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February 21, 1996

**ORIGINAL  
FILE COPY**

Mrs. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket No. 950984-TP  
MFS/GTE & United-Centel

Dear Mrs. Bayo:

Enclosed for filing in the above referenced docket  
are an original and fifteen (15) copies of the Rebuttal  
Testimony of Joe Gillan on behalf of AT&T.

Copies of the foregoing are being served on all parties  
of record in accordance with the attached Certificate of  
Service.

Yours truly,

*Michael W. Tye*  
Michael W. Tye

- ACK
- AFA
- APP
- CAF
- CMU  *Chase*
- CTR
- EAG
- LEG  *1*
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- ONG
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Attachments

cc: J. P. Spooner, Jr.  
Parties of Record

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**CERTIFICATE OF SERVICE**

**DOCKET NO. 950984-TP**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail or hand-delivery to the following parties of record this 21<sup>st</sup> day of February, 1996:

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---

Michael W. Tye

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

**ORIGINAL  
FILE COPY**

In re: Resolution of Petition(s) to )  
Establish Nondiscriminatory Rates, Terms, ) Docket No 950984-TP  
and Conditions for Resale Involving ) MFS/ GTE and Sprint  
Local Exchange Companies and Alternative ) February 21, 1996  
Local Exchange Companies Pursuant to )  
Section 364.161, Florida Statutes )

**REBUTTAL TESTIMONY OF  
JOSEPH GILLAN  
ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.**

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*Introduction*

**Q. Please state your name and business address.**

**A. My name is Joseph Gillan. My business address is P.O. Box  
541038, Orlando, Florida 32854.**

**Q. What is your occupation?**

**A. I am an economist with a consulting practice specializing in  
telecommunications. My clients span a range of interests and**

1 have included state public utility commissions, consumer advocate  
2 organizations, local exchange carriers, competitive access  
3 providers, and long distance companies.

4

5 **Q. Please briefly outline your educational background and related**  
6 **experience.**

7

8 A. I am a graduate of the University of Wyoming where I received  
9 B.A. [1978] and M.A. [1979] degrees in economics. My graduate  
10 program concentrated on the economics of public utilities and  
11 regulated industries with course work emphasizing price theory  
12 and statistics. During graduate school, I served an internship with  
13 Mountain Bell in its Demand Analysis Group modeling the  
14 residential demand for local service.

15

16 In 1980, I joined the Illinois Commerce Commission where I had  
17 responsibility over the policy content of Illinois Commission filings  
18 before the U.S. District Court and the Federal Communications  
19 Commission; provided staff testimony in various Commission  
20 proceedings concerning the divestiture agreement (e.g., the  
21 design of LATA boundaries for Illinois, and post-divestiture rate  
22 levels for AT&T and Illinois Bell), and the original access charge  
23 plan to replace both interLATA and intraLATA settlements

1 procedures. While at the Commission, I served on the staff  
2 subcommittee for the NARUC Communications Committee and  
3 was appointed to the Research Advisory Council overseeing  
4 NARUC's research arm, the National Regulatory Research Institute.

5  
6 In 1985 I left the Commission to join U.S. Switch, a venture firm  
7 organized to develop interexchange access networks in partnership  
8 with independent local telephone companies. At the end of 1986,  
9 I resigned my position of Vice President-Marketing to begin a  
10 consulting practice. Since then I have advised a variety of clients  
11 ranging from state public utility commissions, consumer  
12 advocates, interexchange carriers, competitive access providers,  
13 cable television companies and local exchange carriers. I currently  
14 serve on the Advisory Council for New Mexico State University's  
15 Center for Regulation.

16  
17 **Q. On whose behalf are your testifying in this proceeding?**

18  
19 **A.** I am testifying on behalf of AT&T Communications of the Southern  
20 States, Inc. (AT&T).

21  
22 **Q. What is the purpose of your rebuttal testimony?**

23

1       A.     The purpose of my rebuttal testimony is two-fold. First, I respond  
2             to the *pricing* proposals of GTE and United Telephone with respect  
3             to the network elements that MFS has requested. Significantly, in  
4             the time since GTE and United filed their testimony, the  
5             Telecommunications Act of 1996 (Federal Act) was passed by  
6             Congress and signed into law by President Clinton. This act  
7             clearly establishes GTE and United's obligations to provide the  
8             network elements requested by MFS, and articulates the pricing  
9             standard that must be used to review the reasonableness of their  
10            proposed rates. Even a cursory review of GTE and United's  
11            testimonies demonstrates that their proposed pricing approaches  
12            are inconsistent with this new law.

13  
14            Second, my rebuttal testimony briefly addresses the *network*  
15            *elements* that United and GTE propose to offer and concludes that  
16            their proposals are insufficient for local competition to develop.  
17            This section of my testimony also reminds the Commission that  
18            the MFS request is only the beginning of the process of  
19            introducing local competition. As I testified in a similar proceeding  
20            concerning BellSouth, the "unbundling" and "interconnection"  
21            requested by MFS -- while important -- can be expected to provide  
22            a modest opportunity for competitive entry, almost certainly  
23            limited to metropolitan areas, and that significant steps will still be

1 necessary to make local competition a reality for most Florida  
2 consumers. Meaningful exchange competition will not develop  
3 unless a *complete* menu of network elements, specifically designed  
4 to be combined by other carriers into competitive local exchange  
5 and exchange access services, are introduced as required by  
6 federal law.

7

8

***The New Federal Statute***

9

10 **Q. Which sections of the new federal law are most relevant to this**  
11 **proceeding?**

12

13 **A. The principal questions before the Commission in this proceeding**  
14 **are: (1) should GTE and United provide the network elements**  
15 **requested by MFS, and (2) how should they be priced? The new**  
16 **law affirmatively addresses both questions, imposing a clear duty**  
17 **on incumbent LECs to make their networks available to rivals, at**  
18 **prices based on underlying costs.**

19

20 **Section 251(c)(3) of the federal act states that each incumbent**  
21 **LEC has:**



1           The duty to provide, to any requesting telecommunications carrier  
2           for the provision of a telecommunications service,  
3           nondiscriminatory access to network elements on an unbundled  
4           basis at any technically feasible point on rates terms and  
5           conditions that are just, reasonable, and nondiscriminatory in  
6           accordance with . . . the requirements of this section and section  
7           252.

8  
9           Further, the law defines the pricing standard to be used by State  
10          Commissions evaluating the reasonableness of the rate charged for  
11          any network element in Section 252(d)(1):

12  
13                   Determinations by a State commission of the just and  
14                   reasonable rate . . . for network elements for  
15                   purposes of subsection (c)(3) --

16  
17                           (A)    shall be --

18  
19                                   (i)   *based on the cost (determined*  
20                                   *without reference to a rate-of-return or other*  
21                                   *rate-based proceeding) of providing the*  
22                                   interconnection or network element  
23                                   (whichever is applicable), and

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(B) may include a reasonable profit.

The primary issue before the Commission in this proceeding is whether the pricing recommendations of GTE and United are based on cost as required by this section.

**Q. What definition of cost do you believe is required by the statute?**

A. There are two basic approaches to defining costs: (1) costs determined by fully-distributed, rate-base accounting, and (2) economic costs reflecting the direct forward-looking resource cost to provide a good, service or, in this case, network element.

This Commission has already flatly -- and unequivocally -- rejected -- the use of fully-distributed rate-base costing analysis:

Upon consideration, we find that fully distributed cost is not an appropriate cost standard for use in the telecommunications industry, for detecting cross-subsidy or for any other purpose.

Order 910757-TP, page 10, emphasis added.

Now, federal telecommunications policy echoes with the same

1 conclusion. This law makes clear that rival carriers are entitled to  
2 use the LEC network to provide their services, compensating the  
3 LECs for the resource costs incurred, plus a reasonable profit.

4

5 **Q. Is it reasonable to establish carrier-prices based on economic**  
6 **resource costs?**

7

8 A. Yes. Although the legal obligation makes such a policy  
9 determination unnecessary, the Commission should appreciate that  
10 this policy is most likely to yield the greatest choice and benefits  
11 to Florida consumers. To maximize competition -- that is, to  
12 promote an environment that will present Florida consumers with  
13 the greatest diversity of pricing plans, calling options, and service  
14 features -- it is important that the underlying exchange network be  
15 available to *all* providers of exchange services on the same terms,  
16 conditions and prices. If all providers have access to the  
17 monopoly exchange network on equivalent terms, then  
18 competition has a better chance to flourish along the remaining  
19 dimensions of service, bringing to consumers the full potential of  
20 the network.

21

22 **Q. How does the new law assure that all providers have access to the**  
23 **exchange network on equivalent terms?**



1 loop to a subscriber premise.

2

3 **Q. Does United/Centel's proposal satisfy the cost-based pricing**  
4 **standard?**

5

6 **A.** No, it does not appear so. United's sole cost justification  
7 underlying these prices is a single sentence in Mr. Poag's  
8 testimony (page 3) that the prices *exceed* incremental cost,  
9 including a contribution to the company's other costs. No analysis  
10 was provided, however, to document the magnitude of this  
11 deviation from cost-based rates. Nor did Mr. Poag attempt to  
12 explain the excess charge as providing "reasonable profit" -- an  
13 unlikely occurrence inasmuch as incremental cost analyses  
14 typically already include the profit necessary to attract and retain  
15 investment capital. Given the length of explanation offered by Mr.  
16 Poag in his attempt to justify the deviation from cost-based rates,  
17 however, one would conclude that these additional charges are not  
18 trivial.

19

20 **Q. What explanation does Mr. Poag offer to justify deviating from**  
21 **cost-based rates?**

22

23 **A.** The principal justification is that United/Centel would receive less

1 revenue as customers shift to other local providers than they  
2 receive today as a monopoly. Yet, this is precisely the manner in  
3 which competitive markets work.

4

5 **Q. Is it reasonable to charge rivals only for the costs they cause**  
6 **United/Centel to incur?**

7

8 A. Yes. The fact of the matter is that all firms -- including those who  
9 will provide services using network elements obtained from  
10 United/Centel -- also incur common costs that must be recovered  
11 from their customers in order to provide service. Prohibiting  
12 United from charging its rivals these costs does not *prevent* their  
13 recovery; it simply requires that they be recovered in the same  
14 manner as its rivals recover those costs, through the prices of  
15 services which both United and its competitors provide.

16

17 In a competitive environment, there is no entitlement to  
18 guaranteed revenues; the carrier-pricing standard in the new law  
19 unambiguously divorces the definition of cost from United's  
20 "revenue requirement". The law does not contain a convenient  
21 exception to this principle that would permit United/Centel to  
22 deviate from cost-based rates to recover contribution (beyond a  
23 reasonable profit if not already considered in the cost analysis).

***GTE's Pricing Proposal***

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**Q. Please describe GTE's pricing proposal.**

**A. GTE sponsors testimony supporting two pricing methodologies. First, GTE witness Dr. Duncan attempts to provide an "economic rationale" for a pricing approach that would always leave GTE indifferent to whether a customer obtained service from it or a competitor (page 7). Dr. Duncan characterized this pricing approach as satisfying a "fairness" criterion -- reflecting GTE's perception of fairness as assuring that its revenues are unaffected by competition.**

Even GTE, however, does not actually recommend that Dr. Duncan's methodology be adopted by the Commission. Instead, GTE (like United) recommends that the price of loop facilities be set equal to its preexisting special access rates.

**Q. Is Dr. Duncan's methodology consistent with the pricing standard articulated in the new law?**

**A. No. Dr. Duncan's methodology would price each network element so that GTE's revenues are unaffected by a customer's decision to**

1 use a competitor. To accomplish this objective, Dr. Duncan  
2 proposes a pricing rule which would base the price of a network  
3 element on its costs *plus* all the contribution the company would  
4 have earned had it retained the customer itself. This standard  
5 clearly exceeds the statutory requirement that network element  
6 prices be set at cost plus a reasonable profit.

7

8 **Q. Does GTE's alternative pricing recommendation correct this**  
9 **concern?**

10

11 **A.** I have not had an opportunity to review the exhibits which Mr.  
12 Trimble claims are proprietary and, as a result, am not able to offer  
13 an opinion concerning the underlying cost-justification for these  
14 rates. Assuming that I am provided an opportunity to review  
15 GTE's underlying cost studies, I may be able to provide an opinion  
16 on this issue at hearing.

17

18 In no event, however, can the Commission sanction Dr. Duncan's  
19 methodology, even if Mr. Trimble's rate levels (coincidentally)  
20 satisfy the new law. Further, there is no rational basis in law or  
21 policy to pursue Mr. Trimble's recommendation that the  
22 Commission establish a fund to recoup GTE's costs associated  
23 with motor vehicles, land, buildings, special vehicles, power,



1 etc. . . . (Trimble, page 10) in a "competitively neutral manner".  
2 A truly "competitively neutral" fund would include *all carriers'* (and  
3 consultant's) land, buildings, vehicles, etc. . . . If this is what Mr.  
4 Trimble contemplated, then the Commission should reject the  
5 suggestion as unnecessary and counterproductive. If not, and Mr.  
6 Trimble is requesting that only *GTE's* costs be recovered from its  
7 rivals in a "competitively neutral" fund -- an obvious oxymoron --  
8 then the Commission should quickly reject such notion  
9 immediately.

10

11 ***Network Elements Necessary for Local Competition***

12

13 **Q. Will network elements other than local loops be necessary for local**  
14 **competition to proceed?**

15

16 **A.** Yes. This narrow proceeding has as its principal focus the  
17 availability of local loops (and loop concentration capability). The  
18 Commission should anticipate, however, that far more complete  
19 requests to use the incumbent LEC's network (including switch  
20 capacity, local call termination and access to administrative and  
21 support systems necessary to configure exchange network  
22 capacity into meaningful services) will be necessary for local  
23 competition to take root.

1           The incumbent's exchange network -- consisting of local loops to  
2 individual premises, local switching and an expansive interoffice  
3 network web -- is simply too vast to replicate in the foreseeable  
4 future. This is particularly true in Florida, which affirmatively  
5 banned network deployment within so-called Equal Access  
6 Exchange Areas (EAEAs) until 1992. Even if these regulatory  
7 policies had not been in place, however, it is important that the  
8 Commission recognize the sheer magnitude of the pre-existing  
9 network as it fulfills its obligations under the new law to open this  
10 network to use by other providers.

11  
12           The reality is that the pace of local competition will proceed only  
13 as fast as the existing network is opened to other carriers to use  
14 to provide their services. Network duplication will take time.  
15 Fortunately, the new federal law recognizes this circumstance and  
16 requires that the existing exchange network be opened -- both as  
17 individual components and in combination to create a complete  
18 platform -- to other carriers for their use in providing services.

19

20       **Q.    Do GTE and United/Centel propose to fully open their exchange**  
21       **networks?**

22

23       **A.    No, it does not appear that they do. For local competition to**

1           succeed, it is important that the full ability of the local network be  
2           made available to all providers. This would include, for example,  
3           loop facilities (discussed here), but also local switching capacity,  
4           call termination and, just as importantly, access to operational  
5           systems so that carriers may configure these network elements  
6           into useful services.

7  
8           The new federal law requires that network elements be made  
9           available both individually and, significantly, in combinations that  
10          enable rivals to provide local exchange and exchange access  
11          services, with Section 251(c)(3) imposing the following duty on  
12          incumbent LECs:

13  
14                   An incumbent local exchange carrier shall provide  
15                   such unbundled network elements in a manner that  
16                   allows requesting carriers to combine such elements  
17                   in order to provide such telecommunications service.

18  
19          GTE's testimony indicates that it intends to offer a switch-related  
20          network element (Trimble, page 12), but that it does not expect  
21          much demand. Quite the contrary, I would expect that an  
22          appropriately structured element for local switching capacity --  
23          enabling its purchaser to provide local exchange, and exchange

1 access services, including access to the full line of optional  
2 features resident in the local switch -- should prove quite  
3 successful as carriers seek combinations of network components  
4 to form their own platforms.

5

6 **Q. Are you recommending that the Commission order the availability**  
7 **of additional network elements at this time?**

8

9 **A. No, but I do believe that it is important for the Commission to**  
10 **appreciate that additional actions opening incumbent facilities in**  
11 **ways that multiple carriers may configure those facilities into local**  
12 **exchange and exchange access services of their own design is**  
13 **both contemplated by the federal law and necessary for local**  
14 **competition to proceed.**

15

16 Quickly opening the local market to competition is particularly  
17 important here where both GTE and United are free to offer long  
18 distance services, accelerating the market's evolution to *full*  
19 *service* competition. A full service market could see the end of  
20 conventional distinctions. In its place, carriers may offer  
21 consumers a complete package of services, with local exchange  
22 service being a compulsory element of any basic package.

23

1           Barriers to entering the long distance market have fallen as a result  
2           of a ten year competitive process that has resulted in a vibrant  
3           "wholesale" market for network services and capabilities. United  
4           is already the nation's third largest interexchange carrier, and GTE  
5           will benefit from the competitive supply of long distance platforms  
6           with its agreement with LDDS/Worldcom to offer services using  
7           that carrier's network.

8  
9           For those customers who prefer to obtain all voice services as a  
10          package, the absence of competition for *any* element of the  
11          package (i.e., exchange service) could distort competition. To  
12          assure a competitive full service marketplace requires that barriers  
13          to offering all the key ingredients of the basic package -- i.e., local  
14          and long distance services -- are comparably low so that  
15          consumers benefit from as much competition in the full services  
16          market tomorrow as they see in the long distance industry today.

17

18       **Q.    Please summarize your rebuttal testimony?**

19

20       **A.    The passage of the Telecommunications Act of 1996 removes**  
21       **from this proceeding any debate concerning the appropriate pricing**  
22       **standard for judging the reasonableness of an incumbent LEC's**  
23       **charges to other carriers. These charges must be based on cost --**

1 cost defined without reference to rate-base/rate-of-return  
2 regulation.

3

4 Neither United nor GTE attempted to justify its proposed rates for  
5 unbundled loops using this standard; to the contrary, each  
6 sponsored substantial testimony attempting to circumvent the  
7 application of a cost-based test.

8

9 Finally, the Commission should anticipate far more complete  
10 requests by carriers seeking to use the incumbent network to  
11 fashion their own services as the market moves towards full  
12 competition.

13

14 **Q. Does this conclude your rebuttal testimony?**

15

16 **A. Yes.**

## CERTIFICATE OF SERVICE

DOCKET NO. 950984-TP

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail or hand-delivery to the following parties of record this 21<sup>st</sup> day of February, 1996:

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