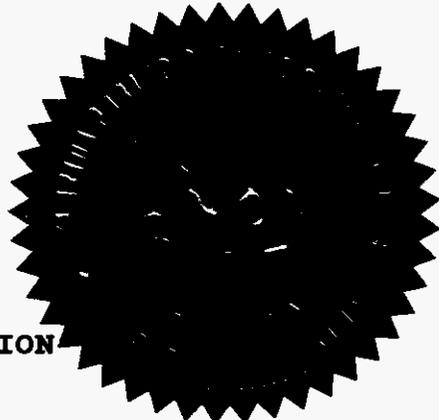


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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of :
Resolution of Petition(s) : DOCKET NO. 950984-TP
to establish nondiscrimi- :
natory rates, terms and :
conditions for resale :
involving local exchange :
companies and alternative :
local exchange companies :
pursuant to Section :
364.161, Florida Statutes. :



FIRST DAY - LATE MORNING SESSION

VOLUME 2

Pages 143A through 202

PROCEEDINGS: HEARING
BEFORE: CHAIRMAN SUSAN F. CLARK
COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA
DATE: Wednesday, March 20, 1996
TIME: Commenced at 11:10 a.m.
PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
(904) 413-6732
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Official Commission Reporter
(904) 413-6736
APPEARANCES:
(As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 03441 MAR 22 88

FPSC-RECORDS/REPORTING

WITNESSES

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P R O C E E D I N G S

(Hearing reconvened at 11:10 a.m.)

(Transcript follows in sequence from
Volume 1.)

CHAIRMAN CLARK: Call the hearing back to
order. Go ahead, Mr. Fons.

MR. FONTS: Since my light is out, I assume
I'm on.

CHAIRMAN CLARK: I can hear you.

MR. FONTS: Thank you.

C R O S S E X A M I N A T I O N

BY MR. FONTS:

Q Good morning, Mr. Devine. My name is John
Fons, and I'm representing Sprint-United/Centel. Let
me begin my cross examination by just asking you some
general questions about the kind of business that MFS
is planning to go into as an ALEC. Currently MFS is
an AAV; is that correct?

A Yes.

Q And you are providing service over
facilities that MFS has constructed?

A Yes. Well, constructed and we buy DS1 and
DS3 facilities from the LECs, too, to connect the
buildings that we don't have fiber in.

Q Okay. Let me just ask about your own

1 network first, and let's see how this fits into your
2 request for unbundling. Does MFS have a fiber loop in
3 various metropolitan areas in Florida?

4 A Yes.

5 Q Does it have a fiber loop in how many
6 localities?

7 A In the metropolitan Tampa, Orlando and Miami
8 areas.

9 Q And off of that fiber loop, are you
10 currently serving commercial customers?

11 A Yes.

12 Q And this fiber loop, does it go to each one
13 of these customer locations that you are currently
14 providing service to?

15 A As I mentioned earlier, sometimes we have
16 our own fiber to a building and other times we
17 collocate LEC wire centers and cross connect to Bell
18 DS1, DS3 and voice grade facilities sometimes.

19 Q And when you say "cross connect," can you be
20 a little more specific how you do that?

21 A Well, what we have with all the incumbent
22 LECs in Florida, we have fiberoptic cable that we take
23 to the bell wire center. And at the wire center we
24 connect to the LEC network by facilities to serve
25 buildings where we currently don't have our own fiber

1 facilities.

2 Q You've mentioned Bell on two occasions in
3 answering. Do you have any interconnection with
4 Sprint-United/Centel?

5 A Yes.

6 Q And is it in the same fashion as you
7 described for Bell?

8 A Yes.

9 Q Now, in the future, now that you are an
10 ALEC, how do you propose to provide service to your
11 business customers using the same fiber loop?

12 A In terms of the network?

13 Q Yes.

14 A Yes, we would use our network facilities and
15 also the LECs network facilities.

16 Q And in addition to having a fiber loop, do
17 you also plan to have switches located in various
18 locals in Florida?

19 A Yes.

20 Q Do you have any switches planned for the
21 Orlando area?

22 A I know that we have a switch right now
23 operating in Miami. And I'm not privy to our plans
24 for implementation of other switches, but I imagine we
25 are going to have switching in Tampa and Orlando, too.

1 Q Are you planning to provide ALEC service in
2 the areas currently served by Central Telephone
3 Company of Florida?

4 A I believe in Orlando, which is the only
5 place in the state where we actually connect with a
6 Sprint company, is just United, I believe.

7 Q So you have no plans of serving, say, the
8 Tallahassee area?

9 A Well, as I said, I don't work in business
10 planning. I imagine just as MCI started out between
11 St. Louis and Chicago, we are going to continually add
12 cities. Currently, we have service or networks being
13 installed in 55 metropolitan areas within the world.
14 So we are growing fast and expanding as much as we
15 can.

16 Q And as part of this expansion, is it your
17 intention to provide ultimately your customers on your
18 own facilities?

19 A No, that's not true.

20 Q When you say "that's not true," you are
21 going to serve customers, every customer you can, on
22 your own facilities. Is that a fair statement?

23 A No. We are going to use our facilities and
24 the LEC facilities. It would be impossible for us to
25 try to duplicate the LEC networks.

1 Q Would you be serving all of your customers
2 in what we would call the densely populated areas on
3 your own facilities?

4 A That's a pretty broad statement for me to
5 try to answer. I mean, we are going to be providing
6 service to wherever our network goes, whether it's
7 dense, or high -- low density, I mean.

8 Q You're not saying that your current network
9 is as large as your network is going to get, are you?

10 A No. Our network right now is smaller than
11 it will be in the future. Historically, that's been
12 our trend of expansion.

13 Q And it would be your intention to construct
14 a network, your own network, where it's economically
15 most advantageous to do that; isn't that correct?

16 A Yes, that makes sense.

17 Q And where it's not economically advantageous
18 for you to do that, you will lease facilities from the
19 incumbent local telephone company?

20 A Yes, that makes sense.

21 Q Now, let's talk a little bit about what you
22 are asking this Commission to require in this
23 proceeding. And I'm a little bit confused by your
24 summary that you gave earlier in your direct
25 testimony.

1 Are you asking this Commission to require
2 that Sprint-United/Centel unbundle local loops from
3 their bundled services?

4 A Yes.

5 Q Are you asking that United/Centel be
6 required to unbundle their switching or port capacity
7 from their bundled services?

8 A Yes. Our focus initially is on getting
9 loops unbundled, but we'd like everything unbundled.

10 Q And that's where I'm confused. What do you
11 mean by "everything unbundled"?

12 A Based on what's in my testimony, you know,
13 loops, ports, cross-connect elements, all those items.

14 Q Well, let's explore that a little bit
15 further. When you say you want everything unbundled,
16 are you asking that something in the local loop be
17 unbundled from the switch and then portions of the
18 local loop unbundled?

19 A Initially, what we need unbundled is the
20 loop and port and the ability to -- you know, the
21 cross connect between our collocated space and the
22 LEC -- or the LEC network. So those would be the
23 primary things. In terms of, is it further subloop
24 unbundling; is that what you are --

25 Q Yes.

1 A We don't need those Day One to get into
2 business. I think the Commission in the BellSouth
3 decision, you know, ordered from the bench that the
4 parties sit down and talk about subloop and unbundling
5 some more, and we are in the process of setting up
6 meetings with BellSouth to talk more about that.

7 Q Well, how about Sprint-United/Centel. I'm
8 not interested in Bell --

9 A Yeah. We'd want the same thing here. I
10 think maybe the Commission approve that, and then the
11 parties get together and talk more about it. And I
12 think there's still some unknowns in terms of subloop
13 unbundling. So it's still the intent of the statute
14 that those things be unbundled.

15 Q And isn't it the intent of the statute that
16 the parties negotiate first and then come to the
17 Commission if they can't resolve their differences?

18 A Yes.

19 Q And in this case on the subloop unbundling,
20 or sub element unbundling, you haven't asked
21 Sprint-United/Centel to subloop or subloop unbundle,
22 have you?

23 A Well, I think we just discussed it --

24 Q Just answer yes or no.

25 A Yes, generally, we did. But we didn't have

1 a specific plan for subloop unbundling.

2 Q Where in the letter -- you sent a letter to
3 Sprint in July of 1995. Do you recall that?

4 A Yes.

5 Q Or Gary Ball did?

6 A Yes.

7 Q Anywhere in that letter was there a
8 reference that you were requiring subloop unbundling?

9 A Probably not, but in the subsequent
10 documents we had reference to subloop. But as I said,
11 it's not something critically we need today.

12 Q Well, I'm just trying to find out what's in
13 front of this Commission as far as the decision is
14 concerned.

15 A Sure.

16 Q You have attached to your testimony a
17 composite exhibit which, I believe, is Composite
18 Exhibit 5. You have several exhibits to that, and one
19 of those exhibits is Exhibit 2 -- I'm sorry -- I guess
20 it is Exhibit 2, which includes a document described
21 as "Florida Co-carrier Stipulation and Agreement." Do
22 you see that?

23 A Yes.

24 Q And it's dated 11/8/95.

25 A Yes.

1 Q Now, where in that particular document which
2 you offer up as what you want in the way of unbundling
3 an interconnection, where in that document do you
4 indicate that you want subloop unbundling?

5 A Well, if you look at Page 23, that's where
6 the unbundling exchange service arrangement begins.

7 Q Right.

8 A And Pages 23, 24 and 25, and just at the top
9 on Page 26, talk about initially what we need in terms
10 of links and ports. And then in C, Page 26C, we talk
11 about a process for request for further essential
12 facilities, and that's where things like subloop
13 unbundling would apply.

14 So at this point we just want the Commission
15 to order that subloop unbundling would be a good thing
16 and that if a new entrant requires it, we've suggested
17 in here a process that is a pretty brief process to
18 kind of get things going real fast.

19 Q And it says in that process that you will
20 submit a written request to the Commission.

21 A Yes.

22 Q Have you submitted a written request to the
23 Commission for subloop unbundling as part of your
24 petition in this proceeding?

25 A No.

1 Q So on that basis, subloop unbundling is not
2 a matter that this Commission should be able to decide
3 in this proceeding?

4 MR. RINDLER: To the extent that calls for a
5 legal opinion, Mr. Devine is not qualified to give it.

6 MR. FONS: I think he can give an answer to
7 that. He's already expressed that he knows what the
8 statute requires, and that is that there be
9 negotiations before the Commission is to decide
10 anything. He's also admitted that they have not asked
11 for subloop unbundling.

12 MR. RINDLER: I ask the question be read
13 back. I believe it does not contain reference to
14 that. That, in fact, it asks for a legal opinion as
15 to what this Commission --

16 CHAIRMAN CLARK: Mr. Fons, why don't you ask
17 your question again in such a way that the witness can
18 answer it.

19 MR. FONS: Yes, Madam Chairman.

20 Q (By Mr. Fons) Mr. Devine, in view of the
21 fact that you have not filed a written request that
22 this Commission require subloop unbundling, then that
23 is not a matter before the Commission at this time?

24 A Partially, yes. But if you look at what we
25 have in Item C, what we have in here is a procedure

1 that would be set up that the Commission could order
2 to expedite the process of further unbundling. So
3 subloop unbundling in the context of the Commission
4 issuing an order that says subloop unbundling is a
5 good thing, and that if parties want subloop
6 unbundling, this would be the procedure that would be
7 applied.

8 Q And that procedure requires a written
9 request to the Commission, doesn't it?

10 A Yes, but we would not want it in the context
11 of a full blown petition, a full blown contested case.
12 This is a real expedited streamline way to deal with
13 subloop unbundling.

14 Q I understand what you are saying, but in no
15 event has MFS submitted a written request to this
16 Commission under the procedures outlined in this
17 document, have you?

18 A That's correct.

19 Q Let's talk a little bit if we might about
20 the local loop itself. And for purposes of our
21 discussion, we are talking about an unbundled loop, a
22 loop that runs from a customer premise back to the
23 local exchange company's wire center; is that correct?

24 A Yes.

25 Q And this loop is a voice grade loop?

1 A Well, voice grade frequency, voice
2 frequency. It could be used for data and other
3 things, too.

4 Q Now, earlier in your summary, you had
5 indicated that you did not settle -- had not settled
6 with Sprint-United/Centel because Sprint-United/Centel
7 had only agreed to give two-wire analog circuits; is
8 that correct?

9 A Yes, two-wire special access. That's what
10 they are proposing.

11 Q I'm a little bit confused then, Mr. Devine.
12 Doesn't United/Centel's special access tariff provide
13 service both on a two-wire and a four-wire basis?

14 A Yes, it does offer other services. So I
15 guess if you wanted to technically try to take their
16 special access service and say, "Okay, these are
17 unbundled loops" -- I guess my statement is really in
18 the context of special access and private line are not
19 unbundled loops. I said two-wire specifically, but we
20 never had many discussions on unbundled loops because
21 they really didn't want to talk about them. So we
22 didn't get too far with them.

23 Q Well, what I'm confused about is haven't you
24 settled with GTE on the basis of their special access
25 tariff for two-wire and four-wire?

1 A No. There's not reference at all about
2 their special access tariff and our agreement with
3 them at all.

4 Q I thought the price that you're willing --
5 or that they want to have paid for that is the special
6 access price.

7 A That's the price they want to charge, but we
8 didn't agree on price.

9 Q Well, let me ask you about the difference
10 between a two-wire analog voice grade channel that is
11 for the local loop and for special access. What is
12 the difference between the two loops, if you know?

13 A Well, there is a lot of engineering and
14 operational differences. You know, one of the key
15 issues that we saw as a huge problem in New York when
16 we were getting private lines instead of unbundled
17 loops --

18 Q If you'll just answer my question?

19 A Sure.

20 Q I asked you what the technical difference
21 was.

22 A I'm going to get to that as part of my
23 answer.

24 Q Well, let me ask the question in the terms
25 of what are the differences?

1 A There's differences in terms of testing,
2 maintenance and monitoring.

3 Q Is there additional equipment on a special
4 access circuit that's not on a voice grade local loop?

5 A Yes. In terms of testing and monitoring and
6 maintenance, there is.

7 Q Are you saying that --

8 A The mean time to repair in terms of repair
9 of a circuit. A special access private line usually
10 is repaired in a matter of hours, whereas dial tone
11 usually -- LECs guarantee, like a day, or so, which is
12 a critical part of the service.

13 Also, some other technical differences are
14 when you go to -- if you are going to use special
15 access or private line, if you're going to go install
16 a circuit, it requires a lot more installation and
17 care with the order in terms of the CABS, PC exact,
18 ASR process. We get circuit design layout records
19 with special access circuits. You don't get those
20 with unbundled loops.

21 So there's a lot more engineering and
22 infrastructure involved with the ordering, the order
23 flow. A lots of LECs even offer on-line trouble
24 tickets for special access. For instance, what NYNEX
25 does is, if I want to enter a trouble ticket for a

1 special access circuit, I can do it on line and get
2 the status of it electronically.

3 Q Well, that's all very interesting as to what
4 other companies do. Do you know how
5 Sprint-United/Centel provisions special access?

6 A Well, I know Sprint does do the ASR process,
7 and they give circuit design layout records, and I
8 know their mean time repair. We get reports from
9 Sprint on a monthly basis, our quality assurance
10 group. And the mean time to repair is a lot different
11 on a special access circuit than on a dial tone
12 circuit.

13 Q Well, a dial tone circuit today currently
14 runs from the Sprint switch out to the customer
15 location; isn't that correct?

16 A Yes.

17 Q And when you want an unbundled circuit, you
18 don't want it to run through the Sprint-Centel switch,
19 do you?

20 A No, we don't want it to go through the
21 switch. Yes, that's correct.

22 Q You want it to be provisioned different than
23 the local loop is today; isn't that correct?

24 A No. We just want to connect at your main
25 distribution frame. We've done this with other LECs,

1 and all we do is we'll have prewire --

2 Q Please, Mr. Devine, I don't care what you
3 have done with other LECs; I want to know what you are
4 going to do with Sprint-United/Centel.

5 MR. RINDLER: Madam Chairman, I think that
6 the witness has a right to explain his answers.

7 MR. FONTS: But this is extraneous.

8 CHAIRMAN CLARK: Just a minute. I agree
9 with that, Mr. Rindler; but I would appreciate it,
10 Mr. Devine, if you would answer the question and keep
11 your explanations as succinct as possible.

12 Go ahead, Mr. Fons.

13 Q (By Mr. Fons) Let's just talk about a local
14 loop. Are you familiar with the term proprietary
15 interface?

16 A Yes.

17 Q And what does that mean to you, Mr. Devine?

18 A It would be an interface that's nonstandard
19 in terms of, maybe, a standard in the industry.

20 Q Okay. And "proprietary," could that mean
21 that the remote location and the switch talk directly
22 to one another and that the facility does not go
23 through the main distribution frame?

24 A There could be in very limited examples
25 where there might be a T1 circuit that goes from the

1 switch directly to a digital loop carrier in a
2 building. And in the case of -- I know of BellSouth,
3 that they could be different than Sprint-United, as
4 you've mentioned a few times.

5 BellSouth said that only about --

6 MR. FONS: Madam Chairman, I would ask that
7 the witness be instructed not to be bringing up other
8 companies. I want to talk about Sprint-United/Centel,
9 and I've asked him specifically about
10 Sprint-United/Centel.

11 CHAIRMAN CLARK: Mr. Fons, it seems to me if
12 he wants to make that comparison for purposes of
13 illustration, he can do that. But again, Mr. Devine,
14 please keep your answers succinct. Go ahead.

15 A BellSouth, in the loop case with them, they
16 said that they only use digital loop carriers in the
17 instance that you referenced for 1% to 2% of their
18 loops throughout the whole state of Florida. So it's
19 a rare instance.

20 Q (By Mr. Fons) For BellSouth. Do you know
21 what the rareness is or lack of rareness for
22 Sprint-United/Centel?

23 A No, but the BellSouth numbers are consistent
24 with other LECs in other states.

25 Q Can you tell me what it is for

1 Sprint-United/Centel?

2 A No. I don't know exactly what it is for
3 Sprint in Florida. I can't see why it would be any
4 different though.

5 Q Well, we'll get to that in just a bit.
6 Assume that it is different. Assume that's it's 20%
7 to 25% of the local loops on proprietary interface.
8 Won't that mean that 20% to 25% of the loops would
9 have to be provisioned to you in a manner different
10 than giving it to you off of the main distribution
11 frame?

12 A I don't know how Sprint engineers in those
13 instances, if they strip off circuits or not, so I
14 don't know how they actually do it.

15 Q Well, if it's a proprietary interface, that
16 means that digital loop carrier can only speak to the
17 switch, doesn't it?

18 A It may or may not,

19 Q Isn't that what "proprietary" means, that
20 it's nonstandard?

21 A Yes, it means nonstandard; but there's a lot
22 of technical ways to do a lot of different things.

23 Q These technical ways require some changes in
24 the central office, do they not?

25 A Yes, in terms of a loop, if a loop is -- if

1 we want to get an unbundled loop on a voice grade
2 level and connect to it, and if the building is only
3 served through a digital loop carrier so there's no
4 other facilities, then MFS and Sprint would have to
5 overcome that.

6 GTE and MFS acknowledge that that's
7 something we have to overcome, and we've done it with
8 NYNEX in New York. And I imagine we can overcome it
9 with GTE and Sprint here in Florida.

10 Q And there's no question -- I'm not
11 suggesting by my questions that it can't be overcome,
12 what I'm asking you is whether or not there is a cost
13 associated with doing that?

14 A Yes. I imagine there's a cost with doing a
15 lot of things.

16 Q And is there an engineering solution to
17 this?

18 A Well, we didn't get to the length of
19 discussions with Sprint with loops. They didn't want
20 to talk about loops, so we didn't get to the point to
21 talk about this particular issue.

22 Q If the facility that we are talking about,
23 the loop that you want is in a T1 carrier over fiber
24 and its primary interface is with the switch, wouldn't
25 it require a separate facility to be run from the

1 customers serving remote back to the switch in order
2 for it to be put on the main distribution frame for it
3 to be delivered to MFS?

4 A No. It would not have to go through the
5 switch. It could go through a digital cross connect,
6 or in the case of BellSouth, they gave me a proposal
7 of that when they had digital loop carriers that I
8 could connect on a DS1 level to their digital loop
9 carrier in the central office. So there are ways to
10 overcome this issue.

11 Q Have you reviewed witness Sandra Khazraee's
12 testimony in this proceeding?

13 A Yes, I have.

14 Q And did you review the composite exhibit to
15 her testimony?

16 A I mean, I read through her whole testimony.
17 I don't have it in front of me. If you'd like to ask
18 me a question, I'd like to see it. (Witness handed
19 testimony.)

20 Q Are you familiar with that document?

21 A Yes, I remember seeing it.

22 MR. FONTS: Maybe what we ought to do at this
23 point, Chairman Clark, is to pass this out and have it
24 marked as an exhibit. I know it will be out of
25 sequence with Ms. Khazraee's testimony, but I want to

1 use this with this witness.

2 CHAIRMAN CLARK: Thank you.

3 MR. RINDLER: Madam Chairman, I'm a little
4 confused. Is Mr. Fons passing this out for it to be
5 marked and entered through this witness as an exhibit?

6 CHAIRMAN CLARK: As I understand it,
7 Mr. Rindler, he would like to ask this witness
8 questions about this exhibit.

9 Is this the total exhibit attached to her
10 testimony?

11 MR. FONTS: It is, Chairman Clark.

12 CHAIRMAN CLARK: We will go ahead and mark
13 composite exhibit of Sandra Khazraee as Exhibit No. 6.

14 (Exhibit No. 6 marked for identification.)

15 Q (By Mr. Fons) Would you turn to Page 1 of
16 this exhibit?

17 A Yes.

18 Q And would you describe this as a traditional
19 local loop provision?

20 A Yes.

21 Q And this has the end user premise on the
22 left-hand side and the copper loop that comes into a
23 main distribution frame in the central office; is that
24 correct?

25 A Yes.

1 Q And under this scenario if the loop is
2 unbundled, it's provided by a jumper or a tie cable to
3 MFS which is described on here as the CLEC?

4 A Well, actually, you have the jumper and the
5 tie cable. The jumper takes the wire from the
6 interface on the MDF down to the interface where MFS
7 has its tie cables. And then the tie cable takes it
8 from the MDF back over to the MFS equipment.

9 Q Okay. And likewise, will you look at Page 2
10 of -- I believe it's seven pages. Again, here you are
11 using a T1 from a universal digital loop carrier
12 remote terminal back to the central office. And in
13 that situation at the central office, there is a
14 terminal that interfaces with the DLC; isn't that
15 correct?

16 A Yes.

17 Q And in that case again, there would be a
18 jumper from that interface to the main distribution
19 frame and then delivery over a tie cable to the CLEC
20 which would be, for instance, MFS?

21 A Yes.

22 Q And look at the third situation. And this
23 involves a proprietary direct interface which we were
24 talking about earlier. Here under the proprietary
25 direct interface, the copper loops go to the DLC

1 proprietary interface, transit to the Sprint central
2 office over a T1, and are delivered directly into the
3 switch without going through the main distribution
4 frame; isn't that correct?

5 A In one of the diagrams, or one of the parts
6 of the diagram, that's what your shown.

7 Q Right. And the separate line which is from
8 the end user premises to a carrier system, to a
9 carrier system, that would be the way that you would
10 have to provision the service from the end user in
11 order to deliver it to MFS. Isn't that correct?

12 A That could be one of the ways to do it, yes.

13 Q Okay. So in that situation, you couldn't
14 use the same facility that goes from what we will call
15 the remote back to the central office. You would have
16 to use a separate facility and two separate carrier
17 systems, wouldn't you?

18 A Well, MFS could connect a DS1 to the digital
19 loop carrier.

20 Q Where would you make that connection?

21 A Well, all you'd have to really do is you
22 could take the digital loop carrier -- and this is
23 what BellSouth proposed to do if we wanted to take a
24 DS1 to a digital loop carrier -- you show this line
25 going from the digital loop carrier right into the

1 switch.

2 I've worked in engineering and operations
3 enough to know that that DS1 is going to go through a
4 DSX1 which is like a cross connect, a manual
5 cross-connect device at the wire center. So what you
6 could do is just have that DS1 that's coming from the
7 digital loop carrier in the foreign building, have
8 that DS1, it's going to go into a DSX, and just cross
9 connect that DS1 over to MFS' equipment so MFS would
10 be provided loops in that case. We'd have to connect
11 to at least 24 loops and pay for 24 to that location.

12 Q Suppose it's a fiber facility?

13 A Well, you are not going to have fiber going
14 right into your switch. They are going to have just
15 electrical interfaces on the switch. You're not going
16 to have fiber going into the switch.

17 Q And that would be at the DS1 line interface?

18 A Well, you are going to have a DS1 line
19 interface on the switch, but before it gets to the DS1
20 line interface, it's standard industry practice that
21 DS1s go through DSX1s, which is just -- I mean, it's a
22 panel like this with cross connects and wires in the
23 back. As a standard practice, this DS1 is also going
24 to hit a DSX cross connect. You know, you have 66
25 blocks in buildings, little plastic blocks with wires.

1 Q Yes.

2 A Think of it as a DS1 block for DS1s to
3 connect to each other.

4 Q But you couldn't strip off a single line for
5 a single loop, would you? You'd have to take off more
6 than just a --

7 A You would take off a full DS1.

8 Q A full DS1?

9 A Yes.

10 Q 24 loops?

11 A Yes.

12 Q Suppose you just had one customer that you
13 wanted to have served at that end user premises that
14 was coming across on that facility, you would buy and
15 pay for a DS1?

16 A Well, you could do it two ways. I mean, you
17 could --

18 Q Just answer my question. Under that
19 situation you would still pay for a DS1? Yes, if it
20 only went through a DSX. But the other alternative is
21 that you could use a digital cross-connect device. A
22 digital cross-connect device takes -- you have the
23 manual DS1X that just does DS1 by DS1. If you have a
24 DS10 DACs, you could have DS1 connection to MFS
25 through that DACs, but within the DACs, you can

1 channelize those 24 channels into individual channels.
2 Therefore, you could peel off one DSO channel or one
3 voice grade channel and send that to MFS. And the
4 other 23 you would sent to the LEC switch. Most LECs
5 have digital cross connect in all their central
6 offices.

7 Q Assume for the moment that
8 Sprint-United/Centel do not have that piece of
9 equipment, would that mean in order to provision the
10 facility to MFS that Sprint-United/Centel would have
11 to go purchase another piece of equipment?

12 A As using that method to solve the problem,
13 yes, that would be one of the options.

14 Q And that would be an additional cost to
15 providing an unbundled local loop, wouldn't it?

16 A Yes, it could. There are a lot of users for
17 a digital cross connect, and I'd be surprised if they
18 don't have them in every one of their end offices.
19 I'd be very, very surprised. That's standard practice
20 for local exchange carriers.

21 Q But you don't know how Sprint-United/Centel
22 are provisioning their services today?

23 A I know in terms of their standard practice.
24 I've actually been in two Centel central offices,
25 Sprint-Centel central offices, and I actually hired a

1 product manager from Centel who worked for me for
2 three years. And in my discussions with him and my
3 observations --

4 MR. FONS: I'm going to object to that,
5 that's hearsay, Commissioner Clark.

6 CHAIRMAN CLARK: Mr. Fons, I think we allow
7 the admission of hearsay. I'm going to allow the
8 witness to finish his answer, and we will accord it
9 the weight that is appropriate.

10 Go ahead, Mr. Devine.

11 A Thank you. All I'm saying is that based on
12 my previous experience with Sprint-Centel, that they
13 abide a by standard industry practice that would
14 generally have those capabilities available in a wire
15 center.

16 Q (By Mr. Fons) But that's purely an
17 assumption on your part?

18 A Yes, in terms of not knowing exactly every
19 Sprint wire center within the state of Florida. I do
20 not know personally how every wire center they have
21 configured.

22 Q Now, you testified in your direct testimony
23 at Page 21, Line 16. Do you have that?

24 A Yes, I'm looking at it now.

25 Q Now, you say there that

1 "Sprint-United/Centel should permit any customer to
2 convert its bundled service to an unbundled service
3 and assign such service to MFS-FL, with no penalties,
4 rollover, termination or conversion charges to MFS-FL
5 or the customer." Is that correct?

6 A Yes.

7 Q And I believe you testified in response to
8 some questions from GTE that if there are indeed
9 additional costs associated with that conversion, that
10 MFS would pay those costs. Is that correct?

11 A Well, we talked with regard to rollovers. I
12 said if there were a rollover, that we would pay for
13 the administrative cost of the -- it would be the
14 jumper cable on the MDF and the service order charge.
15 So if there is a service order charge and then a
16 charge to do the jumper, yes, we would pay for that.
17 And we figure that would be part of the direct cost of
18 providing that service.

19 Q Direct cost of providing what service?

20 A The unbundled loop. Because without having
21 this thing connected, you can't have telephony.

22 Q So if we built in the cost of all of these
23 cross connects, jumpers, etcetera, into the unbundled
24 local loop, you would be paying for those whether you
25 needed them or not?

1 A No. We would pay for them as we used them.

2 Q So you would have a separate charge then for
3 the cross connect, jumper, etcetera?

4 A Well, states do it differently. In some
5 states the loop cost could recover --

6 Q Mr. Devine, I've asked you would you pay for
7 these additional facilities on a per use basis.
8 That's all I'm asking you.

9 MR. RINDLER: Madam Chairman, how is he
10 going to answer that if he doesn't talk about where
11 he's doing it. Is this a hypothetical question?

12 CHAIRMAN CLARK: Mr. Fons.

13 MR. FONTS: It's not a hypothetical question.
14 I've asked him a very simple question. There has been
15 a predicate laid for this, and the predicate was yes
16 there would be additional costs. I asked him whether
17 he wanted that folded into the cost of the local loop
18 so he would pay for it every time whether he used it
19 not, he said no. We will pay for it as we go whether
20 we needed those facilities. And I've asked him in
21 that situation -- now I've even lost where the heck it
22 is.

23 CHAIRMAN CLARK: Would he pay for it
24 separately.

25 MR. FONTS: Pay for it separately.

1 A Yes. There's two ways that it could be
2 done, either the jumper and the wiring between the
3 CLEC equipment and the main distribution frame is done
4 with an up-front charge for the wiring, or it's as a
5 separate unbundled cross-connect fee, or it's loaded
6 into the loop. I mean, there's different ways you
7 could do it. It's been done differently in different
8 states.

9 Q (By Mr. Fons) Where is that covered in your
10 proposed Florida Co-carrier Stipulation and Agreement
11 under unbundling?

12 A It would be in the same section we talked
13 about earlier.

14 Q The one where you would file a written
15 request with the Commission?

16 A No, no.

17 Q Well, where? I don't see it.

18 A I'll find it for you. If you look on Page
19 23, at Section 8, under A, I talk about a link
20 element, plus cross-connect element; and a port
21 element, plus cross-connect element.

22 Q Where does it is say about paying for the
23 jumpers?

24 A Well, the cross connect gives you the
25 capability of going from MFS' point of termination at

1 the collocation site, whether it be virtual or
2 physical, over to the main distribution frame or
3 interface to the LEC provided service, be it DS1 or
4 unbundled loop, or whatever it is.

5 Q Where does it say in here that MFS would pay
6 for a DSX cross connect?

7 A We'll pay for it. I mean, we say in here in
8 Section 8A that we want them unbundled in that manner.
9 I mean, we say link plus cross-connect element, so --
10 I mean, we'll pay to do it. We do in other
11 states. It seems fair and reasonable.

12 Q Can the cross-connect element be the main
13 distribution frame?

14 A The cross-connect element is usually from my
15 point of termination, or POT bay as people in the
16 collocation environment refer to it as. So my demark
17 point to the location that defines whatever service.

18 So, normally, what it would be would be the
19 cable between the main distribution frame and the CLEC
20 equipment in your diagram of Sandra Khazraee, Page 3
21 of 7, or Page 1 even. It's the tie cable -- it's how
22 you define it as the tie cable in Diagrams 1 and 2,
23 the tie cable. That's the cross connect. That's what
24 we are talking about.

25 Q Okay. When a special access local loop is

1 provisioned, isn't that provisioned in the same manner
2 it comes from the customer's premise and terminates on
3 the main distribution frame?

4 A Like a DS1? You mean a DS1 special access
5 like we do now with Sprint?

6 Q Yes.

7 A Well, it wouldn't go to necessarily a main
8 distribution frame. There would be MFS' virtual
9 collocation equipment in the wire center, and there
10 would be a DS1 from our equipment to a DSX somewhere
11 in the wire center.

12 Q It would look pretty much like what we've
13 described here as far as providing an unbundled loop
14 to MFS, wouldn't it?

15 A It would be the tie cable. Generally, yes.
16 Generally, yes, it would look similar.

17 Q And for a two-wire analog voice grade
18 special access, isn't that the way it would be
19 provided to the main distribution frame?

20 MR. RINDLER: Mr. Fons, when you're saying
21 that, could you get us back to the exhibits, which one
22 of the 7 diagrams he's talking about.

23 MR. FONS: I'm talking about Page 23 of his
24 Proposed Florida Co-carrier Stipulation and Agreement.

25 Q (By Mr. Fons) You talk about a two-wire

1 analog voice grade service.

2 A An unbundled loop, not a special access
3 circuit.

4 Q But a special access service would be
5 provided in the same fashion, wouldn't it?

6 A No. Generally, the special access circuits
7 go to a frame that has integrated monitoring
8 capability, whereas unbundled loops generally don't go
9 to that inboard integrated monitoring capability.

10 Q Are you suggesting that --

11 A That's how Centel does it in other COs I've
12 seen.

13 Q Well, let me just ask you. In the case of
14 an unbundled local loop, are you saying that
15 United/Centel will not have the capability of
16 monitoring that loop from the central office out to
17 the customer's premise?

18 A The way Centel proposes, the way Sprint
19 proposes to offer unbundled loops through special
20 access, they would have that capability. We're not
21 asking for that capability. And in the GTE agreement,
22 GTE agreed that MFS was going to be responsible for
23 that monitoring and testing.

24 Q If Sprint-United/Centel -- if there's a
25 problem on the circuit, won't it be necessary for

1 United/Centel to monitor that circuit and test it all
2 the way back to the customer's premise?

3 A No. You don't need to do that until we call
4 you. You see what happens is we're going to have part
5 of -- in your diagram, if you look at Diagram 1 of 7
6 in terms of the CLEC equipment, MFS and GTE agreed
7 that MFS would put digital loop carriers in that
8 location. And then a copper cable is going to go into
9 the output of the digital loop carrier.

10 Since we are going to have a digital loop
11 carrier at the wire center, the same place where your
12 testing equipment would be for special access, it
13 doesn't make sense for you to also go through the
14 pains of having the testing and monitoring. We could
15 test from Dallas or New Jersey remotely, that digital
16 loop, as well or better than you could. It has
17 inboard testing capability to test and do maintenance
18 on the loop just as well or better than Sprint can on
19 that same loop.

20 So we would not call you until we performed
21 monitoring and testing all the way down to the
22 customer premise. And if we narrowed it down and
23 realize it's not a customer premise equipment problem,
24 because we'd sent a tech out there and see, okay, it's
25 not a customer premise equipment problem, it's not in

1 our network, we did testing from our digital loop
2 carrier in the wire center to the customer premise.
3 We identified the loop as broken. It's cut in two, or
4 we're having loss of signal. And then we would call
5 you; we would give you the testing results.
6 Therefore, you could narrow down the work that you
7 would have to do, and we would be lowering the cost
8 for MFS, the customer and Sprint. That's the
9 objective.

10 Q But wouldn't Sprint-United/Centel have to
11 also test that circuit in order to locate where the
12 problem was and to make sure that the problem did, in
13 fact, exist because you are looking to them to take
14 care of it, aren't you?

15 A They would not need to test to the same
16 extent they test special access circuits, and that's
17 what we're getting at. They would, after we identify
18 and trouble isolate the problem. Then they'll get
19 their manual test equipment and find out if it's in
20 the wire system on the MDF, if the MDFs bad, or it's
21 on the terminal equipment going out of the building.

22 I mean, at that point we are going to give
23 you the testing equipment that trouble isolates the
24 poor responses of the three or four standard tests
25 that happen in the industry. We are going to give you

1 the results. You'll take those, and then you'll
2 further identify within the loop where the problem is,
3 so --

4 We are going to assume some testing that
5 normally you wouldn't assume, and that's why GTE
6 required us to put in their agreement with them that
7 we were going to do testing. And if you look in the
8 agreement in the unbundled loop section, it says MFS
9 is required to do testing with our digital loop
10 carrier.

11 Q Suppose there was a cable cut?

12 A Okay.

13 Q And Sprint-United/Centel had to go out and
14 repair that cable cut. Wouldn't they have to be able
15 to test back in both directions from that cut to the
16 customer premise and to the switch in order to make
17 sure that there was continuity and that the circuit
18 was working again? And wouldn't they need to have a
19 spot in the central office to do that testing?

20 A Yes. But if there's a cable cut, you are
21 talking about effecting customer traffic a lot more
22 than just a loop. And you'd have different equipment
23 being used that Sprint needs anyway to test cable
24 cuts, and that equipment has nothing to do with the
25 kind of testing that we would do to replace the voice

1 grade level testing that Sprint normally does on
2 special access circuits. So we are really talking
3 apples and oranges at that point.

4 Q Now, you've indicated one reason why you
5 don't want private line and special accesses, because
6 they have additional performance standards that are
7 not necessary for the delivery of POT service. What
8 are these additional performance standards?

9 A Well, I mentioned some of them earlier. But
10 if you start from the whole flow of an order for a
11 special access and private line, it's standard in the
12 industry that everybody uses the ASR process, which is
13 the access service request process, which is
14 standardized for special access. That can often be
15 done electronically by PC Exact, which is an
16 electronic software program on a PC that sends the
17 orders through. Oftentimes you can get a status of
18 those orders.

19 You also get from the LEC a customer
20 designed layout record which is very standard for
21 special access circuits which gives me a record that I
22 put in my database that says how the LEC designed the
23 circuit. It would be similar to what you have in
24 these exhibits of Sandra Khazraee, that I would have a
25 design layout record of my database with the detail.

1 I'm also going to have mean time to repairs
2 in terms of how fast the circuit is going to get
3 fixed, a lot faster than an unbundled loop. Normally,
4 with LECS it takes around -- you know, they don't
5 guarantee more than like a day or so to fix, for
6 instance, a residential dial tone service. With DSO
7 special access circuits, generally you are talking a
8 matter of hours. Our national average is four hours
9 for DSO circuits. I'm sure Sprint is a lot better
10 than that, but we have a lot of problems in, like,
11 NYNEX in some other states.

12 And also, in terms of monitoring of the
13 circuit, as we talked about earlier, there's
14 integrated monitoring capabilities within the special
15 access circuits in the central office that come along
16 with it.

17 Q So that makes it a pretty high grade
18 facility, doesn't it?

19 A Yes. A special access circuit is generally
20 considered a higher grade of service than a typical
21 dial tone loop, that is correct.

22 Q And in its provisioning, tell me what a
23 "special access circuit" means to you?

24 A In terms of --

25 Q Is it a circuit that ends in the central

1 office, the serving wire center, or is the special
2 access circuit generally one that goes from that
3 serving wire center to somewhere else?

4 A It generally is just one end of the circuit
5 so the other end may go to an interexchange carrier or
6 to another customer premise, back out of the wire
7 center with another channel termination. Or it could
8 have interoffice mileage, plus an additional channel
9 termination. It really varies upon the instance.

10 Q Right. But if you are only ordering the
11 local loop portion of the special access, that would
12 terminate in the central office, wouldn't it? And you
13 can't order that out of the tariff; you can just order
14 a local channel, can't you?

15 A If I'm just ordering a special access. So
16 if I have collocation as you described in this Diagram
17 1 of 7, I have my MFS equipment at the central office,
18 yes, I would just be buying a channel termination from
19 Sprint. But, ultimately, I would be connecting that
20 to other network components onto a carrier or another
21 customer.

22 Q Right. But you would be doing that.
23 Sprint-United/Centel would not?

24 A That's correct.

25 Q So you could do that with an unbundled local

1 loop or a special access local channel; isn't that
2 correct?

3 A Well, we would not want to use an unbundled
4 loop to do something like that. We have customers,
5 like Cotran and Royters, who provide financial data to
6 their customers that trade over the exchanges, the
7 stock exchanges. And they would not except the
8 integrity of an unbundled loop to be used for their
9 high performance voice and data needs.

10 Q Is that because there's additional equipment
11 on a special access local loop?

12 A Well, you get all the additional benefits
13 that I mentioned earlier.

14 Q I asked the question, is there additional
15 equipment on the special access local loop?

16 A On the loop itself from the wire center to
17 the customer?

18 Q Yes.

19 A There may or may not be depending on how
20 Sprint has circuits configured. If you have it
21 configured with a digital loop carrier, generally not.
22 There are digital loop carriers that handle special
23 services, special access, private line and dial tone.
24 It really depends what equipment you are using in that
25 particular CO.

1 Q Which is also true the way you'd do a local
2 group itself, a voice grade bundled local loop. It
3 will depend upon where the customer is located?

4 A It depends upon the type of equipment you
5 have for that wire center and for that building.
6 That's why I made the statement earlier that while
7 digital loop carriers are being used, it's generally
8 the home run from the switch to the wire center, or
9 from the switch to the customer premise is not as
10 prevalent as one might think. It's the direction we
11 should all go to, but we're just not there yet.

12 Q But in any event, in that situation, a
13 special access local loop and an unbundled local loop
14 for providing voice grade business or residential
15 service would look exactly alike?

16 A If they are both on a digital loop carrier?

17 Q Yes.

18 A From the technical integrity, yes, it should
19 be. But then you are missing the design layout
20 records and all those other items that I discussed
21 earlier in the ASR process of things.

22 Q But those additional goodies don't affect
23 the transmission quality of the local loop, do they?

24 A In the instances where they are all on the
25 same digital loop carrier, it should not.

1 Q And as far as you are concerned, you could
2 get the special access local loop, but say I don't
3 want all those goodies. Isn't that correct?

4 A What do you mean? You just said if they are
5 all on a digital loop carrier.

6 Q But I thought you told me that there were
7 provisioning, there were layout records, things that
8 you don't need for an unbundled local loop that you
9 get with a special access local loop.

10 A Okay.

11 Q And can't you just tell Sprint-United/Centel
12 I don't want those additional items; they are just
13 cluttering up my office?

14 A Yes. And if I don't need those, I don't
15 want to pay for them either, the extra monitoring and
16 things like that.

17 Q What's the tariffed rate for a special
18 access local loop in the Sprint-United tariff?

19 A A two-wire circuit?

20 Q Yes.

21 A I believe around 19-something. \$19, \$20.

22 Q \$19.05. Would you accept subject to check?

23 A Yeah, 19.05.

24 Q And you have seen the cost data that has
25 been furnished by United/Centel. Have you not?

1 A Yes, I've seen -- There's not been a lot,
2 but I've seen some, yes.

3 Q But you have seen their TSLRIC for a local
4 loop, have you not?

5 A Yes, if that's the special access study.
6 That's what the study was for, special access private
7 line, I believe.

8 Q I'm not sure that I would characterize it.
9 It was done for the special access private line. It's
10 a loop study.

11 A They say it's their unbundled loop study,
12 but it was a study done for special access private
13 line, as I understand the study.

14 Q And upon your knowledge of what's included
15 in that price -- I'm sorry, the cost for that local
16 loop, would you say that the price in the
17 Sprint-United/Centel tariff for special access is
18 twice as high as the cost?

19 A No. I was very surprised at the cost. But
20 if there was special access -- I mean, there wasn't an
21 adequate amount of detail to really understand what I
22 was getting for that. But if Sprint's cost, they're
23 saying for a, quote/unquote, their interpretation of
24 an unbundled loop are those costs, they are
25 significantly higher than what I saw in the GTE cost

1 study and also compared to what I've seen in other
2 states where I've seen cost studies.

3 Q Mr. Devine, just assume that those are the
4 costs. And I've asked you the question: That price
5 that United/Centel has filed in its tariff is not
6 twice as high as the cost, is it?

7 A No. I think it's just off by a few dollars
8 maybe. There wasn't very much of a difference.

9 Q Okay. So there's not much of a difference
10 between the price and the cost?

11 A According to Sprint.

12 Q Okay. Let me ask you about another area
13 where there might be some confusion. And that is on
14 the collocation of what I will call the concentrator
15 equipment, line concentration equipment, don't you
16 indicate in your testimony that you want to collocate
17 line concentration equipment?

18 A Digital loop carriers in the wire center,
19 yes.

20 Q That would be in the wire center heading
21 into which direction, would the concentration be
22 going? Back towards the customer premise, or to the
23 MFS facilities?

24 A The concentration function would be going
25 back towards the MFS network.

1 Q So you are not asking to and you've not
2 requested of Sprint-United/Centel for the collocation
3 of any MFS equipment out in the local loop?

4 A No. If Sprint allows us to put digital loop
5 carriers in the central office, then we'll perform
6 that concentration.

7 Q And where would they be collocated, or where
8 would they be located in the Sprint central office?

9 A Either through virtual or physical
10 collocation.

11 Q Just as you are collated with
12 Sprint-United/Centel today, you'd put it in the same
13 cabinet or the same cage?

14 A Yes. It would be in the same cage on a rack
15 next to our other equipment.

16 Q I'm going to ask you a question that you
17 were examined by GTE on. And the only reason I'm
18 going to ask you these questions was that when
19 Mr. Gillman started his cross examination, he said
20 that these questions only apply to GTE, and I need,
21 therefore, to ask you the same questions.

22 You stated on Page 12 -- I'm sorry that is
23 not the right -- let's go to Page 24 of your direct
24 testimony. Beginning at Line 12, you say:
25 "Therefore, the Commission should adopt two additional

1 pricing guidelines to prevent such discrimination:
2 First, the sum of the prices of the unbundled rate
3 elements (link, port and cross-connect) must be no
4 greater than the price of the bundled dial tone line."

5 And I believe you indicated in your response
6 to the question concerning that similar testimony in
7 your direct testimony in the GTE proceeding that the
8 price should not -- the price of the unbudgeted
9 element could exceed the price of the bundled dial
10 tone in those situations in which the price of the
11 bundled dial tone is below incremental costs. Isn't
12 that correct?

13 MR. RINDLER: Is the question whether or not
14 that's what he said, correct?

15 MR. FONS: Is that what you said?

16 WITNESS DEVINE: It sounds like what I said,
17 but why don't I just clarify. In Florida based on a
18 price cap for local service, if the price of local
19 service for, let's say, residential service, if it's
20 priced below its cost, let's say below its LRIC, then
21 it would make it difficult for the link, port and the
22 cross-connect, in total, if they are all priced at
23 their LRIC to be less than the total. So we just want
24 the loops priced at LRIC. Does that sit with what you
25 are asking then?

1 Q That is what I was asking about. It
2 certainly should not be priced no greater than the
3 bundled local rate. Let me try that again.

4 You are saying that if the price of the
5 TSLRIC is higher than the bundled dial tone price,
6 then the price of the unbundled local loop could
7 exceed the price of the bundled dial tone line?

8 A That could possibly happen.

9 Q How about here in Florida?

10 A Excuse me?

11 Q How about here in Florida? Won't it happen?

12 A Well, it may not in, let's say, residential
13 service in Tampa, let's say. Let's say if the LRIC is
14 \$7 for a loop and a port is, you know, \$2 and it cross
15 connects \$1, then you would meet this principle, I
16 believe, based on GTE's residential dial tone price
17 for bundled service and if you had, let's say, zone
18 density loop pricing.

19 Q Why don't we just stick to
20 Sprint-United/Centel.

21 A Well, the same thing would apply for
22 Orlando.

23 Q Are you suggesting then that the prices for
24 the unbundled local loops should be geographically
25 de-averaged?

1 A Yes, based on density. And it seemed that
2 Ben Poag talks a lot about that in his testimony, too.

3 Q Have you asked for a geographic de-averaging
4 of the unbundled local loop in this proceeding?

5 A Yes.

6 Q Where have you asked for that?

7 A In my rebuttal testimony.

8 Q Whereabouts in your rebuttal testimony?

9 (Pause)

10 A I'm fumbling through here, but I
11 reference -- because Ben Poag talked about high
12 density and low density in his testimony, and we
13 referenced it in here, I'm pretty sure.

14 CHAIRMAN CLARK: Have you found it,
15 Mr. Devine?

16 WITNESS DEVINE: No, but I know I have it
17 with GTE, and I swear -- I'm just looking.

18 I'm still looking. But to the extent that
19 we talked about costs, that based on costs -- and the
20 costs are different in different zones -- and Ben Poag
21 talked about it in his testimony, so we are talking
22 about loops being priced at cost. And if a high
23 density area has lower costs, if the loop price were
24 the same for a statewide average, the price would
25 exceed it. So in that context -- (long pause)

1 I'm trying to find the exact reference. I
2 know I talked about it in the GTE. I just don't know
3 why I can't find it in here.

4 Q (By Mr. Fons) Well, let's move on. Let me
5 ask you about the TSLRIC studies.

6 A Okay.

7 Q Okay. You were asked some questions about
8 GTE about TSLRIC studies. And I believe the questions
9 concerned what was included in the direct costs of a
10 TSLRIC study. And I believe you said the cost of
11 capital and investment; is that correct?

12 A Of capital and money, yes, I said that.
13 Capital and money investment.

14 Q And I believe that you also indicated that
15 you equated the cost of capital and cost of money in
16 investment to profit?

17 A Yes.

18 Q On what do you base that?

19 A The cost studies I've seen from other LECs,
20 those are components in there that they derive their
21 profit from their business.

22 Q Isn't cost of capital a cost?

23 A It's a cost, but depending on how they apply
24 that for their investment, that can derive some profit
25 for them. And I know it's in cost studies I've seen

1 in some other states. LECs have contended that.

2 Q You're not an economist are you, Mr. Devine?

3 A No, I'm not.

4 Q I mean, this is just a layman's idea?

5 A This is my interpretation of costing and
6 cost data that I've seen. I'm not an economist,
7 that's correct.

8 Q Have you ever performed a TSLRIC study?

9 A No, I have not.

10 Q Who will get the access charges on a loop
11 that is provided by the LEC to MFS on a leased
12 unbundled basis?

13 A If we are purchasing a loop and providing
14 dial tone to a customer?

15 Q You'll get the access charge?

16 A We would get the access charges in most
17 instances, yes.

18 Q And the LEC will no longer get those access
19 charges, either the originating or the terminating
20 access charges?

21 A Yes, that would be correct.

22 Q Can you tell me -- well, let me put it this
23 way. Will you price the access charges that you will
24 be charging the IXCs at TSLRIC?

25 A I don't know what we'll be charging those

1 at. Usually, most services, we provide prices
2 competitive to the LEC, but I don't know. I don't
3 handle pricing issues for the company.

4 Q But you would price those services to the
5 market. Not to only cover TSLRIC; is that correct?

6 A I would think so, but I don't know
7 specifically how we price -- I really don't know any
8 more about pricing than that.

9 COMMISSIONER DEASON: Excuse me just a
10 second.

11 Mr. Devine, the prices for what services,
12 you don't know how they will be determined?

13 WITNESS DEVINE: He was talking about
14 special access prices that we would charge our
15 customers. I would think that how we generally price
16 is competitive with the LEC, so we usual discount off
17 of their prices. But I don't know specifically, you
18 know, how we are going to price each service and how
19 that works.

20 Q (By Mr. Fons) My question was not limited,
21 Mr. Devine, to special access. My question went to
22 all access, both switched and special access. I think
23 your answer to Commissioner Deason was that it was
24 special access when he asked you what access.

25 A All of the prices we charge for, all of our

1 services we always try to price competitively to
2 whoever the other players are in the market. And when
3 I say competitively we try to price less than the
4 other players. Specifically, I mean, I don't know any
5 more specifics than that.

6 Q On Page 14 of your direct testimony,
7 beginning at Line 3, you indicate that "Replication of
8 the existing LEC loop network" -- do you have your
9 direct testimony there?

10 A Yes. What page.

11 Q Page 14. You say that "Replication of the
12 existing LEC loop network would be cost prohibitive.
13 Moreover, competitors cannot obtain public and private
14 rights of way, franchises or building access on the
15 same terms as incumbent LECs enjoy." What's the basis
16 of that statement?

17 A Well, which item? Right of way, franchise,
18 building access?

19 Q "Moreover, competitors cannot obtain public
20 and private rights of way."

21 A I think public and private rights of way is
22 maybe, in terms of the regulations, are being solved
23 now at the state and federal level, so that should
24 become less of an issue. But oftentimes we still have
25 to rely upon the utility, which would be a phone

1 company or an electric company to coordinate those
2 kind of things. And we feel the process moves a lot
3 slower than it should for those kind of things.

4 Q Don't you get your franchises and rights of
5 way, public rights of way from the local government?

6 A Yes. Franchises is a particular thing we
7 feel we're being discriminated against in some
8 markets. It's not Sprint. We're talking about
9 municipalities.

10 Q How about in Florida?

11 A There have been some issues I know in the
12 Miami area in terms of franchise, but I don't actually
13 work in that area. I've just been told by people in
14 that area.

15 Building access is a huge issue. But then
16 again it's generally not a problem with the LEC. It's
17 just a building owner-manager might want to charge us
18 huge fees. They might charge us but not charge the
19 LEC. That is an issue the FCC is addressing, I know,
20 with the rulemaking currently.

21 Q Let's just address local government for the
22 moment.

23 Are you aware that in 1995 the Florida
24 Legislature enacted new telecommunications
25 legislation?

1 A Yes.

2 Q And are you familiar with 364.0361 of that
3 legislation?

4 A I don't have the sections memorized. What
5 section is that?

6 Q Let me just read it to you. "A local
7 government shall treat each telecommunications company
8 in a nondiscriminatory manner when exercising its
9 authority to grant franchises to a telecommunications
10 company, or to otherwise establish conditions or
11 compensation for the use of rights of way or other
12 public property by a telecommunications company."

13 Wouldn't that take care of the so-called
14 inability to get fair treatment?

15 A On the face of the law it looks as though,
16 but still in practice, there's municipalities that
17 interpret that different ways. A lot of time with
18 LECs, what they do is they just get assessed like a
19 big fee for franchise, whereas the municipalities want
20 to charge us a percentage. So there's different
21 methods of how they want to generate franchise fees
22 from us. And that's what sometimes causes some
23 interpretation of differences of opinion of that.

24 Q Are you aware of any instance in the state
25 of Florida since July 1, 1995, where that has happened

1 to MFS?

2 A I've had somebody in our group that handles
3 franchises tell me they are having a problem in an
4 area of Miami. I don't know the exact -- other than
5 what they told me that they were still having some
6 problems. I don't know the specific problem.

7 But when we made the statement we're not
8 saying this is of Sprint, we're just saying it's in
9 the environment that we operate in.

10 Clearly building access has been a huge
11 problem. We have a whole sales force that's in charge
12 of trying to get us access to buildings and it's a
13 huge barrier.

14 Q In your rebuttal testimony, Page 4 you're
15 asked the question, "Does the federal act provide a
16 standard to determine what network elements should be
17 made available?"

18 A What line?

19 Q Line 10 is the question, answer begins on
20 Line 13.

21 A Okay. Yes.

22 Q And you cite 251-D(2).

23 A Yes.

24 Q Do you have Section 251-D(2) in front of
25 you?

1 A No.

2 Q And you're contending that 251-D(2) sets the
3 standards for whom to determine what network elements
4 should be made available?

5 A What we're referencing is the intent. I
6 think that section also gets into things like
7 compensation, but I don't have it in front of me. I
8 think without having it in front of me I don't want to
9 really say anything more than that.

10 Q Does your attorney have a copy of that that
11 he might put in front of you?

12 MR. RINDLER: He's looking. (Pause) (Hands
13 document to witness.)

14 CHAIRMAN CLARK: Is there a question
15 pending?

16 MR. FONTS: Not yet. I wanted him to make
17 sure he had that in front of him.

18 WITNESS DEVINE: Yes.

19 CHAIRMAN CLARK: Go ahead.

20 Q (By Mr. Fons) Isn't the title of that
21 section "Implementation"?

22 A Interconnection.

23 Q Right. The Subsection D that you're citing,
24 251-D(2). And doesn't that section require the
25 Federal Communications Commission to set certain --

1 implement or establish certain regulations within six
2 months?

3 A Yes.

4 Q And that the access standards in determining
5 what elements should be made available for purposes of
6 Subsection C3, the Commission, meaning the FCC, shall
7 consider at a minimum whether -- and then you have an
8 A and a B.

9 A Yes.

10 Q So has the Commission, the FCC, established
11 those standards yet?

12 A No. But what's going on in this proceeding
13 seems to be very consistent with the federal act, and
14 that's the only reason we really mention some of the
15 things about the federal act. I mean, what's going on
16 here is very consistent with what the federal act
17 says.

18 Q You're not saying that the federal act
19 requires this Commission to do anything at this point,
20 are you?

21 MR. RINDLER: Again, with the understanding
22 that the witness is not a lawyer.

23 MR. FONS: He's the one that says the act
24 requires at a minimum, and I'm just trying to find out
25 from him whether he's saying that act requires this

1 Commission to do these things.

2 WITNESS DEVINE: What we're trying to do is
3 put Florida in the context of the federal act. And
4 the state seems to be very consistent, and what's
5 going on here is very consistent with the federal act.

6 And there's other sections of the new law,
7 the federal law, that say, you know, if what the
8 state's doing is consistent then that's fine. They
9 just can't be inconsistent.

10 Q (By Mr. Fons) Is that a yes or a no?

11 A Does this -- the FCC hasn't addressed this
12 yet -- I don't know, can you be specific and repeat
13 the question?

14 Q I will repeat the question. And just answer
15 it yes or no.

16 Does that provision of the act require this
17 Commission, the Florida Public Service Commission, to
18 do anything with regard with unbundling at this point
19 in time?

20 A I don't know.

21 MR. FONTS: I have no further questions.

22 CHAIRMAN CLARK: Thank you, Mr. Fons.

23 We'll go ahead and take a break until 1:45,
24 and then we will reconvene with questions by Staff.

25 (Transcript continues in Volume 3.)