should be provided wherever such
8 information is needed for call routing or billing. For traffic for
9 which CCS is not available, in-band multi-frequency (MF), wink
10 start, E&M channel-associated signaling with ANI should be
11 forwarded. BellSouth and ALECs should also establish company-
12 wide CCS interconnections STP-to-STP. Such interconnections
13 should be made at the D-NIP and other points, as necessary.

⁴"CLASS Features" (also called "Vertical Features") include: Automatic Call Back; Automatic Recall; Call Forwarding Busy Line/Don't Answer; Call Forwarding Don't Answer; Call Forwarding Variable; Call Forwarding - Busy Line; Call Trace; Call Waiting; Call Number Delivery Blocking Per Call; Calling Number Blocking Per Line; Cancel Call Waiting; Distinctive Ringing/Call Waiting; Incoming Call Line Identification Delivery; Selective Call Forward; Selective Call Rejection; Speed Calling; and Three Way Calling/Call Transfer.

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1 Finally, BellSouth should offer use of its signaling network on an
2 unbundled basis at tariffed rates.

3 **Q. DOES MFS-FL HAVE ANY COMMENT ON THE PROVISIONS OF**
4 **THE TCG STIPULATION IN SECTIONS F THROUGH N?**

5 **A.** MFS-FL generally does not have any comment on these provisions except to
6 the extent that they incorporate BellSouth's and TCG's views on certain
7 issues, such as universal service. I have expressed MFS-FL's views on
8 universal service and other issues in other portions of this testimony, and in
9 my testimony in related Florida dockets.

10 **Q. ARE THERE OTHER ISSUES TO BE ADDRESSED WITH RESPECT**
11 **TO THE TCG STIPULATION?**

12 **A.** Yes. The unbundling petition and testimony will address the issue of
13 unbundled loops, including the manner in which this issue was addressed in
14 the TCG Stipulation.

15 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

16 **A.** Yes, it does.

**REBUTTAL TESTIMONY OF TIMOTHY T. DEVINE
ON BEHALF OF
METROPOLITAN FIBER SYSTEMS OF FLORIDA, INC.
Docket No. 950985B-TP**

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1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A. My name is Timothy T. Devine. My business address is MFS**
3 **Communications Company, Inc., Six Concourse Parkway, Ste. 2100,**
4 **Atlanta, Georgia 30328.**

5 **Q. ARE YOU THE SAME TIMOTHY DEVINE WHO PREVIOUSLY**
6 **FILED TESTIMONY IN THIS PROCEEDING?**

7 **A. Yes.**

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
9 **PROCEEDING?**

10 **A. To respond on behalf of Metropolitan Fiber Systems of Florida, Inc.**
11 **("MFS-FL") to the direct testimony in this proceeding, and particularly the**
12 **testimony of Mr. Robert C. Scheye and Dr. Aniruddha (Andy) Banerjee**
13 **filed on behalf of BellSouth Telecommunications, Inc.**

14 **Q. HAVE YOU INDICATED THE MFS-FL POSITION ON EACH OF**
15 **THE INTERCONNECTION ISSUES ADDRESSED IN THIS**
16 **DOCKET?**

17 **A. Yes. The MFS-FL position on the issues in this docket is most fully**
18 **addressed in my Direct Testimony.**

1 **II. BELLSOUTH'S ATTEMPT TO RELITIGATE THE ISSUE OF**
2 **RECOVERY FOR ITS ALLEGED UNIVERSAL SERVICE**
3 **OBLIGATION IS CONTRARY TO THE INTENT OF THE**
4 **LEGISLATURE AND SHOULD BE REJECTED**

5 **Q. DOES BELLSOUTH CONTINUE TO INSIST ON REESTABLISHING**
6 **A CONNECTION BETWEEN RECIPROCAL COMPENSATION AND**
7 **UNIVERSAL SERVICE?**

8 **A. Yes. Despite the fact that the issue of universal service has been fully**
9 **litigated, appropriately, in a separate docket, and in fact reportedly will be**
10 **decided by the Commission on December 11, 1995, BellSouth persists in**
11 **dedicating substantial portions of its Direct Testimony in this**
12 ***interconnection* docket to the issue of universal service. *See, e.g.,* Scheye**
13 **Direct at 26; Banerjee Direct at 9-10. As I demonstrated in my Direct**
14 **Testimony, the Legislature deliberately separated the issues of**
15 **interconnection compensation and universal service. This is clearly**
16 **indicated by both the legislative history, which indicates a clear intent to**
17 **separate interconnection and universal service, and by the fact that these**
18 **issues are addressed separately in the statute. Devine Direct at 12-13.**
19 **Moreover, the fact that the Commission is deciding the issue of universal**

1 service at this time in another docket conclusively demonstrates that
2 universal service is *not* at issue in this proceeding.

3 **Q. DOES MFS-FL RECOGNIZE ANY CONNECTION BETWEEN**
4 **UNIVERSAL SERVICE AND INTERCONNECTION**
5 **ARRANGEMENTS?**

6 **A. Yes. MFS-FL agrees with BellSouth that universal service and co-carrier**
7 **issues are interrelated and that, in the end, the Commission should examine**
8 **the full set of arrangements established to ensure that they encourage the**
9 **development of competition. For example, by imposing a series of charges**
10 **on ALECs (e.g., compensation, universal service, number portability,**
11 **unbundled loops, etc.), LECs can implement a price squeeze that could**
12 **render it impossible for ALECs to compete. Devine Direct at 39-40.**
13 **BellSouth's insistence, however, that agreement on any interconnection issue**
14 **— even noncontroversial, technical issues — must be accompanied by an**
15 **agreement to universal service payments, on the terms proposed by**
16 **BellSouth, was the ultimate impediment to progress in the MFS-FL**
17 **negotiations. MFS-FL has experienced success in negotiating**
18 **interconnection agreements in California, Connecticut, New York and**
19 **Massachusetts. Despite MFS-FL's negotiating success with many LECs,**

1 BellSouth's intransigence on all issues has compelled MFS-FL and other
2 parties to turn to the Commission for relief.

3 **Q. DID MFS-FL RECENTLY NEGOTIATE AN INTERCONNECTION**
4 **AGREEMENT WITH PACIFIC BELL?**

5 **A. Yes. On November 20, 1995, MFS announced an interconnection**
6 **agreement with Pacific Bell addressing virtually all of the co-carrier issues**
7 **MFS-FL has requested from BellSouth in negotiations and in this**
8 **proceeding. The agreement is attached hereto as Exhibit TTD-5. (The**
9 **attached agreement does not include two attachments, A and B, that merely**
10 **list business and residence zone codes. These are available upon request**
11 **from MFS-FL or its attorneys.) The agreement covers number resources,**
12 **tandem subtending (including meet-point billing), reciprocal traffic exchange**
13 **and reciprocal compensation, shared platform arrangements, unbundling the**
14 **local loop, and interim number portability. Although the MFS agreement with**
15 **BellSouth was not ideal in every respect, it demonstrates the MFS**
16 **commitment to negotiating co-carrier arrangements, when a reasonable**
17 **agreement is possible.**

1 **Q. IF THE CALIFORNIA AGREEMENT WAS NOT IDEAL, WHY DID**
2 **MFS-FL AGREE TO ARRANGEMENTS THAT WERE LESS THAN**
3 **PERFECT?**

4 **A. While MFS is not completely satisfied with every aspect of the California**
5 **agreement, California is a significant state for MFS. MFS has facilities in**
6 **San Diego, Los Angeles, and San Francisco, representing approximately**
7 **\$200 million in revenues. The agreement also accelerated the availability of**
8 **unbundled local loops, and will permit MFS, if it becomes certificated to**
9 **provide local service, to begin providing local exchange service as of**
10 **January 1, 1996. Like California, Florida is a significant market for MFS,**
11 **and MFS-FL would like to reach a similar agreement with BellSouth to**
12 **permit it to compete in the Florida local exchange markets as soon as**
13 **possible.**

14 **Q. DOES BELLSOUTH ADMIT THAT IT REQUIRES THAT**
15 **UNIVERSAL SERVICE BE ADDRESSED AS PART OF**
16 **INTERCONNECTION NEGOTIATIONS?**

17 **A. Yes. Mr. Scheye states that it is appropriate to consider interconnection and**
18 **universal service together, and includes universal service in its list of**
19 **negotiating issues. Scheye Direct at 3, 26. This is precisely the approach**

1 that was flatly rejected by the Legislature, and that torpedoed any progress
2 on interconnection negotiations between MFS-FL and BellSouth.

3 **Q. BRIEFLY, WHAT IS THE MFS-FL POSITION ON UNIVERSAL**
4 **SERVICE?**

5 **A. MFS-FL believes that, prior to assessing any charges on ALECs for**
6 **BellSouth universal service "obligations," BellSouth must demonstrate that**
7 **providing service to certain geographic areas or classes of customers is, in**
8 **fact, a burden. Florida LECs have not -- in the universal service docket, this**
9 **proceeding, or elsewhere -- demonstrated that the incremental cost of**
10 **providing local exchange service to any class of customers or geographic**
11 **area exceeds the revenues obtained from customers in that class or area.**
12 **(The proper way to make this calculation is outlined in the MFS Universal**
13 **Service Brief at pages 23-25). Any mechanism adopted by the Commission**
14 **must therefore create a procedure that will require a LEC to make such a**
15 **showing as a threshold matter. LEC proposals that would arbitrarily and**
16 **prematurely impose charges on ALECs without such an analysis appear to**
17 **be designed to insulate LECs from competition by maintaining LEC**
18 **revenues at existing levels and creating an insurmountable barrier to local**
19 **competition. Similarly, the BellSouth insistence on including this issue in**

1 interconnection negotiations absent such a showing is merely an attempt to
2 take advantage of its unequal bargaining power derived from its control of
3 bottleneck facilities to impose a burdensome universal service charge on
4 ALECs.

5 **Q. IS THE EXTENSIVE TESTIMONY ON UNIVERSAL SERVICE**
6 **CONTAINED IN THE BELLSOUTH INTERCONNECTION**
7 **TESTIMONY MOOTED BY THE COMMISSION'S DECISION IN**
8 **THE UNIVERSAL SERVICE DOCKET?**

9 **A.** Yes. The Commission reportedly will decide the issue of universal service
10 on December 11, the date on which this testimony is filed. That decision
11 will be rendered in Docket No. 950696-TP, completely independent of this
12 proceeding. Staff, in its recommendation in that proceeding, has proposed
13 that the Commission adopt a mechanism whereby LECs may initiate an
14 expedited petition process for US/COLR funding on a case-by-case basis.
15 In such a proceeding, a LEC would be required to demonstrate that
16 competitive entry has eroded its ability to fund its US/COLR obligations and
17 quantify the shortfall in universal service support due to competitive entry.
18 Staff Memorandum Re: Docket No. 950696-TP – Determination of
19 Funding for Universal Service and Carrier of Last Resort Responsibilities,

1 at 8-9 (December 5, 1995). Once the Commission decides the issue of
2 universal service, in Docket No. 950696-TP, BellSouth's testimony on this
3 issue in this docket will not only be in the wrong docket, but altogether
4 moot.

5 **III. BILL AND KEEP IS THE MOST EFFICIENT MECHANISM FOR**
6 **THE EXCHANGE OF LOCAL TRAFFIC BETWEEN ALECS AND**
7 **BELLSOUTH**

8 **Q. COULD YOU SUMMARIZE THE BILL AND KEEP PROPOSAL**
9 **ADVOCATED BY MFS-FL, CONTINENTAL, MCI METRO, AT&T,**
10 **THE FLORIDA CABLE TELEVISION ASSOCIATION, TIME**
11 **WARNER, AND OTHERS?**

12 **A.** As I explained in my direct testimony accompanying the Petition of
13 MFS-FL for interconnection rates, terms, and conditions, under bill and
14 keep, each carrier would be compensated in two ways for terminating local
15 calls originated by customers of other local exchange carriers. First, each
16 carrier would receive the reciprocal right to receive termination of local
17 calls made by its own customers to subscribers on the other local exchange
18 carrier's network. This is often referred to as payment "in kind." In
19 addition, the terminating carrier is compensated for call termination by its

1 own customer, who pays the terminating carrier a monthly fee for service,
2 including the right to receive calls without separate charge.

3 **Q. WHY DOES MFS-FL SUPPORT BILL AND KEEP?**

4 **A.** Unlike the proposals advocated by other parties, and particularly as
5 compared with the per-minute charge advocated by BellSouth, bill and keep
6 economizes on costs of measurement and billing, which could increase
7 prices for all customers. It is also the only method proposed by any of the
8 parties that provides an ironclad guarantee that a price squeeze will not
9 foreclose the development of local exchange competition in Florida. The
10 bill and keep method of compensation also provides incentives to carriers to
11 adopt an efficient network architecture, one that will enable the termination
12 of calls in the manner that utilizes the fewest resources. As a result of these
13 advantages, some form of bill and keep has been adopted by several states
14 and is currently in use in many states for the exchange of traffic between
15 existing LECs.

16 **Q. DO OTHER PARTIES SUPPORT THE IMPLEMENTATION OF BILL
17 AND KEEP RECIPROCAL COMPENSATION IN THIS DOCKET?**

18 **A.** Yes. Continental, AT&T Communications of the Southern States, Inc.
19 ("AT&T"), Time Warner/Digital Media Partners, MCI Metro Access

1 Transmission Services, Inc. ("MCI Metro"), and the Florida Cable
2 Telecommunications Association ("FCTA") all support identical bill and
3 keep proposals. Continental Amended Petition at 8; McGrath Direct at
4 13-14; Cornell Direct at 10-20; Cresse Direct at 4; Guedel Direct at 13.
5 These parties emphasize the same benefits of administrative simplicity, the
6 elimination of the possibility a price squeeze, and the efficiency incentives
7 created by bill and keep.

8 **Q. HAS BELLSOUTH SUPPORTED BILL AND KEEP IN PRINCIPLE?**

9 **A.** Yes. Despite its stated opposition to bill and keep, surprisingly, the TCG
10 Stipulation recognizes that bill and keep is an effective method of
11 compensation between LECs and ALECs. TCG Stipulation at 3. TCG and
12 BellSouth would exchange traffic on an in-kind basis for the first two years
13 of the Stipulation. TCG and BellSouth would also exchange traffic on an in-
14 kind basis if "it is mutually agreed that the administrative costs associated
15 with local interconnection are greater than the net monies exchanged." *Id.*
16 Mr. Scheye also recognizes in his Direct Testimony that payment of access
17 charges will virtually equate to a system of bill and keep (without the
18 administrative simplicity of bill and keep): "Because the payments are
19 mutual, the compensation to ALECs by BellSouth to terminate traffic on an

1 ALEC's network will offset, to a great extent, the compensation paid to
2 BellSouth by an ALEC." Scheye Direct at 12. Thus, the TCG Stipulation
3 also recognizes the primary reason for adopting bill and keep, the
4 desirability of avoiding the unnecessary administrative costs involved in
5 other forms of compensation. All of BellSouth's testimony criticizing bill
6 and keep should be read with this simple fact in mind: BellSouth has
7 voluntarily agreed to utilize this system for two years, and possibly longer.
8 The Commission should likewise recognize the benefits of bill and keep, not
9 only for the first two years, but on a permanent basis.

10 **Q. WHY IS BELLSOUTH'S CRITIQUE OF BILL AND KEEP**
11 **MISLEADING AND UNSUBSTANTIATED?**

12 **A. Many of the reasons BellSouth offers for rejecting bill and keep are, in fact,**
13 **the strongest arguments in favor of such an arrangement. For example,**
14 **BellSouth witness Mr. Scheye argues that, under bill and keep, ALECs will**
15 **have no incentive to efficiently provision their services but will instead rely**
16 **on efficiencies inherent to BellSouth's network. Scheye Direct at 9;**
17 **Banerjee Direct at 19-20. The bill and keep method of compensation in fact**
18 **provides incentives to carriers to adopt an efficient network architecture,**
19 **one that will enable the termination of calls in the manner that utilizes the**

1 fewest resources. A compensation scheme in which the terminating carrier
2 is able to transfer termination costs to the originating carrier, as proposed by
3 BellSouth, reduces the incentive of the terminating carrier to utilize an
4 efficient call termination design. Devine Direct at 36.

5 **Q. DOES BELLSOUTH SUGGEST THAT ALECS BE REQUIRED TO**
6 **OVERBUILD THE EXISTING LEC NETWORKS?**

7 **A.** Yes. BellSouth suggests that ALECs “may decide to interconnect their end
8 offices with BellSouth’s tandems, rather than building their own tandems
9 because there will be no financial incentive to make this investment.”
10 Scheye Direct at 7; Banerjee Direct at 20. As MFS-FL has argued in its
11 direct testimony, the most efficient means for all carriers to access IXCs is
12 by subtending the BellSouth tandem. The BellSouth suggestion that multiple
13 tandems is the most efficient solution defies common sense. If BellSouth is
14 arguing that ALECs should be required to rebuild the essential facilities of
15 the BellSouth network, this is, of course, the most *inefficient* means of
16 introducing local exchange competition in Florida.

17 **Q. DO EITHER OF BELLSOUTH'S WITNESSES ADDRESS THE ONLY**
18 **RECORD EVIDENCE ON TRAFFIC FLOWS, MFS-FL TESTIMONY**

1 **WHICH DEMONSTRATES THAT, IN OTHER STATES, TRAFFIC**
2 **HAS BEEN IN BALANCE?**

3 A. No. BellSouth witnesses misleadingly attempt to argue that ALEC
4 witnesses do not understand the issue of traffic flows, when in fact only
5 MFS-FL has presented concrete evidence on this issue. (Banerjee Direct at
6 25: "Mr. Devine appears not to recognize the significance of the balanced
7 traffic feature.") In lieu of responding to the direct evidence on traffic flows
8 presented by MFS-FL with its own evidence, Dr. Banerjee misleadingly
9 distorts the record by stating that MFS-FL, which has presented its practical
10 real-world evidence, is "missing the critical importance of the traffic balance
11 precondition for effective bill and keep." Banerjee Direct at 25. Dr.
12 Banerjee perhaps missed the portion of my Direct Testimony on this issue:
13 "Although incumbents often argue that, if traffic is not in balance
14 between two carriers, 'bill and keep' is an imperfect method of
15 compensation, this theory is discredited by MFS-FL's experience in
16 New York, where MFS-FL is terminating more calls from NYNEX
17 customers than NYNEX is terminating from MFS-FL customers. In
18 the face of evidence that it is terminating more minutes of
19 intercarrier traffic in New York than the incumbent LEC, and hence

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1 would profit from a compensation system that measures usage, MFS-
2 FL's support for the bill and keep method of compensation is all the
3 more credible." Devine Direct at 38.

4 **Q. DOES BELL SOUTH PRESENT ITS OWN EVIDENCE ON TRAFFIC**
5 **FLOWS?**

6 **A.** No. Dr. Banerjee apparently has no evidence of traffic flows but presents
7 numerous entirely unsupported statements on the subject (In the initial phase
8 of interconnection "traffic between carriers will almost certainly be out of
9 balance." Banerjee Direct at 24); and vague theorizing ("The imbalance of
10 origination-termination ratios among certain classes of customers is a fact of
11 life, not an unusual or extreme situation.") There is no need, as Dr.
12 Banerjee suggests, "to be clairvoyant about likely traffic patterns" (Banerjee
13 Direct at 26): MFS-FL has presented unrefuted evidence of traffic flows in
14 New York that suggest that bill and keep would, if anything, accrue to the
15 benefit of BellSouth.

16 **Q. IS THERE ANY MERIT TO DR. BANERJEE'S ARGUMENT THAT**
17 **NEW ENTRANTS WILL DELIBERATELY SEEK OUT CUSTOMERS**
18 **WITH PARTICULAR TRAFFIC PROFILES?**

1 A. No. Dr. Banerjee (Banerjee Direct at 17-18; 29) fails to recognize that
2 ALECs can ill afford to selectively market to certain customers, assuming
3 that ALECs could somehow forecast the traffic patterns of any given
4 customer. New entrants will face significant barriers to entry into the local
5 exchange market, perhaps most significantly, the 100% market share that
6 each incumbent LEC possesses in its service territory. Despite Dr.
7 Banerjee's attempt to downplay the significance of this monopoly (Banerjee
8 Direct at 7-8), the annals of antitrust law amply demonstrate that a
9 monopoly is a potent weapon. Even after a decade of competition in the
10 long distance market, AT&T still possesses overwhelming market share in
11 that market. Add to this monopoly the ubiquitous LEC network, entrenched
12 name recognition, the possession of essential bottleneck facilities necessary
13 for competitors to provide local exchange service, and an established
14 relationship with every customer in the market, and BellSouth is a daunting
15 competitor. In light of these barriers to entry, the suggestion of Dr.
16 Banerjee that ALECs will have the luxury of turning away customers
17 because they have the wrong traffic profile is simply not realistic.

18 **Q. DOES BELLSOUTH INCORRECTLY SUGGEST THAT IT WILL**
19 **NOT BE COMPENSATED FOR TERMINATING ALEC CALLS?**

1 A. Yes, BellSouth states that it will not be compensated for terminating access
2 and that there will therefore be no incentive to provide certain
3 functionalities. Scheye Direct at 7. This is simply wrong. As I have just
4 explained, and as explained in the testimony of several parties, bill and keep
5 compensation is in-kind compensation: terminating access on one network
6 is exchanged for terminating access on another company's network. No
7 party has proposed that it be permitted to terminate traffic on BellSouth's
8 network without a reciprocal obligation to do the same for BellSouth.
9 Accordingly, contrary to BellSouth's claim, all carriers will have ample
10 incentive to terminate calls under a bill and keep system because if a carrier
11 expects to terminate calls on other companies' facilities, it will be expected
12 to terminate other companies' calls on its own network. Moreover, all
13 companies will be compensated by payments from their own end user
14 customers.

15 **Q. IS BILL AND KEEP A COMMON PRACTICE FOR THE**
16 **EXCHANGE OF TRAFFIC BETWEEN LECS AND INDEPENDENT**
17 **TELEPHONE COMPANIES?**

18 A. Yes. BellSouth attempts to downplay the significance of the fact that,
19 nationwide, bill and keep arrangements have been the most common

1 arrangement between LECs for the exchange of local traffic. BellSouth
2 admits that extended area calling service ("EAS") arrangements are based
3 on bill and keep. Scheye Direct at 8-9. While LECs may compensate each
4 other with terminating access charges for certain long distance or toll calls,
5 based on MFS's experience in other states, LECs prefer bill and keep as the
6 simplest form of compensation for local calls. BellSouth also tries to argue
7 that bill and keep is appropriate between adjacent LECs but not competitive
8 LECs (Scheye Direct at 10-11); unfortunately, BellSouth does not begin to
9 explain *why* bill and keep has been completely sufficient with existing
10 carriers, but would not work with new entrants.

11 **Q. IS IT TRUE, AS BELLSOUTH CLAIMS, THAT COMPENSATION**
12 **OTHER THAN IN KIND PLACES NO ADDITIONAL BILLING**
13 **REQUIREMENTS ON ALECS (SCHEYE DIRECT AT 8)?**

14 **A.** No. While ALECs may bill switched access to IXC's, they currently have
15 no billing mechanism in place with every LEC and every ALEC. Bill and
16 keep would make it unnecessary for LECs and ALECs to establish and pay
17 for the ongoing expense of such mechanisms.

18 **Q. IS IT TRUE, AS BELLSOUTH SUGGESTS, THAT CARRIERS**
19 **CANNOT DISTINGUISH BETWEEN LOCAL AND TOLL CALLS?**

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1 A. BellSouth suggests that the fact that it cannot determine the originating
2 nature of traffic necessitates a system in which access charges for local and
3 toll calls are identical. Scheye Direct at 5-6. Yet Mr. Scheye states that
4 "the capability exists to both measure and bill terminating local exchange
5 traffic." Scheye Direct at 10. BellSouth also ignores the current reality that
6 Percent Interstate Use ("PIU") reports are currently utilized to distinguish
7 whether IXC traffic terminated to a LEC is interstate or intrastate. All
8 ALECs will employ advanced switching equipment that can identify the
9 origin of local and toll traffic. As MFS-FL has recommended, a similar
10 system of Percent Local Use ("PLU") reporting and auditing can therefore
11 be utilized to determine the origin of local and toll calls, including "ported"
12 calls under a system of interim number portability. To determine the proper
13 jurisdictional nature of ported calls, MFS-FL believes that the PLU
14 percentages based on call records should be applied against the total ported
15 minutes. BellSouth's argument that determining the origin of calls is
16 somehow not feasible is not based on any technical shortcoming, but is
17 rather a transparent attempt by BellSouth to promote a system based on
18 switched access charges that will impose additional costs on ALECs.

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1 **Q. DOES BELLSOUTH'S COMPENSATION PROPOSAL OFFER A**
2 **VIABLE ALTERNATIVE TO BILL AND KEEP?**

3 **A. No. As I have explained above and in my Direct Testimony, BellSouth's**
4 **proposal is structured around its universal service proposal. This universal**
5 **service proposal should not be considered in this docket, as recognized by**
6 **both the Commission and the Legislature. As explained in my universal**
7 **service testimony, a universal service component should not be**
8 **contemplated until a determination has been made that a universal service**
9 **subsidy exists. Furthermore, the imposition of switched access charges, as**
10 **proposed by BellSouth, would lead to a price squeeze which could inhibit**
11 **the development of competitive local exchange service in Florida. Devine**
12 **Direct at 39-41.**

13 **Q. CAN ALECS COMPETE IF A USAGE SENSITIVE**
14 **INTERCONNECTION CHARGE IS IMPOSED IN A FLAT-RATE**
15 **ENVIRONMENT?**

16 **A. No. As demonstrated by my Direct Testimony (Devine Direct at 39-40),**
17 **and the TCG September 1 testimony referenced therein, charging switched**
18 **access rates would result in a price squeeze that would make it impossible**
19 **for ALECs to compete. Mr. Scheye argues that the TCG analysis failed to**

1 consider "revenue sources available from vertical and toll services." Scheye
2 Direct at 11. Yet, as I demonstrated in my Direct Testimony, and as
3 recognized by the Illinois Commerce Commission, the "issue is not whether
4 a new LEC ultimately can scrape together revenues from enough sources to
5 be able to afford Illinois Bell's switched access charges." *Illinois Bell*
6 *Telephone Proposed Introduction of a Trial of Ameritech's Customers First*
7 *Plan in Illinois*, Docket No. 94-0096, at 98 (Ill. Comm. Comm'n., April 7,
8 1995). ALECs must be permitted to compete in the local exchange market
9 on a stand-alone basis, and TCG's price squeeze demonstration therefore
10 remains valid.

11 **Q. IF THE COMMISSION DOES NOT ADOPT BILL AND KEEP,**
12 **WHAT IS MFS-FL'S RECOMMENDATION FOR RECIPROCAL**
13 **COMPENSATION?**

14 **A.** MFS-FL recommends a reciprocal and equal per minute rate based on
15 *BellSouth's Long Run Incremental Cost*. This LRIC-based rate should not
16 include any contribution, despite the recommendation of BellSouth that
17 contribution be added to cost-based rates.

1 **Q. WHY SHOULD BELLSOUTH NOT BE PERMITTED TO ADD**
2 **CONTRIBUTION TO LRIC IN SETTING PRICES FOR**
3 **RECIPROCAL COMPENSATION?**

4 **A. Dr. Banerjee believes that contribution should be included in rates for**
5 **reciprocal compensation. Banerjee Direct at 37-53. "Contribution" is often**
6 **defined in the industry as the difference between the incremental cost of a**
7 **service and the price charged for that service. Such charges force ALECs to**
8 **recover from their customers not only the ALEC's own overhead costs, but**
9 **also a portion of BellSouth's overhead costs. This effectively insulates**
10 **BellSouth from the forces of competition. One of the most significant**
11 **benefits of competition is that it forces all market participants, including**
12 **BellSouth, to operate efficiently, resulting in lower rates for end users. If**
13 **BellSouth receives contribution -- in effect, is subsidized by its new entrant**
14 **competitors -- BellSouth's overhead costs will not be subjected to the full**
15 **benefits of competition that result from market pressures. Instead, current**
16 **inefficiencies in BellSouth's network will become incorporated into**
17 **BellSouth's price floor, locking in current inefficiencies in BellSouth's**
18 **operations, despite the introduction of competition. The Commission should**
19 **therefore not require ALECs to provide contribution in reciprocal**

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1 compensation rates because it would foreclose many of the potential benefits
2 of competition.

3 **Q. WHY IS BELLSOUTH'S PROPOSAL TO IMPUTE CONTRIBUTION**
4 **INTO END USER PRICES PART OF THE PROBLEM AND NOT**
5 **THE SOLUTION?**

6 A. Dr. Banerjee would guard against a price squeeze by requiring BellSouth to
7 impute contribution from unbundled elements into end user prices. Banerjee
8 Direct at 43. This is precisely the problem with requiring ALECs to pay
9 contribution: existing BellSouth efficiencies would be guaranteed to be
10 passed on to end users *ad infinitum*. The Commission should therefore reject
11 the BellSouth recommendation regarding contribution, and the supposed
12 "safeguard" of imputation as anticompetitive and anticonsumer. The MFS-
13 FL LRIC-based approach, with the appropriate pricing guidelines, is the best
14 means available to ensure that ALECs are not caught in a price squeeze, and
15 can provide competitive local exchange service on an economically viable
16 basis.

17 **Q. WHY IS BELLSOUTH'S RESPONSE TO THE FACT THAT AN**
18 **INCREASING NUMBER OF STATES ARE ADOPTING BILL AND**
19 **KEEP NOT CONVINCING?**

- 1 A. Because BellSouth cannot deny the simple fact that the trend among the
2 states is to adopt a bill and keep or modified bill and keep arrangement on
3 an interim basis. Devine Direct at 36-37. As even BellSouth admits
4 (Banerjee Direct at 31-36), Michigan, Washington, Iowa, California,
5 Connecticut (on an interim basis and subject to a retroactive true-up), and
6 Texas (required by statute if the parties cannot agree on another mechanism)
7 have all adopted bill and keep in some form. Some states, such as
8 California, will reevaluate this system after one year. MFS-FL believes that
9 the experience of these states will prove that bill and keep is the preferred
10 method of permanent compensation. The Washington Utilities and
11 Transportation Commission, in recently adopting interim bill and keep,
12 addressed several of the key advantages of bill and keep:
- 13 ● “It is already in use by the industry for the exchange of EAS
14 traffic.”
 - 15 ● “Any potential harm would not occur until current barriers to
16 competition are eliminated and competitors gain more than a de
17 minimus market share.”

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- 1 ● “Bill and keep offers the best opportunity to get new entrants up and
2 running, with a *minimum disruption* to customers and existing
3 companies.”
- 4 ● “ We would not adopt bill and keep if it appeared that new entrant
5 ALECs would be imposing more costs on the incumbents than they
6 would be incurring by terminating incumbents’ traffic. However,
7 the opponents of bill and keep have not demonstrated that this
8 situation is likely to occur, at least in the near term when bill and
9 keep will be in place. To the contrary, the only evidence on the
10 record favors the theory that traffic will be close to balance.”
- 11 *Washington Utilities and Transportation Commission v. U S West*
12 *Communications, Inc.*, Docket Nos. UT-941464 et al., Fourth
13 Supplemental Order Rejecting Tariff Filings and Ordering Refiling;
14 Granting Complaints in Part, at 29-30 (October 31, 1995). MFS-FL
15 believes that these advantages make bill and keep the ideal solution
16 on an interim and a permanent basis, as well.

17 **IV. NUMBER PORTABILITY ISSUES NOT ADDRESSED IN OTHER**
18 **PROCEEDINGS**

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1 Q. **WHY IS THE ISSUE OF COMPENSATION ON PORTED CALLS OF**
2 **CRITICAL SIGNIFICANCE TO ALECS?**

3 A. The majority of ALEC customers will initially be former LEC customers
4 utilizing interim number portability. Compensation for "ported" calls is
5 therefore a critical issue for MFS-FL and other ALECs. Devine Direct at
6 56-61. The local access provider should collect both switched access from
7 LECs and local compensation *regardless of whether a call is completed*
8 *using temporary interim number portability*. MFS-FL believes that this is
9 the only approach consistent with the Commission's goal of introducing
10 competition in the local exchange market. Only if the customers' carrier
11 collects these revenues will competition be stimulated by interim number
12 portability. Allowing the incumbent LEC to retain toll access charges for
13 calls terminated to a ported number assigned to a customer of another
14 carrier would: 1) remove any financial incentive for LECs to work towards
15 true number portability; 2) reinforce the incumbent LEC bottleneck on
16 termination of interexchange traffic, stifling potential competition in this
17 market; and 3) impede local exchange competition by preventing new
18 entrants from competing for a very significant component of the revenues
19 associated with that service, namely toll access charges. Because interim

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1 number portability is necessary to bring to the public the benefits of
2 competition at this time, temporary number portability benefits all callers,
3 and is completely unrelated to the issue of compensation for terminating
4 local calls. These issues should not be mixed, and switched access
5 compensation should not vary depending on whether temporary number
6 portability is in place or not. If the customer is an ALEC customer, the
7 ALEC is entitled to switched access for that customer. BellSouth is already
8 being compensated for its costs in providing interim number portability by
9 virtue of charges imposed on ALECs; it therefore is not entitled to double
10 dip and collect again in the form of access charges from IXC's.

11 **Q. WHAT COMPENSATION ARRANGEMENT SHOULD APPLY TO**
12 **REDIRECTED CALLS UNDER TEMPORARY NUMBER**
13 **PORTABILITY?**

14 **A. BellSouth should compensate MFS-FL as if the traffic had been terminated**
15 **directly to MFS-FL's network, except that certain transport elements should**
16 **not be paid to MFS-FL to the extent that BellSouth will be transporting the**
17 **call on its own network. Thus, for LATA-wide calls originating on**
18 **BellSouth's network and terminating on MFS-FL's network, the effective**
19 **inter-carrier compensation structure at the time the call is placed should**

1 apply. Traffic from IXCs forwarded to MFS-FL via temporary number
2 portability should be compensated by BellSouth at the appropriate
3 intraLATA, interLATA-intrastate, or interstate terminating access rate less
4 those transport elements corresponding to the use of the BellSouth network
5 to complete the call. In other words, BellSouth should receive entrance
6 fees, tandem switching, and part of the tandem transport charges. MFS-FL
7 should receive local switching, the RIC, the CCL, and part of the transport
8 charge. (The pro-rata billing share to be remitted to MFS-FL should be
9 identical to the rates and rate levels as non-temporary number portability
10 calls.) The local exchange provider on whose switch the terminating
11 caller's number resides will bill and collect from the IXC and remit the
12 appropriate portion to the intervening LEC.

13 **Q. IS BELLSOUTH ATTEMPTING TO DEPRIVE ALECS OF THIS**
14 **SIGNIFICANT REVENUE SOURCE?**

15 **A.** Yes. If, as BellSouth suggests (Scheye Direct at 24), BellSouth bills the
16 switched access rate elements on ported calls, initially ALECs will not
17 receive switched access charges for the vast majority of their customers.
18 BellSouth takes this position with no legitimate explanation. Scheye Direct
19 at 24. This is a backdoor attempt to deprive ALECs of critical revenues to

1 which they are entitled, and would have a devastating impact on the
2 development of local competition in Florida. The BellSouth position should
3 therefore be rejected outright by the Commission. As explained in my
4 Direct Testimony (Devine Direct at 61), the Commission should also
5 address the processing and billing of ported calls to ensure that the details of
6 these issues are appropriately addressed.

7 **V. BELLSOUTH'S PROPOSED CO-CARRIER ARRANGEMENTS**
8 **WOULD NOT PERMIT COMPETITION TO DEVELOP AS**
9 **RECOMMENDED BY THE LEGISLATURE**

10 **Q. PLEASE SUMMARIZE THE MFS-FL DEFAULT NETWORK**
11 **INTERCONNECTION POINT ("D-NIP") PROPOSAL?**

12 **A. As I have described more fully at pages 23 through 26 of my Direct**
13 **Testimony, FS-FL proposes that, within each LATA served, MFS-FL and**
14 **BellSouth would identify a wire center to serve as the interconnection point**
15 **(as MFS-FL defines herein Default Network Interconnection Point**
16 **("D-NIP")) at which point MFS-FL and BellSouth would interconnect their**
17 **respective networks for inter-operability within that LATA. Where MFS-**
18 **FL and BellSouth interconnect at a D-NIP, MFS-FL would have the right to**
19 **specify any of the following interconnection methods: a) a mid-fiber meet at**

1 the D-NIP or other appropriate point near to the D-NIP; b) a digital cross-
2 connection hand-off, DSX panel to DSX panel, where both MFS-FL and
3 BellSouth maintain such facilities at the D-NIP; or c) a collocation facility
4 maintained by MFS-FL, BellSouth, or by a third party.

5 Although one meet-point is the minimum necessary for connectivity,
6 more than one meet-point could be established if mutually acceptable, but
7 should not be mandated. Moreover, if an additional mutually acceptable
8 meet-point is established, the cost of terminating a call to that meet-point
9 should be identical to the cost of terminating a call to the D-NIP. At a
10 minimum, each carrier should be required to establish facilities between its
11 switch(es) and the D-NIP in each LATA in sufficient quantity and capacity
12 to deliver traffic to and receive traffic from other carriers.

13 **Q. WHY IS THE MFS-FL PROPOSAL THE MOST EFFICIENT ONE?**

14 **A. MFS-FL's proposal permits the interconnecting parties—who understand**
15 **their networks best and have the greatest incentive to achieve**
16 **efficiencies—to determine where interconnection should take place, while**
17 **establishing minimum interconnection requirements. Devine Direct at 26.**
18 **If carriers are not given flexibility as to where they can interconnect,**

1 inefficiencies will result. MFS-FL would therefore oppose any proposal
2 that does not permit carriers to maximize the efficiency of their networks.

3 **Q. DOES BELLSOUTH ACCEPT THE MFS-FL DEFAULT NETWORK**
4 **INTERCONNECTION POINT ("D-NIP") PROPOSAL?**

5 **A.** No. BellSouth's proposal rigidly establishes meet points for all ALECs that
6 may or may not be the most efficient arrangement had the decision been left
7 to the parties. BellSouth proposes that interconnection take place at the
8 access tandem and end office level. This arrangement is entirely based upon
9 efficiencies of the BellSouth network, and fails to take into account what
10 would be most efficient for any given ALEC. Mr. Scheye states that "the
11 RBOC deployment of access tandems considered to provide [sic] the
12 minimal number of points of connection" for interexchange carriers at
13 divestiture. Scheye Direct at 30. MFS-FL believes that the goal is not to
14 minimize the number of interconnection points, but rather to maximize the
15 efficiency of the system for LECs and ALECs alike. The Commission
16 should therefore follow the lead of the Connecticut Department of Utility
17 Control (Devine Direct at 26) and adopt the MFS-FL D-NIP interconnection
18 proposal.

1 **Q. HOW DOES MFS-FL'S POSITION ON COLLOCATION DIFFER**
2 **FROM THAT OF BELLSOUTH?**

3 **A. BellSouth should enable MFS-FL to directly interconnect to any other entity**
4 **that maintains a collocation facility at the same BellSouth wire center at**
5 **which MFS-FL maintains a collocation facility, by effecting a cross-**
6 **connection between those collocation facilities, as jointly directed by MFS-**
7 **FL and the other entity. For each such cross-connection, BellSouth should**
8 **charge both MFS-FL and the other entity one-half the standard tariffed**
9 **special access cross-connect rate. BellSouth would not permit such**
10 **interconnection between two collocated entities. Scheye Direct at 28-29.**
11 **BellSouth's refusal to permit such cross-connection is designed to and would**
12 **impose undue costs on ALECs by refusing cross-connection of adjacent,**
13 **virtually collocated facilities. BellSouth states that this key interconnection**
14 **issue is somehow "beyond the scope of this [interconnection] proceeding."**
15 **Scheye Direct at 29. The New York Public Service Commission, however,**
16 **in its Competition II interconnection proceeding did not take this view when**
17 **it recently required LECs to permit cross-connection between adjacently**
18 **collocated ALECs. The Commission should not permit BellSouth to impose**
19 **inefficiencies on all ALECs and should likewise require BellSouth to permit**

1 such cross-connection. Moreover, where an interconnection occurs via a
2 collocation facility, no incremental cross-connection charges would apply
3 for the circuits. Upon reasonable notice, MFS-FL would be permitted to
4 change from one interconnection method to another with no penalty,
5 conversion, or rollover charges.

6 **Q. DO THE MEET-POINT BILLING ARRANGEMENTS FOR**
7 **TRANSITING TRAFFIC PROPOSED BY BELL SOUTH PROVIDE**
8 **REASONABLE CO-CARRIER TREATMENT TO ALECS?**

9 **A.** No. Although BellSouth accepts the idea of meet-point billing when calls
10 transit through BellSouth en route from one carrier to another, BellSouth
11 does not accept the fact that, where tandem subtending arrangements exist,
12 LECs and ALECs should follow the meet-point billing formula of the
13 Ordering and Billing Forum ("OBF"). Scheye Direct at 14. As I explained
14 in my Direct Testimony (Devine Direct at 16-18), LECs currently divide the
15 local transport revenues under a standard "meet-point billing" OBF formula.
16 These same meet-point billing procedures should apply where the tandem or
17 end office subtending the tandem is operated by an ALEC as in the case of
18 an adjoining LEC. BellSouth's failure to accept these guidelines for ALECs

1 would be discriminatory and inconsistent with the idea that ALECs should
2 be treated as equal co-carriers.

3 **Q. IS THE BELLSOUTH DIRECTORY ASSISTANCE PROPOSAL**
4 **ACCEPTABLE TO MFS-FL?**

5 **A. MFS-FL cannot accept the BellSouth proposal that directory assistance**
6 **storage charges be assessed to ALECs. Scheye Direct at 17-18. A single**
7 **directory assistance database is in the public interest, and ALEC customers**
8 **should therefore not be assessed any charges that are not likewise assessed**
9 **to BellSouth customers. This is simply another attempt by BellSouth to**
10 **raise the cost for ALECs to provide competitive service. The MFS-FL**
11 **positions on directory assistance -- including its requests for branded and**
12 **unbranded directory assistance, on-line access to BellSouth's directory**
13 **assistance database, licensing of BellSouth's directory assistance database,**
14 **and caller optional directory assistance call completion service -- are fully**
15 **explained in my earlier testimony. Devine Direct at 53-54.**

16 **Q. DO YOU FIND THE BELLSOUTH DIRECTORY LISTINGS**
17 **PROPOSAL TO BE ACCEPTABLE?**

18 **A. No. BellSouth does not guarantee that MFS-FL customers will receive the**
19 **same nondiscriminatory treatment as BellSouth customers on this issue. For**

1 example, BellSouth does not state whether its charges for an initial Yellow
2 Pages listing would be comparable to charges offered to BellSouth end
3 users. BellSouth does not address the issue of Yellow Pages maintenance,
4 The MFS-FL proposal for nondiscriminatory treatment with respect to
5 directory listings is fully detailed in my Direct Testimony. Devine Direct at
6 51-52, 54-55.

7 **Q. DOES BELLSOUTH RECOGNIZE ITS RESPONSIBILITY TO**
8 **PROVIDE NUMBER RESOURCES TO ALECS ON A**
9 **NONDISCRIMINATORY BASIS?**

10 **A.** As a co-carrier, MFS-FL is entitled to the same nondiscriminatory number
11 resources as any Florida LEC under the Central Office Code Assignment
12 Guidelines ("COCAG"). BellSouth, as Central Office Code Administrator
13 for Florida, should therefore support all MFS requests related to central
14 office (NXX) code administration and assignments in an effective and timely
15 manner. MFS-FL and BellSouth should comply with code administration
16 requirements as prescribed by the Federal Communications Commission, the
17 Commission, and accepted industry guidelines. BellSouth appears to
18 recognize this responsibility. Scheye Direct at 25. The MFS-FL position

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1 on this issue is fully stated in my Direct Testimony. Devine Direct at 14-
2 15.

3 **Q. WHY DOES MFS-FL BELIEVE THAT THE ISSUES OF STANDARDS**
4 **FOR COORDINATED REPAIR CALLS, INFORMATION PAGES,**
5 **AND OPERATOR REFERENCE DATABASE UPDATES MUST BE**
6 **ADDRESSED IN THIS PROCEEDING?**

7 **A.** MFS-FL believes that the prompt resolution of these issues will be essential
8 to establishing co-carrier status. I have described these issues in detail in
9 my Direct Testimony. Devine Direct at 55-56. BellSouth would prefer to
10 leave these issues to the negotiation process. Scheye Direct at 24. As I
11 have discussed, to date, MFS-FL has found BellSouth to be intransigent in
12 negotiations on co-carrier issues. Moreover, there is no incentive for
13 BellSouth to negotiate an expeditious resolution of these issues. The
14 experience of MFS-FL affiliates in other states suggests that these issues
15 will *not* be easily resolved through negotiations, nor does MFS-FL believe
16 that the complaint procedures should be relied upon to resolve issues that the
17 parties have already identified as contentious issues. Scheye Direct at 24.
18 MFS-FL therefore recommends that these issues be addressed by the
19 Commission in the manner described in my Direct Testimony.

1 **Q. HAS MFS-FL STATED ITS POSITION ON THE ISSUES OF THE**
2 **EXCHANGE OF INTRALATA 800 TRAFFIC, 911/E911**
3 **PROVISIONING, OPERATOR TRAFFIC, INCLUDING BLV/I, THE**
4 **BILLING AND CLEARING OF CREDIT CARD, COLLECT, THIRD**
5 **PARTY AND AUDIOTEXT CALLS, AND ARRANGEMENTS TO**
6 **ENSURE THE PROVISION OF CLASS/LASS SERVICES?**

7 **A. Yes. MFS-FL has filed its Direct Testimony that fully states its position on**
8 **the issues of the exchange of intraLATA 800 traffic (Devine Direct at 70);**
9 **911/E911 provisioning (Devine Direct at 47-48); operator traffic, including**
10 **BLV/I (Devine Direct at 52); the billing and clearing of credit card, collect,**
11 **third party and audiotext calls (Devine Direct at 49-50); and arrangements**
12 **necessary to ensure the provision of CLASS/LASS services (Devine Direct**
13 **at 27-30). The MFS-FL recommendations and requirements with respect to**
14 **each of these issues, as well as each of the other issues in this docket, are**
15 **fully detailed in this prior Direct Testimony.**

16 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

17 **A. Yes, it does.**

1 CHAIRMAN CLARK: Does Mr. Devine have a
2 summary?

3 MR. FALVEY: Yes, pursuant to the prehearing
4 statement he does.

5 CHAIRMAN CLARK: Go ahead, Mr. Devine.

6 WITNESS DEVINE: Thank you, Chairperson and
7 Commissioners.

8 Good morning. Over the course of the next
9 several months, this Commission has before it the
10 historic task of implementing switched local exchange
11 competition in the state of Florida. The
12 establishment of the prices, terms and conditions for
13 interconnection in this docket is the most critical
14 step in establishing an environment that will foster
15 competition and permit alternative local exchange
16 companies, such as MFS, to successfully compete
17 against BellSouth and other incumbent local exchange
18 carriers. Like any incumbent, BellSouth has
19 significant competitive advantages that will make it
20 extremely difficult for MFS and other new entrants to
21 gain a foothold in Florida.

22 This Commission has so far successfully
23 addressed the difficult issues of number portability
24 and universal service in a manner that is likely to
25 encourage competition in Florida. The Florida

1 Legislature has also found that the competitive
2 provision of telecommunications service is in the
3 public interest and will provide customers with
4 freedom of choice, encourage the introduction of new
5 telecommunications service, encourage technological
6 innovation and encourage investment in
7 telecommunications infrastructure.

8 Establishing in this docket procompetitive
9 interconnection arrangements, including bill and keep
10 compensation in the interim moving to a per minute of
11 use rate based upon long run incremental cost will
12 preclude a price squeeze and enable robust
13 competition.

14 Despite months of negotiations beginning
15 this past summer, MFS has been unable to reach a
16 comprehensive business agreement with BellSouth on
17 interconnection that would permit it to become
18 operational in Florida.

19 By contrast, MFS assigned detailed business
20 agreements with LECs in other states, including
21 Massachusetts, Connecticut, New York and most
22 recently, California. The California agreement which
23 covered, among other issues, the technical and
24 financial terms of interconnection, unbundling and
25 number portability, is attached to my rebuttal

1 testimony and has been offered to BellSouth.

2 BellSouth has, to date, refused to sign an
3 agreement in this or any other form. MFS is
4 operational in three states and has significant
5 experience in negotiating interconnection agreements.
6 I, personally, participated in negotiations in and
7 among other states, New York, Massachusetts and
8 Connecticut. MFS's experience has been that any
9 aspect of interconnection that is not nailed down in
10 writing creates potential for delay, dispute and
11 discord. The best way to swiftly implement
12 competition is, therefore, in a detailed comprehensive
13 business arrangement.

14 Much attention has been paid to the
15 stipulation signed by other parties to this docket.
16 As MFS stated at the hearing at which the Commission
17 considered that stipulation, other parties have every
18 right to reach agreement on terms that they might feel
19 satisfactory. The stipulation is a regulatory
20 settlement and not a business or operational agreement
21 of the kind that MFS has signed in other states. MFS,
22 however, does not believe that the stipulation signed
23 by other parties in this docket is satisfactory for
24 its purposes, nor does it contain the basic terms and
25 conditions necessary for MFS to be operating in

1 Florida.

2 MFS and BellSouth are not that far from
3 agreement on many issues, and not every
4 interconnection issue raised in my prefiled testimony
5 has been contested by BellSouth. On issues such as
6 number resource arrangements, 911 and E911 systems,
7 information services, billing and collection, busy
8 line verification and interrupt, MFS and BellSouth are
9 not that far apart.

10 On many of the central issues of this
11 proceeding, and particularly compensation for
12 terminating access, MFS and BellSouth are not even
13 close to agreement.

14 MFS, like many parties to this proceeding,
15 including AT&T and McCaw, proposes that bill and keep
16 be utilized until BellSouth develops long run
17 incremental cost studies that could serve as the basis
18 for per minute of use rates.

19 Bill and keep is the only method guaranteed
20 to preclude a price squeeze. The use of cost based
21 rates was endorsed by this Commission in the number
22 portability docket, and this approach should be
23 extended to interconnection. Commissions in other
24 states, including California and Texas have adopted
25 precisely the approach advocated by MFS. Bill and

1 keep transitioning to cost based rates.

2 On a preliminary basis, Staff has suggested
3 that bill and keep could possibly work between MFS and
4 new entrants like it does for independents and
5 BellSouth.

6 The switched access rates advocated by
7 BellSouth bear no relation to cost; and when combined
8 with BellSouth's proposal for the pricing of unbundled
9 loops, would lead to a price squeeze that could
10 prevent significant competition from developing.
11 BellSouth's solution to a price squeeze is its own
12 brand of imputation. But in this case, imputation of
13 exorbitant interconnection charges could only lead to
14 increased end user rates, which would be anticonsumer
15 and contrary to public interest.

16 MFS believes that whether under a system of
17 bill and keep or otherwise, compensation rates should
18 be equal, reciprocal and identical. If two calls
19 travel the same distance but are terminated by
20 different carriers, one carrier, BellSouth, should not
21 receive more money to terminate its call. Yet this is
22 precisely what will happen if BellSouth's compensation
23 proposal is adopted.

24 In addition, BellSouth's proposal for meet-
25 point subtending arrangements proposes that BellSouth

1 should collect the residual interconnection charge
2 when BellSouth is performing the tandem functionality.
3 This is not the system in place with Independence
4 where the carrier providing the end office switching
5 collects the RIC.

6 BellSouth would further deprive MFS of
7 revenue through its proposal for collecting
8 compensation of IXCs on ported calls. That is those
9 using interim number portability. As a co-carrier,
10 MFS is entitled to collect switched access from IXCs,
11 just as BellSouth does today.

12 As you know switched access is a significant
13 revenue source for BellSouth and other LECs. The vast
14 majority of MFS customers will utilize interim number
15 portability and must be able to collect switched
16 access from IXCs on these calls. Despite the fact
17 that BellSouth has agreed in the stipulation to permit
18 other ALECs to retain switched access payments from
19 IXCs, BellSouth's testimony would go much further
20 toward depriving MFS of its rightful switched access
21 revenues, and must be rejected by this Commission.

22 MFS also takes issue with the physical
23 interconnection arrangements offered by BellSouth.
24 MFS has proposed that interconnection take place at a
25 neutral, mutually agreeable meet point. This is the

1 manner in which interconnection take place today
2 between BellSouth and independents and would permit
3 co-carriers to flexibly come to agreement on the ideal
4 meet point.

5 BellSouth has only offered tandem and end
6 office interconnection forcing MFS and other LECs to
7 play on their terms. Not only has BellSouth forced
8 ALECs to come to them, but they will not permit two
9 ALECs to cross-connect at a BellSouth tandem or end
10 office without transiting at a BellSouth switch. The
11 New York Commission has recently required LECs to
12 permit such ALEC cross-connection. Numerous other
13 issues such as establishing the appropriate
14 nondiscriminatory arrangements for meet-point billing
15 associated with tandem subtending and establishing
16 directory assistance, directory listing arrangements,
17 are critical operational and financial issues for MFS.

18 BellSouth's position on virtually all of the
19 most critical interconnection issues exhibit two
20 disturbing trends. BellSouth continually
21 discriminates against ALECs by offering them less than
22 what BellSouth has traditionally offered independent
23 LECs with whom they have had interconnecting for
24 years. This is usually only on the pretense that
25 independents represents some unique historical

1 relationship or somehow dramatically are different in
2 every way from ALECs. But to adopt different
3 arrangements for ALECs and independents is
4 discrimination pure and simple.

5 The second disturbing trend is that
6 BellSouth at every turn is as trying to impose
7 additional costs on its new competitors, whether by
8 charging ALECs unequal and premium rates for
9 interconnection or by depriving ALECs of access
10 charges. BellSouth is imposing additional charges on
11 ALECs in order to eat into ALEC margins to a point
12 where it would be almost completely impossible to
13 compete.

14 MFS and other ALECs face a daunting task in
15 competing with BellSouth and other LEC monopolists
16 that have been enjoying their monopoly franchises for
17 the better part of this century. But if the
18 Commission implements the appropriate arrangements,
19 including bill and keep compensation, transitioning to
20 cost based rates and ensuring that unfair costs are
21 not imposed on new entrants, it will successfully meet
22 the admirable goal implementing local exchange
23 competition in Florida.

24 Thank you very much.

25 MR. FALVEY: Madam Chairman, the witness is

1 available for questioning.

2 COMMISSIONER CLARK: Okay. Ms. Wilson.

3 MS. WILSON: I have no questions.

4 CHAIRMAN CLARK: Mr. Crosby.

5 MR. CROSBY: No questions.

6 CHAIRMAN CLARK: Ms. Weiske.

7 MS. WEISKE: No questions.

8 CHAIRMAN CLARK: Mr. Lackey.

9 MR. LACKEY: Madam Chairman, may I make a
10 request, please? The camps are clearly divided here.
11 Could I ask that AT&T and MCI and McCaw if they are
12 participating, cross examine this witness before I do?

13 CHAIRMAN CLARK: Mr. Melson.

14 MR. MELSON: No questions.

15 CHAIRMAN CLARK: Mr. Tye.

16 MR. TYE: I have a few, Madam Chairman.

17 **CROSS EXAMINATION**

18 BY MR. TYE:

19 Q Good morning, Mr. Devine. I'm Mike Tye
20 representing AT&T.

21 A Good morning, sir.

22 Q You made reference in your summary to the
23 question of who gets access charges when a call is
24 remote call forwarded to an ALEC?

25 A Yes.

1 Q Is it -- it was my understanding from your
2 testimony that BellSouth's position is that BellSouth
3 should get the access charges in that instance; is
4 that correct?

5 A In BellSouth's testimony that's what they
6 state. But in the stipulation that they signed with
7 the current parties that have signed the stipulation,
8 the stipulation says that the new entrant would get
9 the access charges.

10 Q Let me understand what would happen here.
11 We're talking about here a case where a customer
12 switches over to an ALEC and wants to retain the same
13 phone number; is that correct?

14 A Yes.

15 Q Okay. And so a long distance call would
16 come in from the outside world to that number and it
17 would hit the BellSouth switch, and BellSouth would
18 forward that number over to your switch; is that
19 correct?

20 A Yes.

21 Q Okay. And then the call would go through
22 your switch and out your local loop and be completed
23 to your end user; is that correct?

24 A Yes.

25 Q Now, for the process of forwarding the call

1 from the BellSouth switch to your switch, BellSouth
2 gets a monthly charge pursuant to an order of this
3 Commission; is that correct?

4 A Yes. The interim number portability
5 decision, you know, followed up from the statute
6 saying BellSouth could recover their cost for call
7 forwarding, and that's what the Commission ordered.
8 So Bell recovers their cost for that forwarding over
9 to the new entrant.

10 Q Okay. Now, if BellSouth also kept the
11 access charges on that call and you didn't, then you
12 would not get compensated for using your switch and
13 your local loop to deliver that call; is that correct?

14 A Yes, that's correct. I see it that Bell
15 would be, I guess, double dipping on recovering
16 revenues, and we'd be at the short end of the stick
17 there.

18 Q Because Bell would get the remote call
19 forwarding charge, and they would also get the access
20 charges, and you would get neither; is that correct?

21 A Yes, that's correct. Although I'm hoping
22 BellSouth -- and I really couldn't tell in the
23 testimony -- that at least I would get the reciprocal
24 compensation rate, but it's really not clear in their
25 testimony.

1 Q But in either case, the BellSouth switch and
2 the BellSouth local loop would not be used to
3 ultimately deliver that call to the end user as your
4 switch and local loop would?

5 A Yes, that is correct.

6 Q Now, you also made mention to BellSouth's
7 proposal to charge switched access rates for
8 interconnection. There you're talking about
9 terminating switched access; is that correct?

10 A Yes.

11 Q Do you know what that rate is in Florida?

12 A I believe, with all of the components, it's
13 probably over three cents a minute or so. I'm not
14 sure exactly.

15 Q Do you know what BellSouth's cost is of
16 providing that service?

17 A In documents that I've seen -- I don't know
18 exactly what BellSouth's is, but I know when NYNEX
19 filed their universal service preservation plan at the
20 FCC, that they were saying that their costs for
21 terminating a call were about four-tenths of a penny,
22 so about four-tenths of a penny. That's what NYNEX
23 filed. And NYNEX is known to be one of the higher
24 cost less efficient LECs in the country.

25 Q You operate in New York, do you not?

1 A Yes, we do operate. We have been for about
2 two years or so.

3 Q Do you pay NYNEX an interconnection charge?

4 A Yes, we do.

5 Q And what is that charge?

6 A What the New York Commission recently
7 ordered was for intercarrier compensation, a rate that
8 is a LATA-wide rate. So it's a rate that isn't just
9 for local calls, but it's for local and toll calls.
10 The Commission felt if new entrants were going to
11 compete against Bell for intraLATA calling and if they
12 wanted a low cost structure to have low prices for
13 consumers for intraLATA calling, that the rate would
14 be a LATA-wide rate, and not just for local calls.

15 And that rate is -- if you connect to a
16 BellSouth -- or if you connect to a NYNEX tandem, the
17 rate is .0098, which is a little less than a penny a
18 minute. And if you connect to an end office, the rate
19 is .0074, if you connect to an end office. And those
20 are rates that are reciprocal and identical.

21 So if I go to BellSouth -- to NYNEX to
22 NYNEX's tandem, I pay .0098. If NYNEX goes to my
23 switch, which acts as an end office and a tandem, they
24 are going to pay me .0098. And if I don't connect to
25 any of their end offices, then I don't also have to

1 offer an end office connection. Because my switch
2 does both and my loops are just a lot longer than
3 NYNEX. But that's something -- that rate will
4 probably come down because the Commission approved
5 those rates that NYNEX actually offered on the table.
6 So NYNEX offered those rates to the Commission, and
7 the Commission said that they were still going to
8 address the permanent rates, so I anticipate those
9 rates will be coming down. But those are rates right
10 out of the gate that NYNEX offered which seem to be a
11 lot lower than what BellSouth is offering.

12 Q They're a lot lower than what you've been
13 offered here, is it not?

14 A Yes, that's correct, especially since it's a
15 LATA-wide rate.

16 Q Now, do you all provide any service in the
17 Ameritech area?

18 A Yes. We just started to recently.

19 Q Okay. Do you have an interconnection
20 arrangement with Ameritech?

21 A Yes. I don't know the exact details of it;
22 I know generally just being in our company.

23 Q You don't know what the rate is?

24 A I believe it's around a half a penny a
25 minute, but I'm not exactly sure.

1 Q So it's cheaper than the NYNEX rate even?

2 A Yes.

3 Q Okay.

4 MR. TYE: Thank you. I have no further
5 questions.

6 CHAIRMAN CLARK: Mr. Horton.

7 MR. HORTON: No questions.

8 MR. FINCHER: No questions.

9 CHAIRMAN CLARK: Back to you, Mr. Lackey.

10 MR. LACKEY: Thank you, Madam Chairman.

11 **CROSS EXAMINATION**

12 BY MR. LACKEY:

13 Q Mr. Devine, my name is Doug Lackey, I'm
14 appearing in this proceeding on behalf of BellSouth
15 Telecommunications, and I have a series of questions I
16 need to ask you about your testimony and position.

17 Will you agree that in resolving how MFS and
18 BellSouth will interconnect, that it's fair to say
19 there are operational issues and there are financial
20 issues that must be resolved?

21 A Yes. There are operational and financial
22 issues that need to be resolved, that's correct.

23 Q All right. And, for instance, the technical
24 arrangement for providing E911 service would be an
25 operational issue?

1 A There would be financial and operational
2 arrangements having to do with that.

3 Q Well, the technical arrangement for
4 interconnection would be an operational issue,
5 correct?

6 A Yes, that would be correct.

7 Q And the rate that was charged if there were
8 any rate charged would be the financial issue,
9 correct?

10 A Well, it's yes and no. I mean, with all of
11 these issues, the technical arrangements imply a cost.
12 So you can't just have a technical arrangement and say
13 that it's not a financial arrangement. These are
14 intricately involved issues. So with interconnection,
15 if the technical meet point is a neutral meet point,
16 that is also a financial arrangement because if, for
17 instance, we have to do what BellSouth offers, it's
18 going to cause us to incur a lot more cost than
19 BellSouth. So the technical and financial
20 arrangements actually are very intertwined. I guess
21 that's why when you ask me the 911 question, there are
22 technical and financial arrangements just to connect
23 for 911, so I guess all of them are very intertwined.
24 You really can't put them in different buckets; they
25 really are together.

1 And that's one of the key things we have
2 been advocating for across the country. I mean, you
3 can't just say there's technical, and you're done.
4 There's technical and financial, and they are really
5 integrated. You can't separate those issues. It's
6 critical to keep them together.

7 Q Let me ask the question this way: With
8 regard to E911 interconnection, is there any technical
9 issue that this Commission has to resolve between
10 BellSouth and MFS that we have been unable to resolve
11 among ourselves? Any technical issue?

12 A Well, in my discussions with BellSouth, we
13 never came to an agreement in writing, so I'd say yes
14 there are still technical issues that need to be
15 worked out. Particularly, I wouldn't want us to agree
16 to anything in writing unless the state office of
17 telecommunications that has a huge amount of control
18 over 911 were to bless it. So --

19 Q Have you read the TCG settlement?

20 A Yes.

21 Q Have you read the Florida Cable Television
22 settlement?

23 A Yes.

24 Q Do both of those discuss E911 arrangements?

25 A Yes, they do.

1 Q What technical arrangement has been omitted
2 from the settlement or the terms in those two
3 agreements that you insist have to be resolved by this
4 Commission, that BellSouth and MFS are unable to
5 resolve?

6 MR. FALVEY: Mr. Lackey, if perhaps you
7 could refer to a page number of either stipulation to
8 assist Mr. Devine in answering this.

9 MR. LACKEY: It will take me just a minute,
10 Madam Chairman.

11 WITNESS DEVINE: If you could refer from my
12 direct, that might be easier for me because that's the
13 copy that I have of it.

14 Q (By Mr. Lackey) All right. I'm now looking
15 at the TCG stipulation, which I believe you had and
16 it's Attachment B, Page 1 for the Commission's
17 information.

18 The document is listed as RCS-2, attached to
19 Mr. Scheye's testimony, and I'll give you the
20 Prehearing Order exhibit number in just a moment.

21 In the Prehearing Order it's RCS-6, is the
22 document that I'm referring to.

23 A Excuse me, sir. Out of my direct, what the
24 date of the document is that you're referring to?

25 Q I'm tell you what, why don't I just have a

1 copy of the document brought do you.

2 A Okay. (Hands document to witness.)

3 Q Please let me know when you have the
4 document.

5 A I have the document, sir. I'm reviewing it.

6 Q I have reference to Attachment B, Page 1 and
7 2; that's in the TCG agreement. Now, what I want to
8 know is what technical arrangement does this
9 Commission have to resolve for us in this docket
10 that's not covered in there and that you believe
11 BellSouth and MFS are going to be unable to resolve on
12 their own? (Pause)

13 A As I said earlier, it's hard to just say
14 that, you know, in terms of technical arrangements --
15 I mean, as you see on here if you look a Page 2, the
16 last paragraph, it talks about some issues of
17 compensation. I know my discussions with BellSouth,
18 they said, "Well, gee, we need to talk to the PSAPs
19 some more about this. We need to talk to the state
20 more about it." There's issues that I don't see
21 addressed here in terms of dealing with -- if somebody
22 has interim number portability, that the E911 database
23 has to properly display both numbers, and the operator
24 needs to know how to handle the call and how to
25 display it appropriately in the record. It says that

1 we'll work cooperatively, but there's not a solution.

2 I mean, that's one of our real issues, is we
3 have been trying to get a business agreement with
4 BellSouth that addresses the operational details
5 instead of just signing a regulatory settlement to
6 close out the cases and then go get an arrangement. I
7 mean, we'd like to get the arrangement up front and,
8 that's what we have been trying to do since July, and
9 that's what we do with all the other LECs. Pac Bell's
10 agreement was 40-some pages because it got into the
11 details of how all this would work.

12 Q So you want the Commission to order
13 BellSouth to list both the ported number and the
14 number that it is ported to in the E911 database?

15 A Yes. I mean, there's still details of
16 BellSouth and MFS and all the parties working out how
17 this should work. In negotiations I had with SNET or
18 NYNEX or other parties, it's right up front; everybody
19 says let's work that out.

20 So that's where we haven't be able to get
21 with BellSouth is the point where, okay, let's get the
22 solution and let's put it in the agreement. I guess
23 that's why we're here today, kind of.

24 Q By the way, do you have any agreements with
25 any other LECs in Florida?

1 A No, we don't.

2 Q You're responsible for the territory, I
3 guess, it's now operated by SBC. It used to be
4 Southwestern Bell, aren't you?

5 A Yes, Southwestern Bell and then the
6 BellSouth area.

7 Q Have you negotiated any settlements like
8 this with any of the companies that you're responsible
9 for there?

10 A Not with Southwestern Bell yet and not with
11 other LECs in Florida, but I personally did our
12 agreement in New York, Massachusetts and Connecticut.

13 Q But the answer is MFS has been unable to
14 reach an agreement with any LEC in Florida at this
15 point, correct?

16 A We haven't be able with GTE, nor with
17 Sprint/United/Centel, and I've told them, frankly,
18 we'll probably file a petition with the Commission
19 very, very soon addressing all the same issues that
20 I've tried to reach with BellSouth. It seems that
21 they're talking to other parties, and they're not
22 giving me all the same information they are giving
23 other parties. And I want to get an agreement done
24 and get into business. We have networks in the ground
25 and we want to take advantage of those.

1 Q Do you have negotiations underway with
2 Indiantown?

3 A Excuse me?

4 Q Do you have negotiations underway with
5 Indiantown?

6 A No, I don't.

7 Q How about St. Joseph's?

8 A No.

9 Q How about turning to Page 46 of your direct
10 testimony? Unless, Mr. Devine -- unless I refer
11 otherwise, I'm referring to your direct testimony,
12 even though we're doing both at once, okay? Actually,
13 sir, I'm sorry, it's Page 44 I wanted you to begin at.
14 Are you there?

15 A Yes.

16 Q You have listed begin on Page 44, Line 17,
17 and going through Page 45, Line 9, what I would call
18 operational issues that you've identified. Is that a
19 fair characterization of those items, they're
20 operational issues?

21 A They're operational and compensation issues.

22 Q Yes.

23 A I mean, all of these things cost money to do
24 whether it's on either side of the fence.

25 Q And at the bottom of Page 45, you have

1 listed eight items where you say, "MFS agrees in
2 principle with the TCG stipulation proposals made on
3 the following:" And one of those is the E911 we were
4 just talking about, isn't it?

5 A Uh-huh. Yeah, I think conceptually -- you
6 know, conceptually, yes; but it doesn't have the
7 detail that addresses the issue of the things I
8 mentioned in addition to the details of if there's a
9 cost for a port at a TOPS or at an E911 tandem. I
10 mean there are some issues that aren't addressed.
11 I've executed other agreements where we've put the
12 details in it, and that's all I want from BellSouth.
13 And the cable agreement does not address in detail
14 those issues.

15 Q Now, look at Page 46. Leaving aside the
16 financial issues -- and I'm going to have specific
17 reference to Line 10 on that page. Leaving aside the
18 financial considerations, can you tell me why you
19 believe that MFS and BellSouth couldn't work out
20 transfers of service announcements to everyone's
21 satisfaction?

22 A Why we didn't?

23 Q No, why we can't. Why this Commission has
24 to decide how we're going to handle transfers of
25 service announcements?

1 A Well, under normal circumstances, yes, we
2 should be able to. I have been negotiating -- our
3 company, I took over the negotiations in August, but
4 our company started in mid-July in negotiating with
5 BellSouth. Yes, no question, we should be able to
6 reach agreement with BellSouth on these issues.
7 There's no question. But when BellSouth seems to be
8 out spending a lot of time trying to get a deal with
9 other parties that maybe are more closely aligned with
10 their position and not trying to really work in detail
11 to resolve these issues with MFS, it makes it rather
12 difficult.

13 You have to have two parties that want to
14 agree to get an agreement executed. So conceptually,
15 I would say no problem, MFS and BellSouth should be
16 able to reach agreement on these issues. They are
17 usually less controversial issues. But, frankly, you
18 know, I gave BellSouth two or three different
19 agreements. I gave them the Pac Bell agreement.

20 CHAIRMAN CLARK: Mr. Devine, if I may
21 interrupt you, we've spent a lot of time talking about
22 the agreements and what BellSouth isn't doing and what
23 they are not giving you.

24 I understand Mr. Lackey's line of
25 questioning, to sort of refine where there may be some

1 disagreement. And I, frankly, am interested in that.

2 WITNESS DEVINE: Uh-huh.

3 CHAIRMAN CLARK: I realize that the way you
4 interconnect or the way you agree to perform some
5 service is likely to have an impact on how much it
6 costs.

7 WITNESS DEVINE: Uh-huh.

8 CHAIRMAN CLARK: But I would like to know if
9 there are agreements on what needs to be provided with
10 respect to 911. Do you agree with what has been put
11 out there on the table? Is it adequate?

12 If it is not adequate, would you please be
13 specific as to what in addition it needs so maybe we
14 can facilitate an agreement on at least the technical
15 portions.

16 WITNESS DEVINE: Okay. Sure. Thank you.

17 MR. LACKEY: Thank you, Madam Chairman.

18 WITNESS DEVINE: As I said, conceptually
19 with 911 and E911, what's in there would be
20 appropriate, but there needs to be some other details
21 like the updating of the database. And if there are
22 any costs, if BellSouth intends to charge ALECs a cost
23 for, one, maintaining the database or updates to the
24 bath base. If there's a cost for that, so like on a
25 per subscriber per number charge, if there's a cost or

1 some unique kind of connectivity that we need to get
2 to them, like a T-1, or some kind of terminal, or
3 something like that. So the first issue is updating
4 the database, if there's a cost for that. And
5 technically how that is going to work.

6 If there's going to be any cost arrangements
7 in terms of if they want to charge like a port charge
8 on the 911 tandem switch, how they plan to address the
9 field in the database. So in terms of the interim
10 number portability, ported phone number.

11 CHAIRMAN CLARK: Does MFS have a position as
12 to what is satisfactory in each of those instances?

13 WITNESS DEVINE: What would be -- we have
14 someone who is a 911 specialist at our company that
15 we've hired from NYNEX that has 25 years of experience
16 with these kind of things, so, you know, that person
17 has talked to the BellSouth 911 person before, so --

18 But in terms of the issues, those are some
19 of the things. Like the database, how is it going to
20 be maintained? Is there a cost for the database? Is
21 there a cost to update the database? What kind of
22 connectivity to get to the database? What kind of
23 terminals? I mean, are we going to just use a -- are
24 we going to fax them our updates? Are we going to
25 give them our update for 911 in order so if we buy an

1 unbundled loop or interim number portability, is that
2 how they are going to update the database? Or are we
3 going to have a separate connection to them, and is it
4 going to electronic?

5 CHAIRMAN CLARK: Have you sent to them how
6 you want to do it?

7 WITNESS DEVINE: Well, I've given them other
8 documents that talk about how we would want to do it.

9 CHAIRMAN CLARK: And have they responded
10 that they will not do it in that way?

11 WITNESS DEVINE: No, but we couldn't get to
12 the point of getting the actual agreement in writing.
13 I'll be real frank, most of these operational, what we
14 call platform issues that are identified in like our
15 proposed agreement, they are things that aren't
16 controversial that I'm sure we could reach agreement.
17 But a lot of my discussions with Mr. Scheye at
18 BellSouth were, hey, let's focus on the
19 interconnection rate because if we can't agree on
20 that, we won't be really able to do anything. And I
21 persistently pushed, hey, why don't we at least try to
22 get the issues we can get resolved so when we go into
23 hearings, we're just dealing with the big thing for
24 the Commission, the rate, how do we technically
25 interconnect. It's what we did. And I told them and

1 other parties -- in fact, I had a couple conference
2 calls several months ago to get all the parties on the
3 phone together to get a stipulation, at least try to
4 stipulate to all of the key issues.

5 And in Connecticut we stipulated to
6 everything with SNET except for compensation and
7 technically how we interconnect and rate levels for
8 loops. So conceptually, there shouldn't be a problem.
9 But in the agreement that BellSouth signed with the
10 cable people, they said that they are going to work
11 out additional issues with -- by like January 31st.

12 I mean, I have been talking with BellSouth
13 since July, and they are little issues. And I guess
14 our problem is, is that we weren't being taken
15 seriously enough on the little issues to get it worked
16 out. It's ridiculous we had to bring this before the
17 Commission. I'm sorry that we had to, but we just
18 couldn't get agreement with them on it, and we just
19 weren't being taken seriously even for the little
20 issues.

21 CHAIRMAN CLARK: Go ahead, Mr. Lackey.

22 MR. LACKEY: I want to follow up on --
23 Chairman, I want to follow up on a question that the
24 Chairman asked.

25 Q (By Mr. Lackey) You just went through a

1 litany of things that needed to worked out on E911.
2 And you said that your expert had talked to
3 BellSouth's expert. Does the record in this case,
4 does the testimony you've offered reflect the
5 substance of those discussions and what the points of
6 issue and what the points of agreement were so that
7 the Commission can have before it the actual details
8 that you want implemented?

9 A They would be in the documents that we've
10 proposed, including like the PacBell agreement with
11 Pac Bell. Our 911 purpose has had discussions a few
12 time with the BellSouth 911 person, and, in fact, we
13 have a nondisclosure agreement with BellSouth for the
14 911 sensitive arrangements and information. So those
15 discussions are ongoing between our 911 person and
16 BellSouth's 911 person.

17 COMMISSIONER KIESLING: Madam Chairman, it
18 would be helpful to me if the witness answered yes or
19 no so I have some idea how his long answer relates to
20 the simple question that is asked.

21 CHAIRMAN CLARK: I'm sure Mr. Devine will do
22 that.

23 COMMISSIONER KIESLING: Thank you.

24 WITNESS DEVINE: Yes. I would say that our
25 documents do propose -- especially if you look at the

1 California Pac Bell agreement in the rebuttal
2 testimony.

3 Q Can you open that PacTel agreement and turn
4 me to the page that has that information on it,
5 please. And tell the Commission which exhibit number
6 it is.

7 MR. LACKEY: Madam Chairman, the one I have
8 is marked TTD-5, so I think that's the PacTel
9 agreement.

10 MR. FALVEY: I think I'm going to have to
11 ask that you provide that to him.

12 MR. LACKEY: It's his exhibit.

13 CHAIRMAN CLARK: Mr. Devine doesn't have his
14 rebuttal testimony with him?

15 WITNESS DEVINE: Yeah.

16 MR. FALVEY: Oh, you do have it? I'm sorry.
17 I apologize. He was looking for it.

18 CHAIRMAN CLARK: Has your package arrived
19 from the airport?

20 MR. FALVEY: It has not.

21 MR. LACKEY: While he's looking for that,
22 Madam Chairman, may I raise one more issue that I'm
23 concerned about?

24 We took depositions last Friday, because of
25 the snowstorm, there was obviously a transportation

1 difficulty. The court reporter told me that she had
2 faxed Mr. Devine's deposition to the location she was
3 instructed to. I brought the originals down for
4 distribution to the parties since I came down on
5 Monday, and I gave Mr. Melson his. Mr. Falvey asked
6 me about their copy today, and I had brought that
7 down. We had left it at the hotel, at the Courtyard
8 where Mr. Rindler told us to, and we may not have
9 arranged for Mr. Falvey to have a copy of that yet.

10 But as Ms. White points out, the Staff gave
11 out copies today. I just wanted to make sure that --
12 to the extent I was the delivery boy, I tried. I may
13 have failed since Mr. Falvey had to come here from the
14 airport this morning and did not make it to the
15 Courtyard.

16 CHAIRMAN CLARK: Well, we are now on -- you
17 have referred him to Exhibit TTD-5, which is marked as
18 Exhibit 3.

19 MR. LACKEY: Yes, ma'am. And I've asked him
20 to turn to the page in the agreement that discusses
21 E911 so I can look at it and see what is in there.

22 Q Mr. Devine, have you found that page yet in
23 that PacTel agreement?

24 A No, I'm looking for it.

25 Q Would you please let me know when you find

1 it? (Pause)

2 COMMISSIONER DEASON: Is it possibly on

3 Page 28?

4 WITNESS DEVINE: Yes, I have it.

5 (Transcript continues in sequence in Volume 2.)

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