

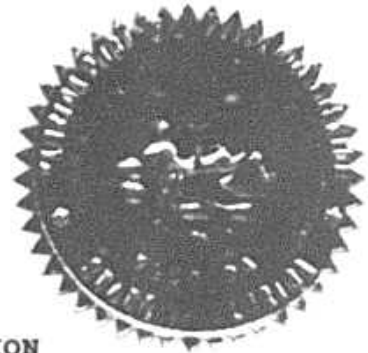
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of: : DOCKET NO. 960838-TP

Petition by Metropolitan Fiber :  
Systems of Florida, Inc. for :  
arbitration of certain terms :  
and conditions of a proposed :  
agreement with Central Telephone :  
Company of Florida and United :  
Telephone Company of Florida :  
concerning interconnection and :  
resale under the :  
Telecommunications Act of 1996. :

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FIRST DAY - MORNING SESSION

VOLUME 1

Pages 1 through 130

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN SUSAN F. CLARK  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER JULIA L. JOHNSON  
COMMISSIONER DIANE K. KIESLING  
COMMISSIONER JOE GARCIA

DATE: Thursday, September 19, 1996

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR  
Chief, Bureau of Reporting  
H. RUTHE POTAMI, CSR, RPR

DOCUMENT NUMBER - DATE

10018 SEP 20 96

FPSC-RECORDS/REPORTING

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5 appearing on behalf of MFS Communications Company,  
6 Inc.

7 J. JEFFRY WAHLEN, Ausley & McMullen, Post  
8 Office Box 391, Tallahassee, Florida 32302, Telephone  
9 No. (904) 224-9115, appearing on behalf of Central  
10 Telephone Company of Florida and United Telephone  
11 Company of Florida.

12 MICHAEL BILLMEIER, Florida Public Service  
13 Commission, Division of Legal Services, 2540 Shumard  
14 Oak Boulevard, Tallahassee, Florida 32399-0850,  
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16 the Commission Staff.

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## WITNESSES - VOLUME 1

1		
2	NAME	PAGE NO.
3		
4	TIMOTHY T. DEVINE	
5	Direct Examination By Mr. Rindler	10
6	Prefiled Direct Testimony Inserted	15
7	Cross Examination By Mr. Fons	116
8		

## EXHIBITS - VOLUME 1

9			
10	NUMBER	ID.	ADMTD.
11			
12	1 Orders for Official Recognition, 960838	9	
13	2 Devine Exhibits 2, 3, 4, 6, 7 from Prefiled Direct	14	
14			
15	3 Devine Exhibits 8, 9, 10, 12 from Prefiled Rebuttal	14	
16	4 Schematic	122	
17			
18			
19			
20			
21			
22			
23			
24			
25			

## P R O C E E D I N G S

(Hearing convened at 9:30 a.m.)

CHAIRMAN CLARK: We're ready to convene the hearing? Would you read the notice.

MR. BILLMEIER: Pursuant to notice, this time and place has been set for the hearing in Docket 960838-TP, Petition by MFS Communications Company for arbitration of certain terms and conditions of a proposed agreement with Central Telephone Company of Florida, and United Telephone Company of Florida concerning interconnection and resale under the Telecommunications Act of 1996.

CHAIRMAN CLARK: Take appearances.

Mr. Fons.

MR. FONS: John P. Fons of law firm of Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302, appearing on behalf of Sprint/United/Centel, or more properly Central Telephone Company of Florida and United Telephone Company of Florida. Also appearing with me is J. Jeffry Wahlen.

CHAIRMAN CLARK: Okay.

MR. RINDLER: Good morning. Richard Rindler, of the law firm of Swidler and Berlin, 3000 K Street Northwest, Washington, D.C, appearing on behalf

1 of the petitioner, MPS Communications Company ink.

2 MR. BILLMEIER: Michael Billmeier, 2540  
3 Shumard Oak Boulevard, Tallahassee, Florida 32399,  
4 appearing on behalf of the Commission Staff.

5 CHAIRMAN CLARK: It's my understanding from  
6 the Staff that you'd like to adjourn this hearing  
7 until 11:00 to work out some further agreements. And  
8 then we'll come back at 11 and conduct what further  
9 proceedings we may need to conduct.

10 MR. FONS: That's right.

11 CHAIRMAN CLARK: Okay. We'll see you at 11.

12 (Hearing recessed.)

13 - - - - -

14 CHAIRMAN CLARK: Let's call the hearing to  
15 order. We had previously taken appearances. Are  
16 there any preliminary matters we need to take up?

17 MR. RINDLER: Yes, your Honor. As we  
18 mentioned before the break, the reason we requested an  
19 extension was so the parties might complete  
20 negotiations they've been involved in. I think,  
21 again, sort of like deja vu all over again, it may  
22 easier for me to tell you what issues are left in,  
23 than what's left out.

24 CHAIRMAN CLARK: Okay.

25 MR. RINDLER: Taking the prehearing order,

1 it's my understanding that the issues that are left  
2 in; issue 2, with respect to the issue of the  
3 treatment of transport rate as a part of reciprocal  
4 compensation.

5 CHAIRMAN CLARK: I'm sorry. Say that again.

6 MR. RINDLER: Issue 2 to the extent it deals  
7 with the treatment of the transport rate as a part of  
8 reciprocal compensation. All other aspects of  
9 reciprocal compensation have been agreed to.

10 Issue 3, the only aspect of Issue 3 which is  
11 left to be decided in the arbitration is the  
12 deaveraging of the proxy rates.

13 COMMISSIONER GARCIA: Deaveraging of?

14 MR. RINDLER: Of the proxy rates.

15 MR. FONS: The issue is whether to deaverage  
16 the proxy rate, and it's a singular rate.

17 MR. RINDLER: Issue 5 is the treatment of  
18 information services. And those are the only issues  
19 that are left.

20 COMMISISONER KIESLING: Would you repeat  
21 Issue 5?

22 MR. FONS: Except Issue 14.

23 MR. RINDLER: I'm sorry; Staff Issue 14.

24 COMMISISONER KIESLING: Wait. You've left  
25 me in the dust.

1 MR. RINDLER: I'm sorry.

2 COMMISSIONER KIESLING: Could you redo Issue  
3 5 and then get to 14?

4 MR. RINDLER: Issue 5 is the treatment of  
5 information services, and that remains in. Issue 14  
6 is Staff's issue, and I believe that remains in, as  
7 well.

8 CHAIRMAN CLARK: Okay.

9 COMMISSIONER GARCIA: That's Issue 14?

10 CHAIRMAN CLARK: Yes. And that is, should  
11 the agreement be approved pursuant to Section 252.

12 MR. RINDLER: As we did with respect to  
13 BellSouth, Madam Chairman, we would at this time  
14 withdraw all of the other issues from the arbitration.

15 CHAIRMAN CLARK: Okay.

16 MR. RINDLER: And it would be our intention,  
17 the party's intention, to file a negotiated agreement  
18 subsequently.

19 CHAIRMAN CLARK: Okay. And as I recall, we  
20 had a motion to approve the withdrawal of the  
21 petition. Is that what we did?

22 MR. BILLMEIER: I think so. I don't  
23 remember.

24 CHAIRMAN CLARK: Mr. Rindler, help us out.  
25 We had a motion to acknowledge the withdrawal; is

1 that --

2 MR. RINDLER: I'm not even sure we went  
3 through a motion. I think it was just that we  
4 informed the Commission that we were withdrawing those  
5 portions of the petition.

6 CHAIRMAN CLARK: Requiring no action on our  
7 part.

8 MR. RINDLER: I believe that's the way we  
9 handled it.

10 CHAIRMAN CLARK: Okay fine. Anything else  
11 to take up?

12 MR. FONS: There will be some other matters  
13 with regard to the witnesses as we get to each one.

14 CHAIRMAN CLARK: Okay. So we will take up  
15 the testimony that we need to strike at the time the  
16 witness takes the stand; is that correct?

17 MR. FONS: That is correct. But by virtue  
18 of the elimination of these issues, two of our  
19 witnesses will withdraw their testimony in their  
20 entirety; and that will be Mr. Dunbar and Mr. Farrar.

21 CHAIRMAN CLARK: Well, Mr. Fons, should we  
22 do that right now, just indicate that the testimony of  
23 Randy G. Farrar and James Dunbar will be withdrawn.  
24 And then I presume for Mr. Devine, Mr. Cheek and  
25 Mr. Porter there will be some amendments to the



1 testimony?

2 MR. FONS: Yes, there will be.

3 MR. BILLMEIER: Staff has a list of orders  
4 from the FCC and the Florida PSC that we wish to take  
5 official recognition of. It's included as part of the  
6 exhibit package.

7 CHAIRMAN CLARK: Okay. We will mark as  
8 Exhibit 1 the document entitled "Orders for Official  
9 Recognition, Docket No. 960838-TP. That will be  
10 Exhibit 1, and we will take official notice of all the  
11 orders listed on that document; and I see there are  
12 four FCC orders and eight Florida orders. And that  
13 exhibit will be admitted in the record without  
14 objection.

15 (Exhibit 1 marked for identification.)

16 CHAIRMAN CLARK: Mr. Billmeier, anything  
17 else we need to take up at this time?

18 MR. BILLMEIER: That's all we have.

19 CHAIRMAN CLARK: And are we ready to start  
20 with Mr. Devine?

21 MR. RINDLER: Yes, your Honor.

22 CHAIRMAN CLARK: At this point I would like  
23 you to stand up, Mr. Devine, and I will swear you in,  
24 and I'd also ask Mr. Cheek and Mr. Porter to stand up,  
25 if they're here.

1 MR. FONS: Mr. Cheek is here.

2 (Witnesses collectively sworn.)

3 - - - - -

4 TIMOTHY T. DEVINE

5 was called as a witness on behalf of MPS  
6 Communications Company, Inc. and, having been duly  
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. RINDLER:

10 Q Mr. Devine, would you state your name and  
11 address for the record, please?

12 A Timothy T. Devine, 6 Concourse Parkway,  
13 Suite 2100, Atlanta, Georgia.

14 Q Did you cause to be filed a direct testimony  
15 in this proceeding on July 16 consisting of 57 pages  
16 and seven exhibits?

17 A Yes.

18 Q In light of the withdrawal of a number of  
19 issues from this proceeding, do you have deletions  
20 from that testimony?

21 A Yes, I do.

22 Q Could you provide those at this time?

23 A Yes. On Page 6 to Page 7, Line 3 -- again,  
24 that's Page 6 through Page 7 --

25 CHAIRMAN CLARK: Mr. Devine, is it Page 6,

1 Line 1?

2 WITNESS DEVINE: Yes. Sorry.

3 CHAIRMAN CLARK: Through Page 7, Line 3?

4 WITNESS DEVINE: Yes. Then on Page 7, Line  
5 17 through Page 9, Line 10 -- again, that's Page 7,  
6 Line 17 through Page 9, Line 10.

7 Then on Page 13, Line 3 through Page 17,  
8 Line 12. And then Page 19, Line 12 through Page 23,  
9 Line 18.

10 Then on Page 27, Line 5 through Page 30,  
11 Line 9. Page 31, Line 5 through Page 40, Line 18;  
12 that's through Page 40, Line 18. Then on Page 44,  
13 Line 16 through Page 56, Line 18; that's Page 56  
14 through Line 18. And the last edit there would be  
15 Page 57, Line 1 through Line 6.

16 Q Do you have any of the exhibits that would  
17 be --

18 CHAIRMAN CLARK: Mr. Rindler, is your mike  
19 on?

20 MR. RINDLER: Sorry.

21 Q (By Mr. Rindler) Do you have any exhibits  
22 attached to that testimony that we would eliminate?

23 A Yes; Exhibits 1 and 5.

24 Q With those changes, Mr. Devine, if I were to  
25 ask you the questions today, would your answers be the

1 same?

2 MR. FONS: Excuse me. Before we -- Rich, I  
3 thought we also agreed that Exhibits 11 and 13 --

4 MR. RINDLER: They're in the rebuttal  
5 testimony.

6 MR. FONS: I'm sorry. Forgive me.

7 Q (By Mr. Rindler) Mr. Devine, if I were to  
8 ask you the questions today, would your answers be the  
9 same?

10 A Yes.

11 Q Do you have a summary of your testimony?  
12 Let's do the rebuttal testimony first. Excuse me.  
13 Did you also cause to be filed rebuttal testimony  
14 consisting of 38 pages and exhibits numbered 8 through  
15 13?

16 A Yes.

17 Q In light of the issues that have been  
18 resolved, are there changes or deletions to that  
19 testimony?

20 A Yes.

21 Q Could you provide them at this time, please?

22 A Yes. Beginning on Page 5, Line 11 through  
23 Page 6, Line 13. Page 7, Line 5 through Page 10, Line  
24 4. Page 11, Line 17 through Page 14, Line 3. Page  
25 18, Line 1 through Line 11. (Pause.)

1           **CHAIRMAN CLARK:** Mr. Devine, do you need  
2 to --

3           **WITNESS DEVINE:** Yes, I need to check. I  
4 have a feeling that this doesn't seem to be correct,  
5 because it went into the middle of a question. If I  
6 could just check with my counsel.

7           **CHAIRMAN CLARK:** That would be fine.

8           (Pause.)

9           **WITNESS DEVINE:** Excuse me. Thank you.  
10 Again, that last change, just to clarify, would be  
11 Page 18, Line 1 through Line 11. The next change is  
12 Page 19, Line 19 through Page 35, Line 2; through Page  
13 35, Line 2. And the last deletion would be Page 37,  
14 Line 20 to Page 38, Line 4; through Page 38, Line 4.

15           **Q**        (By Mr. Rindler) Do you have any exhibits  
16 at this time that you would withdraw?

17           **A**        Yes. Exhibits 11 and 13.

18           **Q**        With those changes, if I were to ask you the  
19 questions, would your answers be the same?

20           **A**        Yes.

21           **MR. RINDLER:** Madam Chairman, I would ask  
22 that the testimony be entered as read and that the  
23 exhibits be marked as a composite exhibit.

24           **CHAIRMAN CLARK:** Mr. Rindler, I'm just  
25 trying to find my Exhibits 11 through 13.

1           MR. RINDLER: They should be attached to the  
2 rebuttal testimony.

3           CHAIRMAN CLARK: I know that's where they  
4 should be. I have one marked A, B, C, D and E. Is  
5 that -- I'm sorry that's the petition. (Pause.) Okay.  
6 Which exhibits were eliminated from the rebuttal?

7           MR. RINDLER: Exhibit 11 and Exhibit 13.

8           CHAIRMAN CLARK: So what does that leave in  
9 the rebuttal?

10          MR. RINDLER: That leaves, 8, 9, 10 and 12.

11          CHAIRMAN CLARK: You've moved to have the  
12 prefiled direct testimony and the prefiled rebuttal  
13 testimony with the changes noted inserted in the  
14 record as though read?

15          MR. RINDLER: Yes, ma'am.

16          CHAIRMAN CLARK: They will be inserted in  
17 the record as though read. And then the exhibits  
18 attached to Mr. Devine's direct testimony, exhibits  
19 which are marked 2, 3, 4, 6 and 7 will be marked as  
20 Composite Exhibit 2.

21                 (Exhibit 2 marked for identification.)

22          CHAIRMAN CLARK: And then the exhibits  
23 attached to his rebuttal testimony marked 8, 9, 10 and  
24 12 will be marked as a Composite Exhibit 3.

25                 (Exhibit 3 marked for identification.)

**DIRECT TESTIMONY OF  
TIMOTHY T. DEVINE  
ON BEHALF OF  
MFS COMMUNICATIONS COMPANY, INC.**

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

2       A.   My name is Timothy T. Devine. My business address is MFS Communications  
3       Company, Inc. ("MFS"), 6 Concourse Parkway, Atlanta, Georgia 30328.

4       **Q.   BY WHOM ARE YOU EMPLOYED AND WHAT ARE YOUR  
5       RESPONSIBILITIES?**

6       A.   I am the Senior Director of External and Regulatory Affairs for the Southern  
7       Region. I am responsible for the regulatory oversight of commission dockets and  
8       other regulatory matters and serve as MFS representative to various members of  
9       the industry. I am also responsible for coordinating co-carrier discussions and  
10      negotiations with local exchange carriers GTE in Florida and Texas, Sprint,  
11      BellSouth and Southwestern Bell within the Southern Region.

12      **Q.   PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND  
13      PROFESSIONAL EXPERIENCE.**

14      A.   I have a B.S. in Political Science from Arizona State University and an M.A. in  
15      Telecommunications Policy from George Washington University. I began work  
16      in the telecommunications industry in April 1982 as a sales representative for  
17      packet switching services for Graphnet, Inc., one of the first value-added  
18      common carriers in the United States. From 1983 until 1987, I was employed at  
19      Sprint Communications Co., in sales, as a tariff analyst, as a product manager,

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 2

1           and as Manager of Product and Market Analysis. During 1988, I worked at  
2           Contel Corporation, a local exchange carrier, in its telephone operations group,  
3           as Manager, Network Marketing. I have been working for MFS Communications  
4           Company and its affiliates since January 1989. During this time period, I have  
5           worked in product marketing and development, corporate planning, regulatory  
6           support, and regulatory affairs.

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

9           **A.** MFS is a diversified telecommunications holding company with operations  
10           throughout the country, as well as in Europe. MFS Telecom, Inc., an MFS  
11           subsidiary, through its operating affiliates, is the largest competitive access  
12           provider in the United States. MFS Telecom, Inc.'s subsidiaries provide non-  
13           switched, dedicated private line and special access services.

14                       MFS Intelenet, Inc. ("MFSI"), an MFS subsidiary, through its operating  
15           subsidiaries, collectively are authorized to provide switched interexchange  
16           telecommunications services in 48 states and have applications to offer such  
17           service pending in the remaining states. Where so authorized, MFSI's operating  
18           subsidiaries offer end users a single source for local and long distance



## Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 3

1 telecommunications services with quality and pricing levels comparable to those  
2 achieved by larger communications users. Apart from Florida, MFS subsidiaries  
3 have been authorized to provide competitive local exchange service in twelve  
4 states. Since July 1993, MFS Intelenet of New York, Inc. has offered local  
5 exchange services in competition with New York Telephone Company. MFS  
6 Intelenet of Maryland, Inc. was authorized to provide local exchange services in  
7 competition with Bell Atlantic-Maryland, Inc. in April 1994 and is offering  
8 competitive local exchange services. On June 22, 1994, MFS Intelenet of  
9 Washington, Inc. was authorized to provide local exchange services in  
10 competition with US West Communications, Inc. On July 20, 1994, MFS  
11 Intelenet of Illinois, Inc. was certificated to provide local exchange services in  
12 competition with Illinois Bell Telephone Company and Central Telephone  
13 Company of Illinois and is providing such services. MFS Intelenet of Ohio was  
14 certificated to provide competitive local exchange service in competition with  
15 Ohio Bell on August 3, 1995. MFS Intelenet of Michigan, on May 9, 1995, was  
16 certificated to provide competitive local exchange service in competition with  
17 Ameritech-Michigan. MFS Intelenet of Connecticut was certificated to provide  
18 local exchange service in competition with Southern New England Telephone

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 4

1 Company on June 28, 1995. MFS Intelenet of Texas, Inc. was authorized to  
2 provide local exchange service in Houston and Dallas in competition with  
3 Southwestern Bell Telephone Company by Order signed on October 25, 1995.  
4 Subsequently, Metropolitan Fiber Systems of Dallas and Metropolitan Fiber  
5 Systems of Houston were certified to provide resale and facilities-based local  
6 exchange service. MFS Intelenet of Georgia, Inc. was authorized to provide  
7 competitive local exchange service in Georgia on October 27, 1995. MFS  
8 Intelenet of Pennsylvania, Inc. was authorized to provide local exchange service  
9 in Pennsylvania by Order entered October 4, 1995. MFS Intelenet of Oregon,  
10 Inc. was authorized to provide local exchange service in Oregon on January 12,  
11 1996. MFS Intelenet of Massachusetts was certificated on March 9, 1994 to  
12 operate as a reseller of both interexchange and local exchange services in the  
13 Boston Metropolitan Area in competition with New England Telephone and is  
14 providing such services. MFS Intelenet of New Jersey was certificated in June  
15 1996 to provide competitive local exchange services in that state.

16 Metropolitan Fiber Systems of Florida, Inc. ("MFS-FL") was granted  
17 authority by this Commission to provide switched local exchange service  
18 effective January 1, 1996.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 5

1       **INTRODUCTION AND SUMMARY OF TESTIMONY**

2       Q.     WHAT IS THE PURPOSE OF YOUR TESTIMONY?

3       A.     My testimony supports MFS' petition for arbitration of rates, terms and  
4             conditions for interconnection and related arrangements filed with the Florida  
5             Public Service Commission ("Commission") pursuant to Section 252(b) of the  
6             Telecommunications Act of 1996, Pub.L.No. 104-104 § 101(a), 110 Stat. 70,  
7             *codified at 47 U.S.C. § 153 et seq.* ("the 1996 Act").

8             Since July 1995, Sprint United-Centel of Florida, Inc. ("Sprint") and MFS  
9             have been negotiating to reach an interconnection agreement. Those negotiations  
10            were initiated pursuant to Section 364.162 of the Florida Act ("the Florida Act").  
11            As a result of a failure to reach agreement under the Florida Act, MFS-FL filed  
12            a petition with this Commission in Docket Nos. 950984 and 950985. On  
13            February 8, 1996, Sprint received a written request from MFS for interconnection  
14            under the 1996 Act. Since that time, MFS has negotiated in good faith with  
15            Sprint. Nevertheless, the parties have been unable to reach a binding agreement.  
16            On July 3, 1996, Sprint received MFS' final offer prior to arbitration.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 6

1           Despite the fact that this Commission has already ordered many of the  
2 terms and conditions of Sprint's interconnection with MFS, L in Docket No.  
3 950985 and many of the terms and conditions of unbundling in Docket No.  
4 950984 (a number of which are not the subject of motions for reconsideration by  
5 Sprint) Sprint has still not entered into an agreement covering the terms and  
6 conditions of interconnection and unbundling under the 1996 Act. *Resolution of*  
7 *petition(s) to establish nondiscriminatory rates, terms and conditions for resale*  
8 *involving local exchange companies and alternative local exchange companies*  
9 *pursuant to Section 364.161, Florida Statutes, Docket No. 950984-TP, Order No.*  
10 *PSC-96-0811-FOF-TP, Order Establishing Provisions for the Resale of Services*  
11 *Provided by GTE Florida Incorporated, United Telephone Company of Florida*  
12 *and Central Telephone Company of Florida (issued June 24, 1996) (recon.*  
13 *pending) ("Unbundling Order"); Resolution of petition(s) to establish*  
14 *nondiscriminatory rates, terms, and conditions for interconnection involving*  
15 *local exchange companies and alternative local exchange companies pursuant*  
16 *to Section 364.16, Florida Statutes, Docket No. 950985-TP, Order No. PSC-96-*  
17 *0668-FOF-TP, Final Order Establishing Nondiscriminatory Rates, Terms and*  
18 *Conditions for Local Interconnection (issued May 20, 1996) (recon. pending).*

Direct Testimony of Timothy T. Devine (Sprint Case)  
 MFS Communications Company, Inc.  
 July 16, 1996  
 Page 7

1  ~~("Interconnection Order"). To a very large extent, the Florida statute and the~~  
 2  ~~1996 Act are consistent in approach. My testimony presents MFS' position on~~  
 3  ~~the interconnection and unbundling issues.~~

4 MFS' arbitration petition is accompanied by an interconnection  
 5 agreement ("Interconnection Agreement") which contains all the terms and  
 6 conditions MFS desires for interconnection. This document accompanied the  
 7 July 3, 1996 final offer and is referred to in the Petition as the "Comprehensive  
 8 Interconnection Agreement." Many of these same issues were already addressed  
 9 by this Commission.

10 **Q. PLEASE DESCRIBE THE REQUEST THAT MFS IS MAKING TO THE**  
 11 **FLORIDA COMMISSION.**

12 **A.** Under the arbitration provisions §252(b) of the 1996 Act, a party "may petition  
 13 a State commission to arbitrate any open issues" and the petitioner has a duty to  
 14 present all relevant documentation concerning the unresolved issues, the position  
 15 of each of the parties with respect to the unresolved issues, and any other issue  
 16 discussed and resolved by the parties.

17  ~~Sprint has failed to execute a comprehensive interconnection agreement~~  
 18  ~~with MFS pursuant to its request under the 1996 Act. MFS petitions under the~~

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 8

1 1996 Act for interconnection subject to the terms and conditions to which Sprint  
2 is already bound under the Florida Interconnection and Unbundling Orders, the  
3 1996 Act, and Sections 364.161 and 364.162 of the Florida Statutes.

4 MFS has a switch and a network that it could use to provide local service  
5 rapidly but for Sprint's unwillingness to implement and execute an appropriate  
6 agreement so that MFS may serve the public.

7 While Sprint and MFS continue to negotiate, the 1996 Act compels MFS  
8 to file its petition within 160 days of its February 8, 1996 interconnection request  
9 to preserve its right to arbitration. MFS seeks arbitration to compel Sprint to  
10 implement all of the interconnection and unbundling terms to which it is already  
11 obligated to provide.

12 **Q. IS SPRINT ALREADY BOUND IN FLORIDA BY THE SORTS OF**  
13 **INTERCONNECTION PROVISIONS MFS IS SEEKING IN ITS**  
14 **PETITION?**

15 **A.. Absolutely.** In the Florida Unbundling and Interconnection Orders, the  
16 Commission adopted many of the very provisions MFS-FL now seeks pursuant  
17 to the 1996 Act. Throughout my testimony, I will attempt to cite to the

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 9

1 appropriate portions of the Commission's orders which already compel Sprint  
2 to interconnect under the terms and conditions sought here.

3 While Sprint sought reconsideration of the Commission's Interconnection  
4 Order, its asserted bases of reconsideration are quite narrow. Primarily, Sprint  
5 objected to a bill and keep method of compensation for mutual traffic exchange  
6 and the cross-connection charge that ALECs pay. As such, MFS-FL is mystified  
7 as to why Sprint can refuse to agree — at the very least — with respect to those  
8 terms in the Commission's Orders on which it does not seek reconsideration. To  
9 the extent available, I will also identify the provisions adopted by the  
10 Commission which Sprint has not moved to reconsider.

11 **Q. HAS MFS REACHED ANY SECTION 252 AGREEMENTS WITH**  
12 **CARRIERS?**

13 **A.** Yes, with Ameritech and NYNEX. These agreements are appended to my  
14 testimony as Exhibits 2 and 3. MFS also has a partial co-carrier agreement with  
15 GTE of Florida and GTE of California, appended to my testimony as Exhibits 4  
16 and 6. MFS also has an extensive co-carrier agreement with Pacific Bell for  
17 California, appended hereto as Exhibit 7.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 10

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

2 A. We use interconnection to refer to the physical arrangements necessary to  
3 connect two or more carriers providing local exchange service in the same area.  
4 In that case, competing networks must be able to exchange traffic (including the  
5 exchange of signaling and billing information, and access to other service  
6 platforms that support local exchange service), because of the overriding public  
7 interest in preserving universal connectivity. In short, every telephone user in  
8 Florida must be able to call (and receive calls from) every other user, regardless  
9 of which carrier provides each user with local exchange service.

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

12 A. As I testified in Docket 950985, "co-carrier" arrangements refer to a variety of  
13 arrangements that will have to be established to allow MFS and Sprint to deal  
14 with each other on a reciprocal, non-discriminatory, and equitable basis. The  
15 term "co-carrier" signifies both that the two carriers are providing local exchange  
16 service within the same territory, and that the relationship between them is  
17 intended to be equal and reciprocal—that is, neither carrier would be treated as  
18 subordinate or inferior. The arrangements needed to implement this co-carrier



Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 11

1 relationship will encompass, among other things, physical connections between  
2 networks; signaling and routing arrangements for the exchange of traffic between  
3 networks; and arrangements for joint access to essential service platforms, such  
4 as operator and directory assistance services, that must serve all telephone users  
5 within a geographic area.

6 MFS-FL believes, as the Commission determined, that customers of all  
7 carriers must be assured that they can call each other without the caller having to  
8 worry about which carrier serves the other party. To achieve this, not only must  
9 carriers physically connect their networks, but they must terminate calls for each  
10 other on a mutual, reciprocal and equal basis. Traffic exchange arrangements  
11 should be seamless and transparent from the viewpoint of the caller. There  
12 should be no difference in how a call is dialed, how long it takes to be completed,  
13 or how it is billed based upon the identity of the carrier serving the dialed  
14 number. In addition, customers should have access to essential ancillary  
15 functions of the network (such as directory listings, directory assistance, inward  
16 operator assistance, and CLASS features, to name a few) without regard to which  
17 carrier provides their dial tone or originates their call.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 12

1                   The need and standards for co-carrier arrangements are fully reflected in  
2                   the 1996 Act which imposes specific obligations on all local carriers and even  
3                   more specific and complete obligations on an incumbent carrier, such as Sprint.  
4                   1996 Act, §§ 251, 252. To a large extent this Commission has fully reflected key  
5                   aspects of such requirements in its earlier decisions pursuant to Sections 364.161  
6                   and 364.162, Florida statutes.

7           **Q.   HOW IS YOUR TESTIMONY IN SUPPORT OF YOUR PETITION**  
8           **DIFFERENT FROM PREVIOUS TESTIMONY BEFORE THIS**  
9           **COMMISSION?**

10          **A.**   My testimony isn't significantly different. In the testimony I have attempted to  
11           identify issues which this Commission has previously addressed, which are  
12           consistent with the 1996 Act, issues not addressed which are now specifically  
13           addressed by the 1996 Act, and issues which must be considered anew in light  
14           of the 1996 Act.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 13

1 I. UNRESOLVED ISSUES

2 A. RECIPROCAL COMPENSATION AND TRAFFIC EXCHANGE

3 ~~Q. HAS SPRINT AGREED TO MFS' PHYSICAL INTERCONNECTION~~  
4 ~~REQUEST?~~

5 ~~A. No. The Commission did address this issue in the Interconnection Order.~~

6 ~~Q. WHAT TRAFFIC EXCHANGE ARRANGEMENTS MUST BE~~  
7 ~~ESTABLISHED FOR THE EXCHANGE OF LOCAL TRAFFIC?~~

8 ~~A. To effectuate the exchange of traffic, MFS-FL proposes that interconnection be~~  
9 ~~accomplished through interconnection points, with each carrier responsible for~~  
10 ~~providing trunking to the interconnection points for the hand off of combined~~  
11 ~~local and toll traffic and each carrier responsible for completing calls to all end~~  
12 ~~users on their network. In order to establish interconnection points, carriers~~  
13 ~~would pass both local and toll traffic over a single trunk group, utilizing a percent~~  
14 ~~local utilization ("PLU") factor (similar to the currently utilized percent~~  
15 ~~interexchange utilization ("PIU") factor) to provide the proper jurisdictional call~~  
16 ~~types, and subject to audit.~~

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 14

1 MFS' requirements for traffic exchange are fully defined in the  
2 Interconnection Agreement, which are consistent with the 1996 Act and the  
3 Interconnection Order.

4 **Q. HAVE THERE BEEN DISCUSSIONS ABOUT SPECIFIC**  
5 **INTERCONNECTION POINTS?**

6 **A.** Yes. MFS discussed interconnecting at its Maitland wire center and Sprint at its  
7 Winter Park wire center. No agreement was reached, however.

8 **Q. IS MFS' PROPOSED ARCHITECTURE BECOMING STANDARD**  
9 **PRACTICE IN THE INDUSTRY?**

10 **A.** Yes. Ameritech, NYNEX and Pacific Bell have all adopted this kind of  
11 architecture. More importantly, this Commission adopted it in the  
12 Interconnection Order at 40-41.

13 **Q. HOW DOES MFS-FL'S INTERCONNECTION PROPOSAL MAXIMIZE**  
14 **THE EFFICIENCY OF THE NETWORK?**

15 **A.** MFS-FL's proposal permits the interconnecting parties—who understand their  
16 networks best and have the greatest incentive to achieve efficiencies—to  
17 determine where interconnection should take place. At the same time, minimum  
18 interconnection requirements are established to ensure that interconnection will

Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 15

1 take place between all carriers. MFS-FL opposes any interconnection plan that  
2 mandates too specifically where interconnection should take place. If carriers are  
3 not given flexibility as to where they can interconnect, inefficiencies will result.  
4 MFS-FL would therefore oppose any proposal that does not permit carriers to  
5 maximize the efficiency of their networks.

6 **Q. WHAT DOES MFS PROPOSE WITH RESPECT TO TRUNKING,**  
7 **SIGNALING, AND OTHER IMPORTANT INTERCONNECTION**  
8 **ARRANGEMENTS?**

9 **A.** MFS' proposal is set out in § 5.0 of the Comprehensive Interconnection  
10 Agreement. As the Commission determined, Sprint should exchange traffic  
11 between its network and the networks of competing carriers using reasonably  
12 efficient routing, trunking, and signaling arrangements. See Interconnection  
13 Order at 40-41.

14 **Q. HOW SHOULD MFS-FL COMPENSATE SPRINT FOR TRANSITING**  
15 **TRAFFIC?**

16 **A.** MFS-FL should only be required to pay for the Sprint intermediary function of  
17 transiting traffic in the limited circumstances in which two ALECs that are not  
18 cross-connected at a LEC wire center and do not have direct trunks utilizing

Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 16

1 Sprint access tandem to transit traffic. In all cases, ALECs should alternatively  
2 have an opportunity to cross-connect. This Commission ordered cross-  
3 connection in the Interconnection Order at 26-27. The New York Commission  
4 has ordered that ALECs shall be permitted to cross-connect in serving wire  
5 centers where more than one ALEC is collocated. New York Case  
6 No. 94-C-0095, Order Instituting framework for Directory Listings, Carrier  
7 Interconnection, and Intercarrier Compensation (September 27, 1995). The  
8 Commission's Interconnection Order did not set a specific rate for the transit  
9 function on Sprint's network until Sprint files cost support data, although it did  
10 discuss that carriers performing this function (i.e., tandem switching) could  
11 charge only for the elements used. MFS is offering to pay \$0.001 per minute for  
12 the transit function. This is more than the \$0.00075 the Commission ordered for  
13 GTE. Interconnection Order at 24.

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

16 **A.** Carriers should be required to interconnect using two-way trunk groups wherever  
17 technically feasible. Use of two-way trunking arrangements to connect the  
18 networks of incumbent LECs is standard in the industry. Two-way trunk groups

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 17

1 represent the most efficient means of interconnection because they minimize the  
2 number of ports each carrier will have to utilize to interconnect with all other  
3 carriers. The Commission ordered Sprint to provide one and two way trunking  
4 at the ALEC's option. Interconnection Order at 40-41.

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

7 **A.** MFS-FL and Sprint should provide LEC-to-LEC Busy Line Verification and  
8 Interrupt ("BLV/I") trunks to one another to enable each carrier to support this  
9 functionality. MFS-FL and Sprint should compensate one another for the use of  
10 BLV/I according to the effective rates listed in Sprint's federal and state access  
11 tariffs, as applicable. The Commission ordered these arrangements in the  
12 Interconnection Order at 34.

13 **Q. WHAT STANDARDS MAY THE COMMISSION CONSIDER WHEN**  
14 **SETTING A LOCAL CALL TERMINATION RATE?**

15 **A.** The 1996 Act provides explicit guidance to state regulators in setting local call  
16 termination rates. The relevant statutory provision is:

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 18

1                   **Charges for Transport and Termination of Traffic**

2                   (A)    IN GENERAL -- For the purposes of compliance by an  
3                   incumbent local exchange carrier with section 251(b)(5),  
4                   a State commission shall not consider the terms and  
5                   conditions for reciprocal compensation to be just and  
6                   reasonable unless --

7                   (i)    such terms and conditions provide for the mutual  
8                   and reciprocal recovery by each carrier of costs  
9                   associated with the transport and termination on  
10                  each carrier's network facilities of calls that  
11                  originate on the network facilities of the other  
12                  carrier; and,

13                  (ii)   such terms and conditions determine such costs on  
14                  the basis of a reasonable approximation of the  
15                  additional costs of terminating such calls.

16                  (B)    RULES OF CONSTRUCTION -- This paragraph shall not be  
17                  construed --



Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 19

- 1 (i) to preclude arrangements that afford the mutual  
2 recovery of cost through the offsetting of  
3 reciprocal obligations, including arrangements  
4 that waive mutual recovery (such as bill-and-keep  
5 arrangements); or  
6 (ii) to authorize the Commission or any State  
7 commission to engage in any rate regulation  
8 proceeding to establish with particularity the  
9 additional costs of transporting or terminating  
10 calls, or to require carriers to maintain records  
11 with respect to the additional costs of such calls.<sup>47</sup>

12 ~~Q. WHAT DOES MFS RECOMMEND THAT THE COMMISSION ADOPT  
13 WITH RESPECT TO ITS POSITION ON RECIPROCAL  
14 COMPENSATION?~~

15 ~~A. MFS recommends a single, identical, reciprocal and equal compensation charge  
16 of \$0.005 per minute that Sprint would charge MFS for terminating local traffic~~

<sup>47</sup>U.S.C. §252(d)(2) (emphasis added).

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 20

- 1 on Sprint's network and that MFS would charge Sprint for terminating local  
2 traffic on MFS' network. MFS believes that its proposed compensation charge  
3 is reasonable and should be adopted by the Commission in this arbitration  
4 because:
- 5 ▶ The charge meets the requirements of the 1996 Act that compensation for  
6 termination of traffic be mutual and reciprocal.
  - 7 ▶ The 1996 Act requires that mutual compensation be based on a  
8 "reasonable approximation of the additional costs of terminating such  
9 calls."<sup>27</sup> Compared to the intrastate switched access rate proposed by  
10 Sprint, MFS' proposed \$0.005 per minute charge is a much better  
11 estimate of the cost-based rates required by the 1996 Act.
  - 12 ▶ The \$0.005 per minute charge is consistent with MFS' proposal in the  
13 BellSouth, Sprint and GTE cases.
  - 14 ▶ Commission Staff's recommendation in the Sprint case was that Sprint's  
15 cost of local call termination was approximately \$0.006, but that  
16 additional cost studies were necessary. GTE identified a cost of \$0.0025

<sup>27</sup>47 U.S.C. §254(c)(2)(A)(ii).

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 21

1                   and a cost of between \$0.0020 and \$0.0030 per minute of use for  
2                   BellSouth.

3       **Q.   WHY DO YOU BELIEVE THAT MFS' PROPOSED \$0.005 PER MINUTE**  
4       **COMPENSATION RATE IS A BETTER "REASONABLE**  
5       **APPROXIMATION OF THE ADDITIONAL COSTS OF TERMINATING**  
6       **SUCH CALLS" THAN THE ACCESS CHARGE RATE THAT SPRINT**  
7       **PROPOSES?**

8       **A.**   As the Commission recognized, switched access charges are widely considered  
9       to be set at levels far in excess of the incremental costs of providing access  
10      services. Sprint has asserted in many forums that switched access charges  
11      provide substantial contribution above costs. Regardless of the policy merits of  
12      maintaining switched access charges at such levels, the plain language of the  
13      1996 Act does not allow such inflated charges to be used as the basis for  
14      compensation. Compensation must be "a reasonable approximation of the  
15      additional costs of terminating such traffic" and clearly, switched access charges  
16      are not a reasonable approximation of the incremental costs of terminating traffic  
17      on interconnected carriers' networks. It was for this very reason that the

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 22

1 Commission specifically rejected Sprint's proposal to charge switched access  
2 rates in the Interconnection Order at 9.

3 MFS has not performed an incremental cost study to determine the actual  
4 incremental costs of terminating traffic on its network or Sprint's network. The  
5 Telecommunications Act does not envision that such studies be performed.  
6 However, based on my review of voluntarily entered into interconnection  
7 agreements and local call termination charges ordered by other commissions, as  
8 well as other information available to it, MFS is confident that its \$0.005 per  
9 minute proposal is squarely in the range of compensation charges elsewhere  
10 ordered or agreed but also well above cost. Without specific cost support studies,  
11 those other agreements and orders, I believe, can be read to provide a reasonable  
12 approximation of the costs of terminating traffic on interconnected carrier's  
13 networks for purposes of this arbitration.

14 My review of LEC cost studies prepared by Sprint, BellSouth, GTE and  
15 other ILECs and other states convinces me that MFS' rate proposal is fully  
16 consistent with a "reasonable approximation" of carrier costs.

Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 23

1 Q. IS THE \$0.005 PER MINUTE COMPENSATION CHARGE  
2 CONSISTENT WITH MFS' PREVIOUS REQUESTS TO, AND ORDERS  
3 OF, THE COMMISSION?

4 A. Yes. MFS proposed that the Commission adopt bill and keep or payment in kind  
5 as the appropriate local call termination rate on an interim basis. See  
6 Interconnection Order at 5. The Commission adopted a mutual traffic exchange  
7 mechanism and noted that "if traffic becomes imbalanced to a significant degree,  
8 a usage-based rate may be more appropriate." Since MFS' testimony in that  
9 proceeding, several additional states have adopted specific local call termination  
10 rates. These proceedings and decisions, as well as MFS' experiences in  
11 additional markets, have allowed MFS to determine that the Commission  
12 confidently can prescribe a specific rate can be adopted and that MFS' proposed  
13 rate as required by the 1996 Act is a reasonable approximation of the additional  
14 cost of terminating a call, including a reasonable profit. In the Sprint case, Sprint  
15 stated that local call termination cost it between \$0.005 and \$0.0075 a minute,  
16 which include profit. Interconnection Order at 11. MFS' proposal is consistent  
17 with those rates.

18

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 24

1           **B.    UNBUNDLING OF LOCAL LOOP FACILITIES**

2           **Q.    WHY SHOULD THE COMMISSION REQUIRE THAT LOCAL LOOPS**  
3           **BE PROVIDED ON AN UNBUNDLED BASIS?**

4           **A.    As the Commission has recognized, the importance of local loop or "link"**  
5           **unbundling to the development of actual competition derives directly from**  
6           **Sprint's continued control of significant monopoly elements. Unbundling Order**  
7           **at 4. Unbundled links will provide access to an essential bottleneck facility**  
8           **controlled by Sprint.**

9                         Sprint continues to have monopoly control over the "last mile" of the  
10                        telecommunications network. Service between most Sprint customers and the  
11                        Sprint central offices remains, and for some time to come will apparently  
12                        continue to remain, nearly the exclusive province of Sprint. This monopoly  
13                        results from the fact that this loop network consists mostly of transmission  
14                        facilities carrying small volumes of traffic, spread over wide geographic areas.  
15                        Presently, it is economically more efficient for competitors to purchase access to  
16                        use Sprint loops, just as long distance carriers presently do, rather than to  
17                        construct ubiquitous competing transmission and switching facilities. The "last

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 25

1           mile" loop network, therefore, is an essential bottleneck facility for any potential  
2           provider of competitive local exchange service.

3                         Given the protection of its former monopoly status, Sprint has constructed  
4           virtually ubiquitous loop networks that provide access to every interexchange  
5           carrier and virtually all residential and business premises in its territory. In  
6           building these networks, Sprint had the singular advantage of favorable  
7           governmental franchises, access to rights-of-way, unique tax treatment, access  
8           to buildings on an unpaid basis, and protection against competition. Companies  
9           such as MFS that now seek to compete in the provision of local exchange service  
10          do not share these advantages, and it would be both infeasible and economically  
11          inefficient in most cases for them to seek to construct duplicate loop facilities.  
12          Replication of the existing local exchange carrier loop network (using either  
13          facilities similar to the incumbent local exchange carriers' or alternative  
14          technologies such as wireless loops or cable television plant) would be cost-  
15          prohibitive; moreover, competitors cannot obtain as easily public and private  
16          rights-of-way, franchises, or building access on the same terms that incumbent  
17          local exchange carriers enjoy.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 26

1                   This Commission has already ordered that local loops be provided on an  
2                   unbundled basis. Unbundling Order at 4. Florida law and the 1996 Act require  
3                   the same unbundling arrangements. The same unbundling arrangements should  
4                   be required here.

5           **Q.   WHAT SPECIFIC UNBUNDLED ELEMENTS SHOULD BE MADE**  
6           **AVAILABLE?**

7           A.   The network access line portion of local exchange service can be represented as  
8           being comprised of two key components: the loop, or "link," which provides the  
9           transmission path between the customer and the local exchange central office,  
10           and the "port," which represents the interface to the switch, and the capability to  
11           originate and terminate calls. Unbundling the local loop consists of physically  
12           unbundling the link and port elements, and pricing them on an economically  
13           viable basis.

14                   Specifically, Sprint should immediately unbundle all of its exchange  
15           services into two separate packages: the link element plus cross-connect element  
16           and the port element plus cross-connect element. In addition to the loops and  
17           ports ordered in the Commission's Order, MFS requests the following additional  
18           loops. As described in the Comprehensive Interconnection Agreement, MFS



Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 27

1 seeks unbundled access and interconnection to the following forms of unbundled  
2 links: (1) 2-wire ADSL compatible; (2) 2-wire HDSL compatible loops; and  
3 (3) 4-wire HDSL compatible loops. MFS' detailed loop requirements are set out  
4 in § 9 of the Comprehensive Interconnection Agreement.

5 ~~Q. IS LINK UNBUNDLING TECHNICALLY FEASIBLE?~~

6 A. Yes. Competitors can interconnect to the unbundled loops at the local exchange  
7 carrier central office using the same physical collocation arrangements already  
8 in place for special access and private line circuits.

9 ~~Q. SHOULD SPRINT BE REQUIRED TO OFFER COLLOCATION FOR~~  
10 ~~INTERCONNECTION TO UNBUNDLED LINKS?~~

11 A. Yes. Economic development and expanded competition in the provision of local  
12 exchange services will be promoted only if MFS can interconnect to unbundled  
13 elements of the local loop. Interconnection should be achieved via collocation  
14 arrangements MFS would maintain at the wire center at which the unbundled  
15 elements are resident. At MFS' discretion, each link or port element should be  
16 delivered to the MFS collocation arrangement over an individual 2-wire or 4-wire  
17 hand-off, in multiples of 24 over a digital DS-1 (or, if technically feasible, higher  
18 transmission levels) hand-off in any combination or order MFS may specify, or

Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 28

1 through other technically feasible and economically comparable hand-off  
2 arrangements requested by MFS (e.g., SONET STS-1 hand-off). In addition,  
3 Sprint should permit MFS to collocate digital loop carrier systems and associated  
4 equipment in conjunction with collocation arrangements MFS maintains at  
5 Sprint's wire center, for the purpose of interconnecting to unbundled link  
6 elements. The Commission's Unbundling Order at 7 addresses this.

7 **Q. WHAT ADDITIONAL REQUIREMENTS ARE NECESSARY FOR**  
8 **SPRINT'S UNBUNDLED ELEMENTS TO BE MADE AVAILABLE TO**  
9 **MFS IN ORDER FOR MFS TO EFFICIENTLY OFFER SERVICES?**

10 **A.** Sprint should be required to apply all transport-based features, functions, service  
11 attributes, grades-of-service, and installation, maintenance and repair intervals  
12 which apply to bundled service to unbundled links. The Commission has ordered  
13 these arrangements in the Unbundling Order at 27-30. Likewise, Sprint should  
14 be required to apply all switch-based features, functions, service attributes,  
15 grades-of-service, and install, maintenance and repair intervals which apply to  
16 bundled service to unbundled ports. See Interconnection Agreement at §9.0.

17 Sprint should permit any customer to convert its bundled service to an  
18 unbundled service and assign such service to MFS, with no penalties, rollover or

Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 29

1 termination charges to MFS or the customer. MFS should only be responsible  
2 for the direct costs incurred to convert the customer. Such "fresh look"  
3 provisions are a common consumer protection procedure in Florida. See Order  
4 No. PSC-96-444-FOF-TP, at 16-18 (recon. pending); *Intermedia*  
5 *Communications of Florida, Inc.*, 1994 WL 118370 (Fla. P.S.C.), *reconsidered*,  
6 1995 WL 579981 (Fla. P.S.C., Sept. 21, 1995). While the Commission did not  
7 order "fresh look" with respect to Sprint, MFS has argued that it should. See  
8 *Motion for Reconsideration by Metropolitan Fiber Systems of Florida, Inc.*,  
9 Docket No. 950984-TP (July 8, 1996).

10 In addition to Florida, the FCC and the Commissions of New Jersey,  
11 California, and Ohio recognize that without a fresh look, two incumbents can  
12 lock up customers to long term arrangements and impede competition. Sprint  
13 should also bill all unbundled facilities purchased by MFS (either directly or by  
14 previous assignment by a customer) on a single consolidated statement per wire  
15 center. Finally, Sprint should provide MFS with an appropriate on-line electronic  
16 file transfer arrangement by which MFS may place, verify and receive  
17 confirmation on orders for unbundled elements, and issue and track trouble-ticket  
18 and repair requests associated with unbundled elements. MFS' requirements for

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 30

1 these operational items are more fully described in § 9 of the Comprehensive  
2 Interconnection Agreement, and addressed in the Unbundling Order at 33.

3 **Q. HAVE MFS AND SPRINT AGREED UPON AN UNBUNDLED ELEMENT**  
4 **REQUEST PROCESS?**

5 A. No. MFS seeks a request process more fully described in § 9.0 and Exhibit 14.0  
6 of the Comprehensive Interconnection Agreement. The Commission ordered  
7 BellSouth and MFS to address an appropriate process. These arrangements were  
8 agreed to in the Ameritech and NYNEX Agreements. MFS' proposal is  
9 consistent with these orders.

10 **Q. IS IT IMPORTANT THAT UNBUNDLED ELEMENTS OF THE LOCAL**  
11 **LOOP BE AVAILABLE TO NEW ENTRANTS AT A REASONABLE**  
12 **PRICE?**

13 A. Yes, indeed both the Florida Act and the 1996 Act require it. The availability of  
14 loops on an unbundled basis is only half the equation. As the Commission has  
15 recognized, the loops must be priced in a manner that allows carriers to offer end  
16 users a competitively priced service. In order to discourage Sprint from  
17 implementing anticompetitive pricing policies that would artificially depress the  
18 demand for a competitor's service, the Commission should adopt pricing

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 31

1 guidelines for unbundled loops that are premised on an efficient market provider  
2 using a forward-looking technology. Section 252 of the 1996 Act requires such  
3 cost-based pricing. Section 364.162, Florida Statutes, requires that the rate be  
4 neither below cost nor so high that it would serve as a barrier to competition.

5 ~~Absent any mitigating circumstances that might justify lower rates, local~~  
6 ~~loop Long Run Incremental Costs ("LRIC") should serve as the target price and~~  
7 ~~cap for unbundled loops where such loops must be employed by competitive~~  
8 ~~carriers to compete realistically and practically with the entrenched monopoly~~  
9 ~~service provider, Sprint. LRIC is the direct economic cost of a given facility,~~  
10 ~~including cost of capital, and represents the cost that the local exchange carrier~~  
11 ~~would otherwise have avoided if it had not installed the relevant increment of~~  
12 ~~plant -- i.e., local loops in a given region. Thus, by leasing a loop to a~~  
13 ~~competitor, an incumbent local exchange carrier would be allowed to recover no~~  
14 ~~less than the full cost (of an efficient market provider using forward-looking~~  
15 ~~technology) it would otherwise have avoided had it not built the increment of~~  
16 ~~plant that it has made available, through loop unbundling, for use by a competitor~~  
17 ~~in serving the customer to whose premises the loop extends.~~

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 32

1           There is, however, an important qualification to this general principle.  
2           LRIC is the appropriate pricing methodology *only* if it is applied consistently in  
3           setting the price both for the unbundled services provided to co-carriers and the  
4           bundled services offered by Sprint to its own end users. New entrants should not  
5           be subject to discriminatory charges that Sprint does not apply to its own end  
6           users. Therefore, the Commission should adopt a pricing guideline to prevent  
7           such discrimination where the sum of the prices of the unbundled rate elements  
8           (link, port, and cross-connect) must be no greater than the price of the bundled  
9           dial tone line.

10       **Q. SHOULD THE COMMISSION TAKE INTO ACCOUNT DENSITY IN**  
11       **ORDER TO ACCURATELY REFLECT THE COST**  
12       **CHARACTERISTICS OF THE LOCAL LOOP?**

13       A. Yes. Any proposed rate that does not take into account distance-sensitivity and,  
14       more importantly, does not take into account line density, is fundamentally  
15       flawed and could severely impair facilities-based local exchange competition.  
16       The adoption of distance- and density-sensitive rates is the most accurate  
17       reflection of the underlying costs for these loops and therefore the most effective  
18       means of implementing the principle of cost-based rates.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 33

1 MFS urges the Commission to require costs that consider cost  
2 characteristics of local exchange loops. MFS submits that rates set by the  
3 Commission must be based upon loop costs of an efficient provider using  
4 forward-looking technology. MFS feels that the attached Benchmark Cost Model  
5 ("BCM"), in Exhibit 5, should be used to determine loop prices.

6 In order to price the loops on a cost sensitive basis, Sprint should  
7 establish price categories based upon the BCM which reflects the cost of the  
8 average loop length and density by wire center. Based on its experience in other  
9 states, MFS would suggest three wire center categories. Category A would  
10 include wire centers from which loops of the shorter length and maximum  
11 density extend. Category B would include wire centers from which loops of  
12 medium length and medium density extend. Finally, Category C would include  
13 those wire centers from which loops of the longest length and lowest density  
14 extend. Rates for loops in each wire center category would be the same and  
15 would be calculated based on the average long run incremental cost of loops in  
16 that category. This pricing approach will ensure that the statutory requirement  
17 that unbundled loops be offered at rates reflective of their cost characteristics is  
18 satisfied.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 34

1 Q. HAVE LECS IN OTHER JURISDICTIONS ADOPTED SUCH A  
2 PRICING METHODOLOGY?

3 A. Yes. LECs in other jurisdictions, including Ameritech Illinois, the Southern New  
4 England Telephone Company, and Pacific Bell, have adopted similar pricing  
5 methodologies. Moreover, the Federal Communications Commission ("FCC")  
6 endorsed such a pricing scheme when it authorized LECs offering collocation to  
7 implement zone density pricing for special access services. *Expanded*  
8 *Interconnection with Local Telephone Company Facilities, Report and Order*  
9 *and Notice of Proposed Rulemaking*, 7 FCC Rcd 7369, 7454 (1992). Zone  
10 density pricing allows LECs the opportunity to price their services in a manner  
11 that reflects the cost differences in providing service to major metropolitan  
12 business districts, smaller cities and suburban areas, and rural areas. Such cost  
13 differences are just as characteristic of unbundled loops.

14 Q. HAS SPRINT RECOGNIZED THE APPROPRIATENESS OF ZONE  
15 DENSITY PRICING?

16 A. Yes. In the Unbundling Proceeding, Sprint's expert witness discussed it. *See*  
17 *Motion for Reconsideration by Metropolitan Fiber Systems of Florida, Inc.*, at



Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 35

1 14-17. Docket 950984-TP (July 8, 1996). Sprint also discusses it in its 14 point  
2 checklist, attached to the Petition.

3 **Q. WHAT ARE THE URBAN, SUBURBAN AND RURAL RATES IN THE**  
4 **AMERITECH AGREEMENT AND HOW DO THEY COMPARE WITH**  
5 **THE BENCHMARK COST MODEL?**

6 A. The Ameritech agreement provides an urban rate of \$6.95, suburban of \$11.10,  
7 and rural of \$13.60. The Benchmark Cost Model costs range between \$5.59 and  
8 \$430.18, with a statewide average monthly cost of \$15.03. Earlier, the Illinois  
'9 Commission ordered loop rates of \$7.29 - \$14.65 for business loops and \$4.59 -  
10 \$12.14 for residence loops.

11 **Q. HOW DID THE FLORIDA BENCHMARK COST FIGURES COMPARE**  
12 **TO THOSE OF ILLINOIS?**

13 A. The Florida Benchmark Cost Model costs range between \$5.52 and \$1,016.14,  
14 with a statewide monthly average of \$14.79.

15 **Q. DO THE BENCHMARK COST MODEL COSTS INCLUDE MORE**  
16 **THAN THE COST OF LOOPS?**

17 A. Yes. They include the costs of basic service, which include more than the cost  
18 of a loop.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 36

1 Q. SINCE THE FLORIDA BENCHMARK COSTS ARE AT OR BELOW  
2 THOSE OF ILLINOIS, WOULD IT BE REASONABLE TO ASSUME  
3 SPRINT COULD OFFER PRICES IN THE SAME RANGE AS  
4 AMERITECH'S?

5 A. Yes. This Commission should be comfortable with MFS' proposed rates as they  
6 are above Ameritech's, and therefore recover Sprint's reasonable approximation  
7 of costs including a reasonable profit. See Section 252(d).

8 Q. WHAT DO YOU THINK ABOUT SPRINT'S SUGGESTION THAT A  
9 NEW ENTRANT SIMPLY PURCHASE A PRIVATE LINE OR SPECIAL  
10 ACCESS CHANNEL FROM SPRINT'S EXISTING TARIFF?

11 A. It would not be economical and would not be practical from a time of installation  
12 perspective. While there is not much physical difference between an unbundled  
13 link and a private line or special access channel, there are differences in technical  
14 standards as well as engineering and operational practices. The voice-grade  
15 channels offered under the private line and special access tariffs provide a  
16 dedicated transmission path between an end user's premises and a local exchange  
17 carrier wire center, just as unbundled simple links would. The major differences  
18 between these existing services and unbundled simple links are the additional

Direct Testimony of Timothy T. Devine (Sprint Case)

MFS Communications Company, Inc.

July 16, 1996

Page 37

1 performance parameters required for private line and special access services,  
2 beyond what is necessary to provide plain old telephone service ("POTS"); and  
3 the methods used by local exchange carriers to install and provision the services.  
4 Currently, installation of a private line or special access channel typically  
5 requires special engineering by the local exchange carrier and therefore takes  
6 longer and costs more than installation of a "POTS" line. This special  
7 engineering begins with a line that would be suitable for "POTS," but then adapts  
8 it to conform to specialized performance parameters. Therefore, no single private  
9 line service offering provided by Sprint is likely to represent the basic co-carrier  
10 unbundled loop facility. Private line and special access services also include  
11 additional performance standards that are not necessary for the delivery of  
12 "POTS" service. MFS' major concern is that, in the future, when a customer  
13 decides to replace its existing Sprint dial tone service with MFS dial tone service,  
14 MFS should be able to have the customer's existing link facility rolled over from  
15 the Sprint switch to an MFS expanded interconnection node in the same central  
16 office, without having the entire link re-provisioned or engineered over different  
17 facilities. This roll-over, including the seamless roll-over to MFS when the  
18 customer is taking advantage of number retention, should occur within the same

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 38

1 ordering provision interval as Sprint provides for bundled local exchange service  
2 to end users and with minimal service interruption to those customers.

3 In addition, it has been MFS' experience that, in most cases, the tariffed  
4 rate of a private line service exceeds the tariffed rate of a bundled dial tone  
5 business or residence line. In fact, private lines or special access channels are  
6 typically priced at substantial premiums today. Local exchange carriers have set  
7 prices for these existing services at premium prices, on the basis that these  
8 services require additional performance parameters beyond what is necessary to  
9 provide POTS. As such, applying the tariffed rate of a private line or special  
10 access channel for unbundled loops will place MFS in a "price squeeze," in that  
11 it would be paying more for the unbundled loops than it would be allowed to  
12 recover through end user retail rates. Left to its own devices, a dominant  
13 incumbent local exchange carrier such as Sprint would not tariff the unbundled  
14 loop facility at the appropriate LRIC price. Instead, it would likely choose to  
15 continue to apply the premium rate to an entrant like MFS in order to raise an  
16 additional barrier to competition.

17 Q. WHY DOES MFS RECOMMEND THAT THE COMMISSION ADOPT  
18 ITS POSITION ON UNBUNDLED LOOPS?

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 39

1 A. MFS believes that the approximate long-run incremental cost-based prices for  
2 unbundled loops is set forth in §9.6 and Exhibit 12 of the Interconnection  
3 Agreement. Generally, MFS believes that monthly recurring rates of \$8.00,  
4 \$11.00, and \$15.00 for unbundled loops in urban, suburban, and rural zones,  
5 respectively would be appropriate. Sprint refuses to offer MFS unbundled loops  
6 at the prices MFS proposes. Sprint proposes to charge MFS the tariffed intrastate  
7 special access rate for unbundled loops.

8 In the Unbundling Order, this Commission recently approved an interim  
9 unbundled loop rate for a 2 wire analog loop of \$15 a month for Sprint and  
10 ordered that Sprint file cost studies to determine the costs of providing those  
11 loops as well as a number of unbundled loops which the Commission ordered  
12 unbundled, but for which it had no cost studies. See Unbundling Order at 26.

13 The unbundled loop rates proposed by MFS in the Comprehensive  
14 Interconnection Agreement are reasonable rates. They are higher than the  
15 unbundled local loop rates that Ameritech voluntarily agreed to in the recent  
16 regional interconnection agreement between MFS and Ameritech, which is  
17 attached, but lower or equal to the interim local loop rate set by the Commission.  
18 The proposed rates also reflect the critical impact of density on loop costs. The

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 40

1 Commission did not order zone density pricing in the Unbundling Order. MFS  
2 believes that Section 364.3381, Florida Statutes, and Section 252(d)(1) of the  
3 1996 Act require such pricing. MFS has sought reconsideration of the  
4 Unbundling Order on this issue.

5 **C. STIPULATED DAMAGES CLAUSES**

6 **Q. WHY DOES MFS RECOMMEND THAT THE COMMISSION ADOPT**  
7 **ITS POSITION ON STIPULATED DAMAGES?**

8 A. Stipulated damages provide an efficient, effective mechanism for enforcing one  
9 of the most important provisions of the Interconnection Agreement. MFS  
10 proposes stipulated damages in § 23.0 of the Comprehensive Interconnection  
11 Agreement. Stipulated damages provide an unambiguous financial incentive for  
12 parties to comply with the terms and conditions of an interconnection agreement.

13 **Q. DID THE COMMISSION ADDRESS STIPULATED DAMAGES IN THE**  
14 **INTERCONNECTION AND UNBUNDLING PROCEEDINGS?**

15 A. Yes. The Commission ordered operational arrangements in those dockets that  
16 dealt with specific performance criteria. Other LECs have agreed to similar, if  
17 not identical, terms for performance. MFS proposes damages provisions to  
18 ensure compliance with the Commission's performance standards.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 41

1           **D.    INFORMATION SERVICES TRAFFIC**

2           **Q.    WHY SHOULD THE COMMISSION ADOPT MFS' POSITION ON**  
3           **INFORMATION SERVICES TRAFFIC?**

4           **A.    MFS' position on Information Services Traffic is set out in § 7.1 of the**  
5           **Interconnection Agreement. This Commission adopted similar arrangements in**  
6           **the Interconnection Order at 37-39, and ordered Sprint and ALECs to negotiate**  
7           **further. The Interconnection Agreement clarifies the arrangements the**  
8           **Commission ordered generally and which MFS requires. NYNEX, Ameritech**  
9           **and Pacific Bell have all agreed to identical arrangements with MFS. There is**  
10           **no reason why the same provisions should not be applied to Sprint.**

11          **Q.    HOW DOES THE COMPREHENSIVE INTERCONNECTION**  
12          **AGREEMENT CLARIFY THE TECHNICAL REQUIREMENTS FOR**  
13          **INFORMATION SERVICES TRAFFIC?**

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

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 42

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

8 With respect to compensation issues, MFS will bill and collect from its  
9 end users the specific end user calling rates Sprint bills its own end users for such  
10 services. MFS will remit the full specified charges for such traffic each month  
11 to Sprint, less \$0.05 per minute, and less uncollectibles. In the event MFS  
12 provides an information service platform, Sprint should bill its end users and  
13 remit funds to MFS on terms reciprocal to those specified above.

14 **Q. WHAT WOULD HAPPEN IF THESE ARRANGEMENTS WERE NOT**  
15 **IMPLEMENTED?**

16 **A.** Realistically, MFS' proposal for rating and billing charges from information  
17 service providers is the only efficient, feasible mechanism for billing such traffic.  
18 Information service providers will enter into a contract with a local telephone



Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 43

1            company (e.g., either Sprint, MFS or some other local telephone company) for  
2            that company to rate and bill end-users for calls to that information service  
3            provider. Under MFS' proposal, interconnected local telephone providers would  
4            exchange information necessary for the telephone company that serves the  
5            originating end-user to render a bill and collect for calls to the information  
6            service provider (less certain agreed upon adjustments).

7            In the absence of MFS' proposal, several practical problems arise:

- 8            ▶    **Customer confusion.** Customers expect a bill from the local telephone  
9            carrier they have selected. It will be confusing for customers who call  
10           information service providers to receive a bill from some other local  
11           telephone company.
- 12           ▶    **Access to Competitor's Customer Records and Information.** In the  
13           absence of MFS' proposal, in order to bill for information services used  
14           by a competitor's customers, a local telephone company would have to  
15           somehow gain access to the billing names and addresses of its  
16           competitor's customers. Clearly, that would be undesirable in a  
17           competitive environment.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 44

1           ▶     **Increased Transaction Costs for Information Providers.** In the  
2                     absence of MFS' proposal, information service providers would have to  
3                     enter into billing and collection contracts with all local telephone carriers  
4                     serving customers who might use their information services. Negotiating  
5                     billing and collection contracts with all local telephone carriers who  
6                     might serve the targeted population would greatly increase the start-up  
7                     and transaction costs for information service providers.

8           ▶     **Discrimination.** Information service providers presently served by  
9                     incumbent local telephone carriers are not required to enter into billing  
10                    and collection agreements with all local telephone carriers. For example,  
11                    if a caller living in Sprint's Apopka service territory calls an information  
12                    service provider served by Sprint in the Orlando area, the call is billed by  
13                    Sprint without requiring that the information service provider enter into  
14                    a separate billing and collection contract with Sprint. MFS' proposal is  
15                    simply that it be treated as other local telephone carriers are treated.

16     ~~E.     **INFORMATION (CALL GUIDE) PAGES**~~

17     ~~Q.     **WHY DOES MES RECOMMEND THAT THE COMMISSION ADOPT**~~  
18     ~~**ITS POSITION ON INFORMATION (CALL GUIDE) PAGES?**~~

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 45

1 A. The call guide pages of the telephone book provide consumers with basic  
2 information about the use of their telecommunications services. It contains  
3 information about repairs, billing and customer service. With the advent of local  
4 telephone competition, it should also contain this information for local telephone  
5 carriers. Allowing competitive local service providers to include their logos in  
6 the information pages is appropriate because the incumbent service provider will  
7 have a *de facto* monopoly on telephone directories (especially white pages) and  
8 will serve the great majority of customers for some time. Publishing and  
9 distributing a competitive telephone directory will not be economically justified  
10 for competitive local service providers until their customer base expands.

11 The market power inherent in control over telephone directories was  
12 recognized by Congress when it enacted the 1996 Act. The provision of white  
13 pages directory listings for customers of competing local carriers is one of the  
14 checklist items that Bell Operating Companies must comply with under the 1996  
15 Act, § 271(c)(2)(B)(viii), in order to provide interLATA services. Including  
16 competitors' customer information in Sprint's telephone directories would have  
17 little meaning if customers were unaware of their choices because information  
18 about competitors was buried in the directory.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 46

1 Sprint is willing to include information about MFS' installation, repair,  
2 customer service and other service oriented information, as it should. Sprint  
3 refuses to include MFS' logo at no cost to accompany that information so MFS  
4 customers can easily identify it. MFS' position is set out in § 19.5 of the  
5 Comprehensive Interconnection Agreement. GTE, NYNEX, BellAtlantic and  
6 Ameritech all allow MFS to include its logo in the information pages of their  
7 directories. I include samples of such pages as Exhibit 1 to this testimony. MFS  
8 wants a similar arrangement.

9 **F. NUMBER RESOURCES ARRANGEMENTS**

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

12 **A.** As the Commission determined, as a co-carrier, MFS-FL is entitled to the same  
13 nondiscriminatory number resources as any Florida LEC. See Interconnection  
14 Order at 46. While Sprint is not the Central Office Code Coordinator for Florida,  
15 the Commission ordered Sprint to make nondiscriminatory NXX code  
16 assignments to ALECs in its territory where it controls such codes.  
17 Interconnection Order at 47.

18 **G. TANDEM SUBTENDING AND MEET-POINT BILLING**

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 47

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

2 A. MFS-FL proposes that if Sprint operates an access tandem serving a LATA in  
3 which MFS-FL operates, it should be required, upon request, to provide tandem  
4 switching service to any other carrier's tandem or end office switch serving  
5 customers within that LATA, thereby allowing MFS-FL's switch to "subtend" the  
6 tandem. This arrangement is necessary to permit LECs to originate and terminate  
7 interLATA calls on an ALEC's network without undue expense or inefficiency.  
8 The Commission ordered such arrangements in the Interconnection Order at 27.  
9 Nothing in the 1996 Act requires or suggests any need for a change from the  
10 Commission's prior decision.

11 Q. **HOW SHOULD INTERCARRIER BILLING BE HANDLED WHEN**  
12 **TANDEM SUBTENDING ARRANGEMENTS ARE USED?**

13 A. Where tandem subtending arrangements exist, LECs divide the local transport  
14 revenues under a standard "meet-point billing" formula established by the  
15 national standards group known as the Ordering and Billing Forum ("OBF") and  
16 set forth in FCC and state tariffs. The same meet-point billing procedures should  
17 apply where the tandem or end office subtending the tandem is operated by an

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 48

1 ALEC as in the case of an adjoining LEC. The Commission ordered these  
2 arrangements in the Interconnection Order at 27-28.

3 **Q. WHAT PROVISIONS SHOULD APPLY FOR THE EXCHANGE OF**  
4 **BILLING INFORMATION?**

5 **A.** As the Commission determined, MFS-FL and Sprint should in a timely fashion  
6 exchange all information necessary to accurately, reliably and promptly bill third  
7 parties for switched access services traffic jointly handled by MFS-FL and Sprint  
8 via the meet-point arrangement. Information should be exchanged in Electronic  
9 Message Record ("EMR") format, on magnetic tape or via a mutually acceptable  
10 electronic file transfer protocol. See Interconnection Order at 28, 37-39.  
11 Furthermore, MFS-FL and Sprint should employ the calendar month billing  
12 period for meet-point billing, and should provide each other, at no charge, the  
13 appropriate usage data (i.e., call detail records, interstate/intrastate/intraLATA  
14 percent of use factors, carrier name and billing address, carrier identification  
15 codes, serving wire center designation, etc., associated with such switched access  
16 traffic). The Commission addressed these issues in the Interconnection Order at  
17 39.

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

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 49

1 A. Initially, billing to third parties for the switched access services jointly provided  
2 by MFS-FL and Sprint via the meet-point billing arrangement should be  
3 according to the single-bill/multiple tariff method. This method is a standard  
4 offering by RBOCs. *See, e.g., NYNEX Tariff F.C.C. No. 1 Second Revised Page*  
5 *2-45 § 2.4.7.* Subsequently, billing to third parties for the switched access  
6 services jointly provided by MFS-FL and Sprint via the meet-point arrangement  
7 shall be, at MFS-FL's preference, according to the single-bill/single tariff method,  
8 single-bill/multiple-tariff method, multiple-bill/single-tariff method, or multiple-  
9 bill/multiple-tariff method. Should MFS-FL prefer to change among these  
10 billing methods, MFS-FL would be required to notify Sprint of such change in  
11 writing, 90 days in advance of the date on which such change was to be  
12 implemented.

13 **Q. HOW WOULD SWITCHED ACCESS CHARGES TO THIRD PARTIES**  
14 **BE CALCULATED?**

15 A. Switched access charges to third parties would be calculated utilizing the rates  
16 specified in MFS-FL's and Sprint's respective federal and state access tariffs, in  
17 conjunction with the appropriate meet-point billing factors specified for each  
18 meet-point arrangement either in those tariffs or in the NECA No. 4 tariff. MFS-

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 50

1 FL shall be entitled to the balance of the switched access charge revenues  
2 associated with the jointly handled switched access traffic, less the amount of  
3 transport element charge revenues to which Sprint is entitled pursuant to the  
4 above-referenced tariff provisions. Significantly, this does not include the  
5 residual interconnection charge, which is to be remitted to the end office  
6 provider, which in this case would be MFS-FL.

7 Where MFS-FL specifies one of the single-bill methods, Sprint shall bill  
8 and collect from third parties, promptly remitting to MFS-FL the total collected  
9 switched access charge revenues associated with the jointly-handled switched  
10 access traffic, less only the amount of transport element charge revenues to which  
11 Sprint is otherwise entitled. This again is an issue this Commission considered,  
12 ordered, and addressed.

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

17 **H. SHARED NETWORK PLATFORM ARRANGEMENTS**



Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 51

1 Q. WHAT ARE THE "SHARED PLATFORM" ARRANGEMENTS TO  
2 WHICH YOU REFERRED EARLIER?

3 A. There are a number of systems in place today that support the local exchange  
4 network and provide customers with services that facilitate use of the network.  
5 Some of these service platforms must be shared by competing carriers in order  
6 to permit customers to receive seamless service. These platforms include the  
7 following:

- 8 a. Interconnection Between MFS-FL and Other Collocated  
9 Entities;
- 10 b. 911 and E-911 systems;
- 11 c. Information Services Billing and Collection, which I have  
12 discussed;
- 13 d. Directory Listings and Distribution;
- 14 e. Directory Assistance Service;
- 15 f. Yellow Page Maintenance;
- 16 g. Transfer of Service Announcements;
- 17 h. Coordinated Repair Calls;
- 18 i. Busy Line Verification and Interrupt;

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 52

- 1                   j.     Information Pages; and  
2                   k.     Operator Reference Database.

3                   These platforms were also addressed in this Commission's Interconnection Order.

4     **Q.   WHAT STANDARDS SHOULD BE ADOPTED FOR**  
5     **INTERCONNECTION BETWEEN MFS-FL AND OTHER**  
6     **COLLOCATED FACILITIES?**

7     **A.**   As the Commission determined, Sprint should enable MFS-FL to directly  
8     interconnect to any other entity which maintains a collocation facility at the same  
9     Sprint wire center at which MFS-FL maintains a collocation facility, by effecting  
10    a cross-connection between those collocation facilities, as jointly directed by  
11    MFS-FL and the other entity. See Interconnection Order at 50.

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

14    **A.**   MFS' proposal is set out in § 18.0 of the Interconnection Agreement. See  
15    Interconnection Order at 28-33.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 53

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

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

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 54

1 Sprint should be required to provide calling detail in electronic format for MFS-  
2 FL to rebill the calling services. See Interconnection Order at 34-35.

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

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

15 When an end user customer changes from Sprint to MFS-FL, or from  
16 MFS-FL to Sprint, and does not retain its original telephone number, the party  
17 formerly providing service to the end user should provide a transfer of service  
18 announcement on the abandoned telephone number. This announcement will

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 55

1 provide details on the new number to be dialed to reach this customer. These  
2 arrangements should be provided reciprocally, free of charge to either the other  
3 carrier or the end user customer. See Interconnection Order at 35-37.

4 **Q. WHAT STANDARDS SHOULD BE ADOPTED FOR COORDINATED**  
5 **REPAIR CALLS AND OPERATOR REFERENCE DATABASE?**

6 **A.** With respect to misdirected repair calls, MFS-FL and Sprint should educate their  
7 respective customers as to the correct telephone numbers to call in order to access  
8 their respective repair bureaus. To the extent the correct provider can be  
9 determined, misdirected repair calls should be referred to the proper provider of  
10 local exchange service in a courteous manner, at no charge, and the end user  
11 should be provided the correct contact telephone number. Extraneous  
12 communications beyond the direct referral to the correct repair telephone number  
13 should be strictly prohibited. In addition, MFS-FL and Sprint should provide  
14 their respective repair contact numbers to one another on a reciprocal basis.  
15 Sprint should also be required to provide operator reference database ("ORDB")  
16 updates on a monthly basis at no charge in order to enable MFS-FL operators to  
17 respond in emergency situations. See Interconnection Order at 42-46.

18 **I. LOCAL TELEPHONE PORTABILITY ARRANGEMENTS**

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 56

1 Q. IS MFS REQUESTING ANY INTERIM NUMBER PORTABILITY  
2 OPERATIONAL ARRANGEMENTS DIFFERENT FROM WHAT THE  
3 COMMISSION ORDERED IN THE INTERCONNECTION  
4 PROCEEDING?

5 A. Yes. See Interconnection Agreement, § 13.0. The different items are migration  
6 to permanent number portability, coordination of number portability with  
7 unbundled elements, and procedures for providing INP through NXX migration.  
8 All three provisions are consistent with the Commission's Order, however.

9 Q. DOES MFS ASK FOR ANY OTHER INTERIM NUMBER  
10 PORTABILITY ARRANGEMENTS WHICH DIFFER FROM THE  
11 COMMISSION'S INTERCONNECTION ORDER?

12 A. Yes, MFS asks for cost recovery rates for number portability in § 13.5 of the  
13 Interconnection Agreement, consistent with the FCC's recent order concerning  
14 cost recovery for interim number portability. See *First Report and Order and*  
15 *Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, ¶¶ 117-40  
16 (released July 2, 1996). All other compensation arrangements previously ordered  
17 by the Commission (i.e., compensation for ported calls) are consistent with MFS'  
18 proposal.

Direct Testimony of Timothy T. Devine (Sprint Case)  
MFS Communications Company, Inc.  
July 16, 1996  
Page 57

1 Q. SHOULD MFS BE ALLOWED TO TAKE ADVANTAGE OF  
2 INTERCONNECTION AND UNBUNDLING ARRANGEMENTS SPRINT  
3 SUBSEQUENTLY MAKES WITH OTHER ALECS?

4 A. Absolutely. MFS' view is set out in § 24.0 of the Interconnection Agreement.  
5 MFS' proposal is consistent with Section 252(j), and other LECs have concurred  
6 with this arrangement.

7

8

9 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

10 A. Yes, it does.

11

**REBUTTAL TESTIMONY OF TIMOTHY T. DEVINE  
ON BEHALF OF  
MFS COMMUNICATIONS COMPANY, INC.**

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"), Six Concourse Parkway, Suite**  
4               **2100, Atlanta, Georgia 30328.**

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

7       **A.   Yes.**

8       **Q.   ARE YOU THE SAME TIMOTHY DEVINE WHO FILED A**  
9               **VERIFICATION WITH MFS' PETITION, TO WHICH IS APPENDED**  
10              **MFS' PROPOSED COMPREHENSIVE INTERCONNECTION**  
11              **AGREEMENT, AMONG OTHER EXHIBITS?**

12      **A.   Yes.**

13      **Q.   DO YOU ADOPT THOSE EXHIBITS AND THE FACTS CONTAINED**  
14              **IN THE PETITION?**

15      **A.   Yes.**

16      **I.   INTRODUCTION**



1 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS  
2 PROCEEDING?

3 A. To respond on behalf of MFS Communications Company, Inc. ("MFS") to the  
4 direct testimony of William E. Cheek on behalf of Sprint United-Centel of  
5 Florida, Inc. ("Sprint"), and to provide general rebuttal on the issues presented  
6 in the pleadings and papers, and to testify in light of recent correspondence  
7 from Sprint regarding the subject matters of this proceeding.

8 Q. HAVE YOU STATED THE MFS POSITION ON BOTH THE  
9 INTERCONNECTION AND UNBUNDLING ISSUES ADDRESSED IN  
10 THIS DOCKET?

11 A. Yes. The MFS position on these issues in this docket is most fully addressed  
12 in my Direct Testimony. David Porter will file Rebuttal Testimony addressing  
13 costing issues.

14 Q. HAS THE FCC ISSUED RULES IMPLEMENTING THE  
15 TELECOMMUNICATIONS ACT OF 1996 ("1996 ACT" OR "ACT")  
16 SINCE YOU FILED YOUR DIRECT TESTIMONY?

17 A. Yes. The FCC adopted interconnection rules ("FCC Interconnection Rules")  
18 on August 1, 1996 and released those rules on August 8, 1996. See First  
19 Report and Order, CC Docket 96-98 ("FCC Interconnection Order") (rules to  
20 be codified at 47 C.F.R., Part 51). The FCC also issued a Second Report and  
21 Order in the same docket on August 8, 1996. The FCC Interconnection Rules  
22 are attached to my Rebuttal Testimony as Exhibit TTD-8. I will discuss those

1 rules which I believe now have an impact on issues in the arbitration.  
2 Preliminarily, let me say that we believe those rules overall are important, that  
3 they govern this proceeding, and that they fully support MFS' position in this  
4 matter.

5 **Q. WHAT IS MFS' POSITION WITH RESPECT TO THE EFFECT OF THE**  
6 **COMMISSION'S PRIOR ORDERS ON THIS DOCKET?**

7 **A.** MFS' position, as stated in my Direct Testimony, is that the Commission  
8 already has addressed substantially all of the interconnection and unbundling  
9 issues that are the subject of MFS' petition in earlier dockets. *Resolution of*  
10 *petition(s) to establish nondiscriminatory rates, terms and conditions for resale*  
11 *involving local exchange companies and alternative local exchange companies*  
12 *pursuant to Section 364.161, Florida Statutes, Docket No. 950984-TP, Order No.*  
13 *PSC-96-0811-FOF-TP, Order Establishing Provisions for the Resale of Services*  
14 *Provided by GTE Florida Incorporated, United Telephone Company of Florida*  
15 *and Central Telephone Company of Florida* (issued June 24, 1996) (recon.  
16 pending) ("Unbundling Order"); *Resolution of petition(s) to establish*  
17 *nondiscriminatory rates, terms, and conditions for interconnection involving*  
18 *local exchange companies and alternative local exchange companies pursuant*  
19 *to Section 364.162 Florida Statutes, Docket No. 950985-TP, Order No. PSC-96-*  
20 *066<sup>3</sup>-FOF-TP, Final Order Establishing Nondiscriminatory Rates, Terms and*  
21 *Conditions for Local Interconnection* (issued May 20, 1996) (recon. pending)  
22 ("Interconnection Order"). While MFS' interconnection and unbundling

1 petitions in those dockets were brought under state law, the Commission's  
2 decisions are generally consistent with the 1996 Act. There is no need to  
3 burden the resources of this Commission by relitigating issues which the  
4 Commission already has considered thoroughly and upon which it has already  
5 ruled. To the extent that the Commission's Orders are inconsistent with the  
6 1996 Act and FCC interconnection rules, the Commission decision in this  
7 proceeding should conform to the federal law. The FCC Interconnection rules  
8 make clear that (1) they are binding on state commissions in these arbitrations,  
9 and (2) they pre-empt state regulations to the extent of any inconsistency. FCC  
10 Interconnection Rules at ¶-101.

11 **Q. HAS MFS EXECUTED CO-CARRIER AGREEMENTS IN ADDITION**  
12 **TO THOSE YOU IDENTIFIED IN YOUR DIRECT TESTIMONY?**

13 **A.** Yes. In my Direct Testimony and its accompanying exhibits, I identified MFS  
14 co-carrier agreements with Ameritech, NYNEX, GTE of Florida, and Pacific  
15 Bell. Just to clarify, the GTE of Florida and Pacific Bell agreements are not  
16 agreements executed pursuant to Section 251 of the 1996 Act. I attach a co-  
17 carrier agreement between Southwestern Bell and MFS as Exhibit TTD-9, and  
18 a representative MFS-BellAtlantic agreement as Exhibit TTD-10. Except for  
19 individual loop rates, reciprocal compensation rates, and other financial  
20 arrangements, these agreements are substantially similar to each other and to  
21 the co-carrier agreements appended as exhibits to my Direct Testimony. The  
22 Southwestern Bell and BellAtlantic agreements, for example, do not provide

1 for loop rates, while the Ameritech agreement does. Consequently, MFS has  
2 sought state arbitration under the 1996 Act in the relevant Southwestern Bell  
3 and Bell Atlantic states in those carriers' territories solely on the limited issues  
4 of specific financial arrangements.

5 In addition, MFS has interim interconnection agreements with GTE in  
6 Florida, Texas, California, and Washington. I attach the GTE of Florida  
7 interim agreement as Exhibit TTD-12. MFS also is scheduled to execute  
8 another interim agreement with GTE in Virginia on September 6, 1996.

9  
10 **II. UNRESOLVED ISSUES**

11 ~~**Q. PLEASE OUTLINE YOUR TESTIMONY.**~~

12 ~~**A.** Mr. Cheek asserts that Sprint does not agree with MFS on any portion of MFS'  
13 proposed Comprehensive Interconnection Agreement ("CIA"), except for  
14 certain portions which he identifies. Cheek Direct at 6. I will discuss those  
15 issues which MFS believes are unresolved, bearing in mind that Sprint has not  
16 executed any agreement of any kind with MFS. I also will respond to Sprint's  
17 direct testimony on these points. MFS requested Sprint to state specifically any  
18 provision of the CIA with which it disagrees, both in the July 3 final offer  
19 letter to Sprint and in the Petition filed in this case on July 17. Sprint has  
20 stated in its response to MFS' petition that it "agrees with MFS on many  
21 issues," and that there are "really only two major disagreements between the  
22 parties, those being the rate(s) for interconnection and the rates for unbundling.~~

1 Response at 3. After some discussions among the parties, Sprint provided a  
2 letter to MFS dated August 16, 1996 (attached to my Rebuttal Testimony as  
3 Exhibit TTD-11) (the "Detailed Response"). The Detailed Response provides  
4 a section by section response to MFS' proposed CIA. A review of the Detailed  
5 Response confirms that Sprint's objections are relatively limited, and that it  
6 appears in fact to have accepted large portions of the CIA. Accordingly, we  
7 seek the Commission to require Sprint to promptly execute an agreement as to  
8 those points in the CIA not objected to, and to arbitrate any remaining issues.  
9 To the extent Sprint retracts its agreement, as stated in the Detailed Response,  
10 to unobjected portions of the CIA, MFS requests prompt arbitration on those  
11 issues as well.

12 **Q. HAS SPRINT RESPONDED IN ANY FASHION TO MFS**  
13 **REGARDING THE COMPREHENSIVE INTERCONNECTION**  
14 **AGREEMENT?**

15 **A.** Yes. As stated above, the Detailed Response provides a line by line, page by  
16 page review of the CIA and discusses what specific changes in that agreement  
17 Sprint would like to see, as well as what Sprint believes the unresolved issues  
18 are in the arbitration.

19 **Q. WHAT IS THE EFFECT OF THE FCC INTERCONNECTION ORDER**  
20 **ON THE CIA?**

1 A. The CIA was drafted before the FCC Order was released. Obviously, some  
2 MFS positions change to conform to the new Order. In my Rebuttal  
3 Testimony, I will describe how this order affects MFS' substantive proposals.  
4

5 ~~A. NETWORK INTERCONNECTION ARCHITECTURE~~  
6 ~~PURSUANT TO SECTION 251(C)(2) (§ 4.0 OF THE~~  
7 ~~COMPREHENSIVE INTERCONNECTION AGREEMENT)~~

8 ~~Q. WHAT ARE THE APPROPRIATE ARRANGEMENTS FOR THE~~  
9 ~~NETWORK INTERCONNECTION ARCHITECTURE BETWEEN MFS~~  
10 ~~AND SPRINT?~~

11 ~~A. Under 47 U.S.C. § 251(c)(2)(B), Sprint must provide interconnection at any~~  
12 ~~technically feasible point within its network. MFS proposes in § 4.0 of the~~  
13 ~~CIA that interconnection be accomplished through mutually agreed upon meet~~  
14 ~~points, with each carrier responsible for providing facilities and trunking to the~~  
15 ~~interconnection point for the hand off of local and toll traffic, and each carrier~~  
16 ~~responsible for completing calls to all end users on its network. See CIA,~~  
17 ~~Exhibit 7.0. The Commission ordered similar arrangements in its~~  
18 ~~Interconnection Order at 40-41. In order to implement appropriate~~  
19 ~~interconnection arrangements, a comprehensive agreement must contain~~  
20 ~~appropriate provisions on a number of key issues. Obviously, provisions for~~  
21 ~~definitions and interpretation and construction are necessary; MFS has provided~~  
22 ~~these in §§ 1.0 and 2.0 respectively of the CIA. More importantly, an~~

1 implementation schedule and agreement on interconnection activation dates is  
 2 a logical and critical element. MFS provides for this in § 3.0 of the CIA.  
 3 § 3.0 is expressly provided "pursuant to § 4.0" (dealing with network  
 4 interconnection). Such a provision is specifically mandated as a standard for  
 5 arbitration under § 252(c)(3) of the Act. MFS has similar interconnection  
 6 arrangements with Ameritech, BellAtlantic (Exhibit TTD-10, at § 4.0), GTE  
 7 of Texas, GTE of Florida (Exhibit TTD-12, § 3), NYNEX (Exhibit TTD-3,  
 8 § 4.0), Pacific Bell and Southwestern Bell (Exhibit TTD-9, at § 4.0). The  
 9 FCC Interconnection Rules at 47 C.F.R. § 51.305 also require these  
 10 arrangements. Simply put, these arrangements are not only technologically  
 11 feasible, they are required by law.

12 **Q. WHAT IS THE SOURCE OF SPRINT'S DISAGREEMENT WITH MFS**  
 13 **(ON NETWORK INTERCONNECTION ARCHITECTURE?)**

14 **A.** Mr. Cheek asserts that "[t]here really is not a controversy over the point of  
 15 interconnection; i.e., Maitland or Winter Park. The controversy is over whether  
 16 the facilities between MFS' Maitland switch and Sprint's Winter Park tandem  
 17 switch will be constructed on a meet point basis." Cheek Direct at 9. MFS  
 18 discussed interconnecting at its Maitland switch and Sprint at its Winter Park  
 19 switch. No agreement was reached, however. Mr. Cheek testifies that Sprint  
 20 will construct facilities to the wire center boundary or half way between Sprint's  
 21 switch and the CLBC switch, whichever is less. Cheek Direct at 9. At this  
 22 point, it appears MFS and Sprint disagree only on whether they can interconnect

1 at each others' manholes at central offices outside the wire center boundary.

2 Clearly, MFS' interconnection network proposal as described in § 4.0 of the CIA  
3 is technically feasible and, as such, must be provided to MFS.

4  
5 **B. TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE**  
6 **SERVICE TRAFFIC AND EXCHANGE ACCESS TRAFFIC**  
7 **PURSUANT TO SECTION 251(C)(2) (§§ 5.0 & 6.0 OF THE**  
8 **COMPREHENSIVE INTERCONNECTION AGREEMENT)**

9 **Q. WHAT ARE THE APPROPRIATE ARRANGEMENTS FOR TRUNKING**  
10 **BETWEEN MFS AND SPRINT?**

11 **A.** MFS' proposal is set out in § 5.0 of the Comprehensive Interconnection  
12 Agreement. The FCC interconnection rules require that Sprint interconnect  
13 using two-way trunk groups wherever technically feasible. 47 C.F.R. §  
14 51.305(f). Use of two-way trunking arrangements to connect the networks of  
15 incumbent LECs is standard in the industry. Two-way trunk groups represent  
16 the most efficient means of interconnection because they minimize the number  
17 of ports each carrier will have to utilize to interconnect with all other carriers.  
18 Mr. Check testifies that Sprint "has already committed to interconnect for  
19 trunking and signaling at its tandems, end offices and at midspan meets with  
20 two-way and/or one-way industry standard trunking facilities and signaling  
21 arrangements. Check Direct at 10. If that means that Sprint agrees to all of  
22 §§ 5.0 & 6.0 of the CIA, then MFS will be satisfied. My understanding is,



1 ~~however, that we disagree about measurement and billing, § 5.7 of the CIA,~~  
2 ~~and reciprocal compensation arrangements, § 5.8 of the CIA. The basis of~~  
3 ~~disagreement for § 5.7 is only that Sprint is not familiar with our requested~~  
4 ~~CPN methodology. See Exhibit TTD-11, at 2.~~

5 **Q. WHAT IS THE APPROPRIATE RECIPROCAL COMPENSATION**  
6 **RATE AND ARRANGEMENTS FOR LOCAL CALL TERMINATION**  
7 **BETWEEN MFS AND SPRINT (§ 5.8 OF THE CIA)?**

- 8 **A.** MFS has proposed a reciprocal compensation rate of \$0.005 per minute of use.  
9 The FCC's Interconnection Order and Rules now mandate that state  
10 commissions can only approve reciprocal compensation rates based on total  
11 element long-run incremental cost ("TELRIC") pricing, defined as "the  
12 forward-looking cost over the long run of the total quantity of the facilities and  
13 functions that are directly attributable to, or reasonably identifiable as  
14 incremental to, such element, calculated taking the incumbent LEC's provision  
15 of other elements" plus a reasonable share of forward-looking joint and  
16 common costs. 47 C.F.R. § 51.505. In the absence of TELRIC studies,  
17 states must use the FCC proxy rates of \$0.002-0.004 per minute of use for  
18 local switching and an additional \$0.0015 per minute of use for tandem  
19 switching. Accordingly, MFS believes that until such TELRIC data from  
20 Sprint is approved by the Commission, it must apply the FCC's proxy rate.

21 MFS has signed agreements with other carriers which reflect that MFS  
22 receives tandem switching charges when its switch is in the same geographic

1 area as an ILEC. This is consistent with the FCC Interconnection Order at ¶  
2 1090 which states that "where the [CLEC's] switch serves a geographic area  
3 comparable to that served by the [ILEC's] tandem switch, the appropriate  
4 proxy for the [CLEC's] additional costs is the LEC tandem interconnection  
5 rate." MFS is willing to agree to an equal, reciprocal compensation rate based  
6 on MFS' network and switches, as well as Sprint's.

7 **Q. WHAT IS YOUR UNDERSTANDING OF SPRINT'S PROPOSAL FOR**  
8 **RECIPROCAL COMPENSATION?**

9 **A.** Mr. Cheek's direct testimony at 12-15 discusses Sprint's proposal. Sprint  
10 apparently agrees with MFS that the rate should be cost-based. Cheek Direct  
11 at 13. I believe that the FCC Interconnection Rules now address this, and  
12 MFS' position now is that the FCC's default rate for tandem switching should  
13 apply in the absence of TELRIC data. The Detailed Response states that  
14 Sprint is willing to accept the FCC's proxy rate. Exhibit TTD-11 at 4. To that  
15 extent, I believe Sprint and MFS agree that this Commission should apply the  
16 proxy rate.

17 ~~Mr. Cheek also proposes a bill and keep regime for end office switching~~  
18 ~~on a reciprocal basis for an interim two-year period. Cheek Direct at 13.~~  
19 ~~MFS disagrees that bill and keep should apply, for the reasons stated below.~~

20 **Q. DO THE FCC INTERCONNECTION RULES ADDRESS BILL AND**  
21 **KEEP AS A RECIPROCAL COMPENSATION METHOD?**

1 A. Yes. Under 47 C.F.R. § 51.713, a state commission may order bill and keep  
2 arrangements if the state commission determines that the amount of local  
3 telecommunications traffic from one network to the other is roughly balanced  
4 with the amount of local telecommunications traffic flowing in the opposite  
5 direction, and is expected to remain so, and no showing has been made that it  
6 is not roughly balanced and expected to remain so. If a state commission does  
7 adopt bill and keep it may also include a true-up mechanism to compensate for  
8 traffic imbalances.

9 **Q. DOES MFS ADVOCATE A BILL AND KEEP REGIME?**

10 A. No. In the state proceeding MFS advocated bill and keep on an interim basis  
11 only. Based on subsequent events, MFS in this proceeding advocates a single,  
12 mutual, and reciprocal compensation rate for local call termination. Until the  
13 Commission approves a total element long run incremental cost ("TELRIC")  
14 based study, which to date it has not, the FCC's proxy range for call  
15 termination should apply. That range, \$0.002-0.004 per minute of use, plus  
16 \$0.0015 per minute of use for tandem switching, is found in 47 C.F.R. §  
17 51.707.

18 At the time I testified in the state proceeding, MFS' experience in New  
19 York was that traffic was slightly out of balance and to some extent I deemed  
20 this as a result of the "start up" nature of the business. Today, MFS provides  
21 local telecommunications services in over a dozen markets including New  
22 York, Baltimore, and Chicago. MFS' experience in those additional markets

1 and further experience in New York appears to confirm a trend that, at least  
2 initially and continuing for a period of time, traffic is not in balance. MFS  
3 presently terminates significantly more traffic on its network for the LEC  
4 customers than vice versa. MFS' experience, combined with the FCC's  
5 designation of a specific rate range, demonstrates that there is a need for a  
6 mutual compensation rate and that that rate can be calculated with some  
7 precision.

8 **Q. DO SPRINT AND MFS AGREE ON COMPENSATION FOR**  
9 **TRANSITING TRAFFIC?**

10 **A.** Apparently not. Mr. Cheek seems to agree that collocated CLECs should be  
11 able to establish direct connections between each other's facilities. Cheek  
12 Direct at 11. He asserts, however, that these connections must be made using  
13 Sprint's tariffed cross-connect facilities and, if required, tariffed cable and  
14 conduit facilities. Id. MFS cannot agree, as the FCC's standard is that  
15 TELRIC based pricing should apply. FCC Interconnection Order at ¶ 186.  
16 Accordingly, based upon the FCC's Orders, Sprint's position must be rejected.

17 **Q. WHAT DOES MFS PROPOSE TRANSITING TRAFFIC**  
18 **COMPENSATION?**

19 **A.** When MFS transits a Sprint switch to pass traffic to another LEC, MFS  
20 proposes that until such time as Sprint files a TELRIC based study which is  
21 approved by the Commission, the FCC's proxy rate for Tandem switching or

1 ~~Sprint's FCC-switched access tandem switching rate should be adopted in the~~  
2 ~~interim.~~

3  
4 **C. TRANSPORT AND TERMINATION OF OTHER TYPES OF**  
5 **TRAFFIC**

6 **Q. WHAT ARE THE APPROPRIATE RATES, TERMS AND**  
7 **CONDITIONS, IF ANY, FOR BILLING, COLLECTION AND**  
8 **ROUTING OF INFORMATION SERVICES TRAFFIC BETWEEN**  
9 **MFS AND SPRINT?**

10 **A.** As described in my direct testimony at 41-44, MFS' proposal is in its  
11 Comprehensive Interconnection Agreement at § 7.1. That section provides:

12 **7.1 Information Services Traffic**

13 **7.1.1** Each Party shall route Information Service Traffic which originates on  
14 its own network to the appropriate information services platform(s)  
15 connected to the other Party's network over the Local/IntraLATA  
16 Trunks.

17 **7.1.2** The Party ("Originating Party") on whose network the Information  
18 Services Traffic originated shall provide an electronic file transfer or  
19 monthly magnetic tape containing recorded call detail information to the  
20 Party ("Terminating Party") to whose information platform the  
21 Information Services Traffic terminated.

1           **7.1.3** The Terminating Party shall provide to the Originating Party via  
2           Electronic file transfer or magnetic tape all necessary information to  
3           rate the Information Services Traffic to the Originating Party's  
4           Customers pursuant to the Terminating Party's agreements with each  
5           information provider.

6           **7.1.4** The Originating Party shall bill and collect such information provider  
7           charges and remit the amounts collected to the Terminating Party less:

- 8           a)     The Information Services Billing and Collection fee set forth in  
9           Exhibit 9.0; and
- 10          b)     An uncollectibles reserve calculated based on the uncollectibles  
11          reserve in the Terminating Party's billing and collection  
12          agreement with the applicable information provider; and
- 13          c)     Customer adjustments provided by the Originating Party. The  
14          Originating Party shall provide to the Terminating Party  
15          sufficient information regarding uncollectibles and Customer  
16          adjustments. The Terminating Party shall pass through the  
17          adjustments to the information provider. However, if the  
18          information provider disputes such adjustments and refuses to  
19          accept such adjustments, the Originating Party shall reimburse  
20          the Terminating Party for all such disputed adjustments. Final  
21          resolution regarding all disputed adjustments shall be solely  
22          between the Originating Party and the information provider.



1 proxy ceilings. While Sprint's direct testimony discusses a discrete Sprint rate  
2 proposal, the Detailed Response states that Sprint is willing to accept the FCC  
3 proxy rate. Exhibit TTD-11, at 4. This Commission should apply the proxy  
4 rate, disaggregated into geographically deaveraged zones.

5 **Q. HOW DO THE PROXY CEILINGS IN THE FCC INTERCONNECTION**  
6 **RULES RELATE TO THE FCC'S UNBUNDLED LOOP RATES?**

7 **A.** They demonstrate that Sprint's proposed rates are too high. For Florida, the  
8 proxy ceiling in 47 C.F.R. § 51.513 is \$13.68. This is the monthly rate for  
9 unbundled loops, on a statewide averaged basis, with three or more  
10 geographically deaveraged zones. This rate is to apply when an appropriate  
11 TELRIC based cost study meeting FCC criteria has not been prepared and  
12 approved by the Commission. Sprint's cost study does not meet the FCC  
13 criteria and, accordingly, is not the type of cost study that can be approved by  
14 this Commission based on the FCC standards. It is neither TELRIC-based, nor  
15 does it have geographically deaveraged zones. Mr. Porter describes these  
16 issues in more detail in his testimony. In summary, MFS believes this  
17 Commission is compelled to apply the Florida proxy ceiling until appropriate  
18 cost studies submitted are approved in an appropriate proceeding.

19 **Q. WHAT IS THE APPROPRIATE PRICE FOR THE CROSS-CONNECT?**

20 **A.** Mr. Porter will address pricing in his Rebuttal Testimony. In general, the  
21 cross-connect should be priced at TELRIC.



1 **Q. DOES SPRINT'S DISCRETE PRICING PROPOSAL FOR UNBUNDLED**  
2 **ELEMENTS ELIMINATE THE POSSIBILITY OF A PRICE SQUEEZE?**

3 A. No. MFS' position is that the sum of the costs of the unbundled elements  
4 should not exceed the price of the bundled package. This would present a  
5 fundamentally uneconomic arrangement, and would, among other things, cast  
6 doubt on the reliability of the unbundled element cost figures. More  
7 importantly, it would stifle competition by plainly making it impossible to  
8 profitably enter the market. Mr. Cheek characterizes my testimony regarding  
9 pricing as putting a "cap on the prices for unbundled network elements."  
10 Cheek Direct at 25. We do not accept this characterization. Simply put, we  
11 ~~need to have reliable cost data and the ability to viably enter the marketplace.~~

12 **Q. IS IT APPROPRIATE FOR SPRINT TO PROVIDE MFS WITH 2-WIRE**  
13 **ADSL COMPATIBLE, AND 2-WIRE AND 4-WIRE HDSL**  
14 **COMPATIBLE LOOPS? IF SO, WHAT ARE THE APPROPRIATE**  
15 **RATES FOR LOOPS?**

16 A. Yes. The Act and the FCC's orders clearly require ILECs to provide  
17 interconnection at any "technically feasible point," even if that point requires  
18 a novel use of, or some modification to the ILEC's network facilities to  
19 accommodate the interconnection or access. FCC Order at ¶ 202. We believe  
20 that our request for the loops described in the question is clearly technically  
21 feasible, since, among other things, Ameritech Illinois currently provides such  
22 loops to an MFS subsidiary. The co-carrier agreement between Ameritech

1 Illinois and MFS (Exhibit TTD-2) at pages 22-23 describe the availability of  
2 ADSL- and HDSL-compatible loops. The FCC Order specifically addresses  
3 these forms of loops and requires that they be provided on an unbundled basis.  
4 Until such time as cost studies meeting FCC criteria are approved by the  
5 Commission, the FCC's proxy ceiling should apply for these loops.

6 **Q. DOES SPRINT HAVE AN OBLIGATION TO PROVIDE THESE**  
7 **LOOPS?**

8 **A.** Yes. The FCC's order adopting the interconnection rules rejected the notion  
9 that new entrants be required to "take ILECs as they find them." Rather,  
10 ILECs have a duty to undertake some modification of their facilities in order  
11 to provide certain services, with the cost of modification being borne by the  
12 requesting carrier. For example, if a requesting party seeks to provide ADSL  
13 and the loop is not properly conditioned, the ILEC must condition the loop, but  
14 the requesting party must pay for the conditioning. Thus, Sprint must provide  
15 MFS with the loops it requests. Sprint appears to acknowledge this. See  
16 Check Direct at 19-20. Generally speaking, most standard dry copper loops  
17 within acceptable distances should support ADSL and HDSL requirements.

18  
19 ~~E. COLLOCATION SECTION 251(C)(6) (§ 12.0 OF THE~~  
20 ~~COMPREHENSIVE INTERCONNECTION AGREEMENT)~~

21 ~~Q. DO SPRINT AND MFS AGREE TO THE TERMS OF COLLOCATION?~~

1 A. Based on Mr. Cheek's testimony, there appears to be agreement on the type of  
2 collocation MFS seeks. Cheek Direct at 20. Sprint disagrees, however, with  
3 MFS' proposed procedure for requesting collocation. Id. Sprint also raised  
4 certain issues regarding collocation in its Detailed Response. The FCC  
5 Interconnection Rules mandate, however, that collocation occur in any  
6 technically feasible manner which a carrier requests, with the burden on the  
7 ILEC to prove that it cannot be done. 47 C.F.R. § 51.323. This Commission  
8 should adopt MFS' proposal, as it is technically feasible and provided by other  
9 ILECs. In addition, collocation should be priced at TELRIC based rates until  
10 Sprint produces an appropriate cost study approved by this Commission. MFS  
11 has submitted to Sprint a draft collocation agreement for discussion. I attach  
12 this proposal as Exhibit TTD-13.

13  
14 **F. NUMBER PORTABILITY--SECTION 251(B)(2) (§ 13.0 OF THE**  
15 **COMPREHENSIVE INTERCONNECTION AGREEMENT)**

16 **Q. WHAT IS THE APPROPRIATE COST RECOVERY FOR INTERIM**  
17 **NUMBER PORTABILITY VIA CALL FORWARDING PROVIDED BY**  
18 **SPRINT TO MFS PURSUANT TO THE ORDER ISSUED JULY 2, 1996**  
19 **IN FCC DOCKET 95-116?**

20 A. The Telecommunications Act expressly provides that the costs of number  
21 portability must be shared by all telecommunications carriers. Specifically,  
22 Section 251(e) states that:

1           The costs of establishing . . . number portability *shall be borne by*  
2           *all telecommunications carriers on a competitively neutral basis*  
3           as determined by the [FCC].

4           (Emphasis added.) The FCC has concluded that any cost recovery mechanism  
5           that requires new entrants to bear all of the costs of interim number portability  
6           does not comply with Section 251(e). *In the Matter of Telephone Number*  
7           *Portability*, First Report and Order, CC Docket No. 95-116, at 72 (released July  
8           2, 1996) ("Report and Order"). The FCC interprets the competitively neutral cost  
9           recovery requirement as obligating all carriers, including IXCs and CMRS  
10          providers to contribute to the costs of interim number portability. Report and  
11          Order 68. According to the FCC, "imposing the full incremental cost of number  
12          portability solely on new entrants would contravene the statutory mandate that  
13          all carriers share the cost of number portability." Thus, the tariffed charges  
14          currently imposed by ILECs on purchasers of interim number portability are  
15          inconsistent with the Act and must be suspended immediately.

16          Although the FCC has afforded States some flexibility in determining an  
17          appropriate cost recovery mechanism, it has adopted guidelines that the States  
18          must follow. Report and Order at 66. A cost recovery mechanism must satisfy  
19          two criteria in order to satisfy the competitively neutral requirement. First, a  
20          competitively neutral cost recovery mechanism must not give one service  
21          provider an appreciable, incremental cost advantage over another service provider  
22          when competing for a specific customer. Report and Order at 69. Second, the  
23          cost recovery mechanism must not have a disparate effect on the ability of

1 competing service providers to earn normal returns on their investment. Report  
2 and Order at 72.

3 Among the cost recovery mechanisms cited by the FCC as complying  
4 with its competitively neutral criteria is the revenue-based approach advocated  
5 by MFS. Report and Order at 71. Under MFS' approach, all  
6 telecommunications carriers would contribute to an interim number portability  
7 fund in direct proportion to their respective total intrastate telecommunications  
8 service revenues net of payments to other telecommunications carriers for  
9 intermediary telecommunications services employed in the delivery of revenue-  
10 generating services. In order to implement this mechanism, the Commission will  
11 have to determine the incremental costs of providing interim number portability  
12 that are subject to recovery and, in conjunction with the industry, estimate the  
13 size of the fund necessary to cover these costs. Cost recovery will be  
14 accomplished as follows:

- 15 ■ Each carrier would contribute an amount to the fund that is equal to the  
16 product of the carrier's gross intrastate telecommunications services  
17 revenues, less its payments to underlying carriers for telecommunications  
18 services -- e.g., switched access, interconnection, unbundled network  
19 elements, reciprocal compensation, resold bundled services -- times a  
20 contribution factor determined by the Commission.
- 21 ■ The contribution factor would be calculated by dividing the estimated  
22 costs of providing interim number portability (the required fund size) by

1 the total intrastate revenues of all telecommunications carriers. This  
2 factor may be adjusted from time to time to reflect changes in the size of  
3 the fund.

- 4 ■ Each local exchange carrier that provides interim number portability to  
5 another carrier would be allowed to draw from the fund an amount equal  
6 to the number of interim number portability arrangements it provides  
7 times the incremental cost the Commission deems appropriate for  
8 recovery.

9 Because all net revenues of all carriers will be subject to the same  
10 allocation mechanism, each carrier will make a proportionate contribution to the  
11 funding of interim number portability costs. The netting of payments for  
12 intermediary telecommunications services is necessary to avoid multiple  
13 assessments on services that are components of final end user services or services  
14 that are resold one or more times. Pursuant to MFS' proposal, each carrier's  
15 contribution to interim number portability costs will be based proportionately on  
16 the added value it delivers into the telecommunications marketplace, as measured  
17 by the net revenue it derives. Economists have long favored value-added  
18 assessment mechanisms because such mechanisms ensure maximum neutrality  
19 and impose the minimum distortions on competitive market dynamics.

20 The FCC is currently using a gross revenues methodology for the  
21 allocation of costs incurred in the provision of Telecommunications Relay

1 Service as well as for the assessment of FCC regulatory fees. With respect to the  
2 latter, the FCC has concluded that:

3 Properly administered, a gross revenues methodology will ease  
4 administrative burdens of carriers in calculating fee payments,  
5 provide reliable and verifiable information upon which to  
6 calculate the fee and equitably distribute the fee requirement in a  
7 *competitively neutral manner.*

8 *In the Matter of the Assessment and Collection of Regulatory Fees For Fiscal*  
9 *Year 1995, Price Cap Treatment of Regulatory Fees Imposed by Section 9 of the*  
10 *Act*, MD Docket No. 95-3, Report and Order at (released June 19, 1995)  
11 (emphasis added). MFS' revenue-based cost recovery mechanism for interim  
12 number portability would likewise ease administrative burdens and ensure that  
13 the costs of interim number portability are borne by all telecommunications  
14 carriers on a competitively neutral basis.

15 **Q. HOW DOES THE FCC DEFINE THE COSTS OF INTERIM NUMBER**  
16 **PORTABILITY?**

17 **A.** In its Report and Order at 67, the FCC defined the costs of interim number  
18 portability that are subject to recovery pursuant to a competitively neutral cost  
19 recovery mechanism as incremental costs. Specifically, the FCC stated that:

20 The costs of currently available number portability are the  
21 *incremental costs incurred by a LEC to transfer numbers*  
22 *initially and subsequently forward calls to new service providers*  
23 *using existing RCF, DID, or other comparable measures.*  
24 (Emphasis added.)

1 **Q. WHAT IS MFS' RESPONSE TO MR. CHEEK'S TESTIMONY**  
2 **REGARDING THE PRICE FOR INTERIM NUMBER**  
3 **PORTABILITY?**

4 **A.** Sprint's proposal (Cheek Direct at 46-47) is not based upon an appropriate  
5 incremental cost based study, and does not otherwise meet the criteria  
6 established by the FCC. Briefly, Sprint's proposal does not comply with the  
7 FCC's number portability order, is not competitively neutral, and does not  
8 further a principle of cost causation for cost recovery.

9  
10 **G. DIRECTORY SERVICES ARRANGEMENTS--SECTION 271 (§**  
11 **19.0 OF THE COMPREHENSIVE INTERCONNECTION**  
12 **AGREEMENT)**

13 **Q. SHOULD SPRINT BE REQUIRED TO INSERT MFS' LOGO IN ITS**  
14 **ALEC INFORMATION SECTION (CALL GUIDE PAGES) OF THE**  
15 **WHITE PAGES DIRECTORY AT NO COST?**

16 **A.** Yes. MFS' Comprehensive Interconnection Agreement at § 19.5 provides:

17 **19.5 Information (Call Guide) Pages**

18 Sprint will include in the "Information Pages" or comparable section of  
19 its White Pages Directories for areas served by MFS, listings provided  
20 by MFS for MFS' installation, repair and customer service and other  
21 service oriented information, including appropriate identifying logo, in  
22 a mutually agreed format. Such listings shall appear in the manner and



1                    likenesses as such information appears for subscribers of Sprint and  
2                    other LECs. Also, Sprint shall include MFS' NXXs interfiled with  
3                    Sprint's NXXs in the appropriate section of the directories. Sprint  
4                    shall not charge MFS for inclusion of this information.

5                    **Q. DOES THE TELECOMMUNICATIONS ACT COMPEL THE**  
6                    **PROVISION REGARDING LOGO INSERTION?**

7                    **A.** Yes. Broadly speaking, the Act seeks to encourage equal and fair access and  
8                    competition. Our view is that getting our logo published is a key element of  
9                    such competition. Under 47 U.S.C. §251(b)(3), all carriers are to have non-  
10                    discriminatory access to directory listings. Sprint's logo appears in the white  
11                    pages directory. Therefore, Sprint should provide insertion of MFS' logo at  
12                    no cost.

13                    **Q. WHY IS THIS ISSUE IMPORTANT TO MFS?**

14                    **A.** MFS' customers and prospective customers will be unable to locate important  
15                    customer service and other information regarding MFS if this information is  
16                    buried in the directory. Mr. Cheek indicates that Sprint's directory publishers  
17                    do not intend to include any logos of any CLEC in the information pages.  
18                    Cheek Direct at 31. What Mr. Cheek does not say is that the directory  
19                    publisher is a Sprint affiliate. Conspicuously absent from Mr. Cheek's  
20                    testimony is whether or not the publisher will not include Sprint's logo.  
21                    Sprint's directory does include Sprint's logo elsewhere in the white pages  
22                    (including the front cover of the directory). We believe that MFS' logo in the

1 information pages will aid the public in locating MFS-specific telephone  
2 numbers without undue confusion.

3 MFS has arrangements regarding the inclusion of its logo with  
4 Ameritech, BellAtlantic (Exhibit TTD-10, at 3), GTE, NYNEX (Exhibit TTD-  
5 3, at 34), and Pacific Bell (Exhibit TTD-7, at 35). Sprint and its publishing  
6 affiliate's refusal to include MFS' logo is inappropriate in the face of this  
7 widespread industry acceptance.

8  
9 **H. STIPULATED DAMAGES**

10 **Q. DOES THE COMMISSION HAVE THE AUTHORITY AND**  
11 **JURISDICTION TO REQUIRE THE INCLUSION OF A CLAUSE FOR**  
12 **STIPULATED DAMAGES IN AN INTERCONNECTION AGREEMENT**  
13 **BETWEEN MFS AND SPRINT?**

14 **A.** I believe that the issue of whether the Commission has authority and  
15 jurisdiction is a legal question which MFS has addressed in its Opposition to  
16 Sprint's Motion to Dismiss portions of MFS' application. Simply put, we  
17 believe the Commission does have such authority.

18 **Q. SHOULD THE INTERCONNECTION AGREEMENT BETWEEN MFS**  
19 **AND SPRINT INCLUDE PROVISIONS FOR STIPULATED DAMAGES**  
20 **FOR SPECIFIED PERFORMANCE BREACHES? IF SO, WHAT**  
21 **PROVISIONS SHOULD BE INCLUDED?**

1 A Yes. Mr. Check states the amount of the stipulated damage is "punitive."  
2 This misses the point. The problem is that the kind of breaches covered are  
3 those which could cause irreparable and immeasurable harm to MFS. The  
4 figure set for stipulated damages is designed to represent a reasonable amount  
5 to provide some measure of compensation if they do occur. Sprint supports a  
6 liability for service outages equal to the proportionate charge for the element  
7 or service during the period affected. Check Direct at 29. This wholly misses  
8 the point - if such outages occur, MFS believes that the damage to its goodwill  
9 and reputation will be difficult to measure and well beyond the scope of the  
10 proportionate charges. MFS' proposed provisions are found at § 23.0 of the  
11 Comprehensive Interconnection Agreement:

12 **23.0 STIPULATED DAMAGES FOR SPECIFIED ACTIVITIES**

13 **23.1 Certain Definitions**

14 When used in this Section 23.0, the following terms shall have the  
15 meanings indicated:

16 **23.1.1 "Specified Performance Breach"** means the failure by Sprint to  
17 meet the Performance Criteria for any Specified Activity for a  
18 period of three (3) consecutive calendar months.

19 **23.1.2 "Specified Activity"** means any of the following activities:

- 20 a) the installation by Sprint of unbundled Loops for MFS  
21 ("Unbundled Loop Installation");

- 1           b) Sprint's provision of Interim Telecommunications Number
- 2           Portability; or
- 3           c) the repair of out of service problems for MFS ("Out of Service
- 4           Repairs").

5           **23.1.3 "Performance Criteria"** means, with respect to each calendar

6           month during the term of this Agreement, the performance by

7           Sprint during such month of each Specified Activity shown

8           below within the time interval shown in at least eighty percent

9           (80%) of the covered instances:

SPECIFIED ACTIVITY	PERFORMANCE INTERVAL DATE
<b>(I) Unbundled Loop Installation</b>	
1-10 Loops per Service Order	5 days from Sprint's Receipt of valid Service Order
11-20 Loops per Service Order	10 days from Sprint's Receipt of valid Service Order
21+ Loops per Service Order	to be Negotiated
<b>(II) Interim Number Portability</b>	
1-10 Numbers per Service Order	5 days from Sprint's Receipt of valid Service Order
11-20 Numbers per Service Order	10 days from Sprint's Receipt of valid Service Order
21+ Numbers per Service Order	to be Negotiated
<b>(III) Out-of-Service Repairs</b>	Less than 24 hours from Sprint's Receipt of Notification of Out-of-Service Condition

21           **23.2 Specified Performance Breach**

22           In recognition of the (1) loss of Customer opportunities, revenues and

23           goodwill which MFS might sustain in the event of a Specified

1 Performance Breach; (2) the uncertainty, in the event of such a  
2 Specified Performance Breach, of MFS having available to it customer  
3 opportunities similar to those opportunities currently available to MFS;  
4 and (3) the difficulty of accurately ascertaining the amount of damages  
5 MFS would sustain in the event of such a Specified Performance  
6 Breach, Sprint agrees to pay MFS, subject to Section 23.4 below,  
7 damages as set forth in Section 23.3 below in the event of the  
8 occurrence of a Specified Performance Breach.

9 **23.3 Stipulated Damages**

10 The damages payable by Sprint to MFS as a result of a Specified  
11 Performance Breach shall be \$75,000 for each Specified Performance  
12 Breach (collectively, the "Stipulated Damages"). MFS and Sprint agree  
13 and acknowledge that (a) the Stipulated Damages are not a penalty and  
14 have been determined based upon the facts and circumstances of MFS  
15 and Sprint at the time of the negotiation and entering into of this  
16 Agreement, with due regard given to the performance expectations of  
17 each Party; (b) the Stipulated Damages constitute a reasonable  
18 approximation of the damages MFS would sustain if its damages were  
19 readily ascertainable; and (c) MFS shall not be required to provide any  
20 proof of the Stipulated Damages.

**23.4 Limitations**

In no event shall Sprint be liable to pay the Liquidated Damages if Sprint's failure to meet or exceed any of the Performance Criteria is caused, directly or indirectly, by a Delaying Event. A "Delaying Event" means (a) a failure by MFS to perform any of its obligations set forth in this Agreement (including, without limitation, the Implementation Schedule and the Joint Grooming Plan), (b) any delay, act or failure to act by a Customer, agent or subcontractor of MFS or (c) any Force Majeure Event. If a Delaying Event (i) prevents Sprint from performing a Specified Activity, then such Specified Activity shall be excluded from the calculation of Sprint's compliance with the Performance Criteria, or (ii) only suspends Sprint's ability to timely perform the Specified Activity, the applicable time frame in which Sprint's compliance with the Performance Criteria is measured shall be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the Delaying Event.

**23.5 Records**

Sprint shall maintain complete and accurate records, on a monthly basis, of its performance under this Agreement of each Specified Activity, and of its compliance with the Performance Criteria. Sprint shall provide to MFS such records in a self-reporting format on a monthly basis. Notwithstanding Section 32.0, the Parties agree that

1 such records shall be deemed "Proprietary Information" under Section  
2 32.0.

3 **Q. MR. CHEEK TAKES ISSUE WITH THE FACT THAT THE**  
4 **STIPULATED DAMAGES APPLY ONLY TO SPRINT**  
5 **PERFORMANCE BREACHES. WHAT IS YOUR RESPONSE?**

6 **A.** There was no need for stipulated damages when local exchange service was a  
7 monopoly and there were no new entrants that needed to rely on some of the  
8 facilities of, and interconnections to, the ILEC network. Today, stipulated  
9 damages are necessary to ensure that ILECs honor their duty to interconnect  
10 and comply with reasonable provisioning intervals and performance standards  
11 when providing service to a competitor. I am aware of several co-carrier  
12 agreements that contain performance based damages clauses. For example, the  
13 MFS-Ameritech Illinois co-carrier agreement contains this provision (*see*  
14 Exhibit TTD-2, at 32-35); as does the MFS-NYNEX co-carrier agreement (*see*  
15 Exhibit TTD-3, at 37-39); and the MFS-Southwestern Bell co-carrier  
16 agreement (*see* Exhibit TTD-9, at § 26).

17 **Q. DO YOU AGREE WITH MR. CHEEK'S DIRECT TESTIMONY AT 26-**  
18 **27 THAT THE AMOUNT OF DAMAGES THAT MFS PROPOSES IS**  
19 **PUNITIVE?**

20 **A.** No. If MFS is not able to provide timely service and repairs to its customers  
21 due to Sprint's delays in provisioning, customers will blame MFS, not Sprint.  
22 The loss of revenue and goodwill that MFS will suffer in such circumstances

1 cannot be readily or easily calculated. The stipulated damages represent a  
2 reasonable approximation of those losses which MFS would sustain.

3  
4 **I. CANCELLATION, CONVERSION, ROLL-OVER CHARGES (§**  
5 **25.0 OF THE COMPREHENSIVE INTERCONNECTION**  
6 **AGREEMENT)**

7 **Q. IS IT APPROPRIATE FOR SPRINT CUSTOMERS TO BE ALLOWED**  
8 **TO CONVERT THEIR BUNDLED SERVICE TO AN UNBUNDLED**  
9 **SERVICE AND ASSIGN SUCH SERVICE TO MFS, WITH NO**  
10 **PENALTIES, ROLLOVER, TERMINATION OR CONVERSION**  
11 **CHARGES TO MFS OR TO THE CUSTOMER (ALSO KNOWN AS**  
12 **"FRESH LOOK")?**

13 **A.** Yes. MFS should be responsible only for the direct costs incurred to convert the  
14 customer. "Fresh look" is a settled consumer protection principal in Florida  
15 which permits consumers to reevaluate, without penalty, their long-term contracts  
16 within the new competitive environment. This Commission previously adopted  
17 "fresh look" in *Intermedia Communications of Florida, Inc.* In that case, the  
18 Commission considered whether to allow special access customers to switch to  
19 new competitive carriers without incurring substantial financial liabilities for  
20 contract termination. The Commission stated:

21 "[I]ntroducing competition, or extending the scope of competition,  
22 provides end users of particular services with opportunities that were not



1 available in the past. However, these opportunities are temporarily foreclosed to  
2 end users if they are not able to choose competitive alternatives because of  
3 substantial financial penalties for termination of existing contract arrangements.  
4 A fresh look proposal will enhance an end user's ability to exercise choice to best  
5 meet its telecommunication needs." *Internedia Communications of Florida,*  
6 *Inc.*, 1994 WL N8370 (Fla. P.S.C.), *reconsidered*, 1995 WL 579981 (Fla. P.S.C.,  
7 Sep. 21, 1995).

8 In addition to Florida, the FCC and the Commissions of New Jersey,  
9 California, and Ohio recognize that without a fresh look, incumbents can lock  
10 up customers in long term arrangements and impede competition. See  
11 *Expanded Interconnection with Local Telephone Company Facilities*, 9 FCC Rcd  
12 5154, 5207-10 (1994) ("fresh look" available to LEC customers who wish to sign  
13 with competitive access providers); *Competition in the Interstate Interexchange*  
14 *Marketplace*, 7 FCC Rcd 2677, 2681-82 (1992) ("fresh look" in context of 800  
15 bundling with interexchange offerings); *Amendment of the Commission's Rules*  
16 *Relative to Allocation of the 849-851/894-896 MHz Bands*, 6 FCC Rcd 4582,  
17 4583-84 (1991) ("fresh look" imposed as condition of grant of licenses under  
18 Title III of Communications Act).

19 **Q. DO MFS AND SPRINT AGREE ABOUT "FRESH LOOK?"**

20 **A.** Generally, MFS and Sprint appear to agree that MFS should pay the direct  
21 costs of converting a customer. Sprint wishes to limit the fresh look period to  
22 90 days. MFS proposes a six-month fresh look period, on a wire center by

1 ~~wire-center basis, where there is a new entrant with an implemented Section~~  
2 ~~251 agreement.~~

3  
4 **III. RESOLVED ISSUES**

5 **Q. ARE THERE OTHER CONTRACTUAL ISSUES IN THE**  
6 **COMPREHENSIVE INTERCONNECTION AGREEMENT**  
7 **WHICH YOU BELIEVE ARE RESOLVED?**

8 **A.** Yes. MFS requested Sprint to state specifically any provision of the CIA with  
9 which it disagrees, both in the July 3 Final Offer letter to Sprint and in the  
10 Petition filed in this case on July 17. Sprint has stated in its response to the  
11 Petition that it "agrees with MFS on many issues," and that there are "really only  
12 two major disagreements between the parties, those being the rate(s) for  
13 interconnection and the rates for unbundling." Response at 3. After some  
14 discussion among the parties, Sprint provided the Detailed Response. In the  
15 Detailed Response, there are a number of provisions of the CIA for which Sprint  
16 had no comment or objection. Many such provisions are plainly required under  
17 the Act and the FCC Order; others are typical legal provisions found generally  
18 in these kinds of agreements. All such provisions are found in the agreements  
19 reached by MFS with the various other LECs described above.

20 Sprint raised no issues with respect to the following entire sections of the CIA:

- 21 • § 2.0 - Interpretation and Construction  
22 • § 3.0 - Implementation Schedule and Interconnection Activation Dates

- 1 • § 8.0 - Joint Grooming Plan and Installation, Maintenance, Testing &  
2 Repair
- 3 • § 10.0 - Resale of Sprint Local Exchange Services - Sections 251(c)(4)  
4 and 251(b)(1)
- 5 • § 11.0 - Notice of Changes - Section 251(c)(5)
- 6 • § 14.0 - Dialing and Number Resources, Rate Centers, and Rating Points
- 7 • § 15.0 - Access to Rights-of-Way - Section 251(b)(4)
- 8 • § 16.0 - Database Access - Section 271
- 9 • § 18.0 - 911/E911 Arrangements - Section 271
- 10 • § 20.0 - General Responsibilities of the Parties
- 11 • § 21.0 - Term & Termination
- 12 • § 22.0 - Installation
- 13 • § 25.0 - Cancellation, Conversion, Roll-Over Charges
- 14 • § 26.0 - Severability
- 15 • § 27.0 - Force Majeure
- 16 • § 30.0 - Disputed Amounts
- 17 • § 31.0 - Non-Disclosure
- 18 • § 32.0 - Cancellation
- 19 • § 33.0 - Dispute Resolution
- 20 • § 34.0 - Notices
- 21 • § 36.0 - Miscellaneous

1 Even where Sprint did raise issues in the Detailed Response, those  
2 objections were generally with respect to specific sub-sections, or even sentences,  
3 of the CIA. With respect to those sub-sections or provisions not objected to,  
4 MFS believes they ought to be adopted as part of the agreement between the  
5 parties.

6 For example, of seventy-seven total "definitions" included in CIA § 1.0,  
7 Sprint objected to only two (§§ 1.42 and 1.43). Similarly, Sprint's objections  
8 with respect to other sub-sections are specific and can be readily ascertained by  
9 review of the Detailed Response. Accordingly, with respect to those provisions  
10 not objected to, MFS similarly requests that they be adopted.

11 Stated differently, MFS views these issues, based upon the Detailed  
12 Responses, as now resolved. If, however, Sprint for any reason changes its  
13 position with respect to any such resolved issue, and disputes or contests the  
14 inclusion of such provisions in the agreement between the parties, then MFS  
15 seeks arbitration of any such disputed issue and otherwise reserves all of its  
16 rights.

17 More importantly, with respect to those issues which appear settled, the  
18 Commission should require Sprint to promptly execute an agreement on these  
19 points.

20 ~~Q. MR. CHEEK'S TESTIMONY AT 8 CLAIMS THAT ALL MFS' ISSUES~~  
21 ~~ARE "SUSUMED" BY YOUR DIRECT TESTIMONY. DO YOU~~  
22 ~~AGREE?~~

1 A. ~~No. My direct testimony necessarily treats the complex MFS proposal in the~~  
2 ~~CIA in summary fashion. MFS requires a comprehensive agreement with~~  
3 ~~Sprint, and MFS requires arbitration on all issues that must form such an~~  
4 ~~agreement.~~

5 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

6 A. Yes.

1           MR. RINDLER: Thank you.

2           Q       (By Mr. Rindler) Mr. Devine, do you have a  
3 summary of your testimony?

4           A       Yes.

5           Q       Could you provide it at this time?

6           A       Yes. Good afternoon. Once again, this  
7 Commission is being asked to determine appropriate  
8 rates under the Telecommunications Act of 1996 and the  
9 FCC's implementing rules. As the Commission no doubt  
10 recalls, MFS and Sprint appeared before the Commission  
11 to seek resolution of a petition for interconnection  
12 terms earlier this year. That petition was brought  
13 under state law.

14                   This petition is under federal law. The  
15 underlying issues remain the same. A co-carrier  
16 agreement between an incumbent LEC and a new entrant  
17 is a very complex set of contractual relationships.  
18 Many months ago MFS proposed a co-carrier agreement to  
19 Sprint with the necessary terms and conditions to  
20 bring local competition to Florida.

21                   Since MFS filed its petition, MFS and Sprint  
22 have succeeded in narrowing the numerous issues for  
23 arbitration. Today we come before the Commission to  
24 resolve four discrete issues.

25                   Those issues are, (1), What will be the

1 deaveraged price of unbundled loops Sprint will  
2 provide to MFS; (2), Should Sprint exchange billing  
3 records with MFS to enable the billing of its end user  
4 customers for information service calls; (3), May  
5 Sprint charge a higher rate for call termination based  
6 on its network architecture versus MFS's network  
7 architecture; and (4), whether a cross-connect between  
8 the Sprint unbundled loops and its network is a  
9 network element, and at what rate should the  
10 cross-connect be made available.

11           On August 8th the FCC released its  
12 interconnection order and a set of a detailed  
13 interconnection rules. These rules, along with the  
14 1996 act, now serve as the Commission's standard for  
15 review for arbitration. While the FCC order and the  
16 rules are complex, they may be briefly summarized by  
17 two principles that apply to this arbitration.

18           First, as Mr. Harris discusses, new entrants  
19 are to pay the economic costs of unbundled elements.  
20 The FCC defines economic costs as the sum of total  
21 element long-run incremental cost, or TELRIC, of  
22 providing each network element plus a reasonable  
23 allocation of forward-looking common costs related  
24 only to the provision of each network element.

25           Second, if this Commission has no TELRIC

1 based data upon which to set rates, it is to set rates  
2 utilizing the Florida proxy ceiling for unbundled  
3 loops in the interim. That ceiling is \$13.68, which  
4 under the FCC order is to be disaggregated into at  
5 least three geographically deaveraged zones.

6 From MFS's perspective, Sprint has not and  
7 cannot now provide the type of TELRIC data the FCC  
8 compels this Commission to evaluate in setting loop  
9 rates. Until Sprint provides such information, this  
10 Commission's task is to determine a rate no higher  
11 than the Florida proxy ceiling.

12 As for the first issue, the price of  
13 unbundled loops, including two and four-wire analog  
14 loops, two-wire ISDN digital grade loops, two-wire  
15 ADSL and HDSL -- excuse me -- two-wire ADSL compatible  
16 loops and two and four-wire HDSL compatible loops that  
17 Sprint has agreed to provide, MFS's cost witness,  
18 Mr. Alex Harris, will describe a method this  
19 Commission can use to disaggregate the Florida proxy  
20 ceiling into zones. Mr. Harris' method will use  
21 information the Commission already has or can easily  
22 obtain.

23 With respect to the second issue,  
24 information services, MFS believes Sprint should be  
25 required to exchange billing records with MFS for this



1 traffic. Sprint already has relationships with  
2 information providers, and it makes sense to let end  
3 users dial these types of calls and not have the calls  
4 blocked.

5           With respect to the third issue, call  
6 termination compensation, MFS believes that the Act  
7 and the FCC rules are clear. The new entrant is  
8 entitled to the same compensation for call termination  
9 from the ILEC as it is required to pay the ILEC.  
10 While Sprint has accepted application of call  
11 compensation at the FCC default rate on an interim  
12 basis, there still remains an essential disagreement.

13           Sprint argues that because its network  
14 architecture is such that Sprint's tandem and end  
15 office switch architecture has defined local transport  
16 and MFS's local transport is less discretely defined,  
17 that Sprint should be compensated for local transport  
18 and not MFS.

19           Sprint further argues that because MFS only  
20 operates one switch, that there is no transport that  
21 Sprint must pay for, even if MFS transports a call the  
22 exact same distance between the exact same two points  
23 as Sprint.

24           By this argument, Sprint seeks to ignore the  
25 Act and the requirement in the FCC rules that call

1 Termination rates shall be mutual, reciprocal and  
2 equal. The FCC order directly addresses Sprint's  
3 argument, and states that call termination  
4 compensation is not dictated by network architecture.

5 Rule 51.71(A)(3) provides that as long as a  
6 new entrant switch serves approximately the same area  
7 as the ILEC switch, the new entrant is entitled to  
8 receive compensation based on the basic call  
9 termination rate plus the tandem differential, or  
10 .0055 per minute of use.

11 Sprint's efforts to obtain separate and  
12 additional compensation for transport from its tandem  
13 switch to its end office in addition to the .0015  
14 tandem premium and not compensate MFS for transport is  
15 an attempt to obtain nonreciprocal and unequal  
16 compensation. Sprint's efforts should be denied.

17 The final issue involves a question of  
18 whether a cross-connect which connects unbundled loops  
19 to the ILEC network is a network element and the rate  
20 at which it should be available. Given the FCC's  
21 determination that loops are without a doubt a key  
22 network element, a cross-connect must fall in the same  
23 category, since absent a cross-connect, the unbundled  
24 loop is not functional.

25 The FCC did not, however, establish a proxy

1 cross-connect rate. MFS proposes that until Sprint  
2 produces an acceptable TELRIC study for a  
3 cross-connect, the Commission adopt a 21-cent rate  
4 which is the tariffed rate for this element by  
5 Ameritech.

6 In conclusion, arbitration of MFS's petition  
7 is necessary in this proceeding for two reasons.  
8 First, MFS and Sprint do not agree on some terms of  
9 interconnection. This arbitration is the process that  
10 congress provides to resolve our remaining  
11 disagreements and to start serving Florida local  
12 exchange customers.

13 Second, the arbitration is necessary to  
14 trigger the application of the FCC proxy ceiling.  
15 This Commission must evaluate TELRIC data in the  
16 future to set rates, but under the November 8th  
17 deadline, the federal act sets rates for the  
18 Commission's decision.

19 This arbitration is necessary for the  
20 setting of interim proxy based rates. A careful  
21 application of the FCC rules to the record will  
22 provide equitable cost based rates that will benefit  
23 all Floridians.

24 Thank you for your time.

25 MR. RINDLER: The witness is available for

1 CROSS.

2 CHAIRMAN CLARK: Mr. Fons.

3 MR. FONTS: Yes. Thank you, Chairman Clark.

4 CROSS EXAMINATION

5 BY MR. FONTS:

6 Q Good afternoon, Mr. Devine.

7 A Good afternoon.

8 Q I have a few questions. You've indicated  
9 that there are four remaining issues, one of which is  
10 the unbundled local loop, and I have a few questions  
11 about that.

12 You've indicated that Sprint has agreed to  
13 use the proxy, the FCC proxy, for the unbundled local  
14 loops; is that correct?

15 A Yes; Sprint would agree to use the statewide  
16 proxy rate, and the real difference is that we'd like  
17 to have the proxy rate deaveraged right now.

18 Q Do you cover in your testimony anywhere the  
19 deaveraging of the \$13.68?

20 A Actually Mr. Harris, who is adopting  
21 Mr. Porter's testimony, will be addressing that. I  
22 was giving MFS's summary position.

23 Q And part of that summary position is, is  
24 that that \$13.68 rate, the proxy rate established by  
25 the FCC, in MFS's view should be deaveraged into three

1 zones?

2 A Yes, with a proxy rate, statewide proxy rate  
3 being the outer limit of the zones.

4 Q Can you cite me to anything in the FCC order  
5 or rules which requires that the proxy rate be  
6 deaveraged into three zones?

7 A Actually Mr. Harris would be the best person  
8 to address that issue, if that would -- that might be  
9 mor; convenient for you.

10 Q With regard to the cross-connect, the issue  
11 is not whether Sprint will provide MFS with a  
12 cross-connect, is it?

13 A Yes; you're correct.

14 Q The issue is purely what the price will be  
15 paid for that cross-connect?

16 A Yes, and Sprint has indicated that they will  
17 file a TELRIC study compliant with the FCC's order to  
18 set a permanent cross-connect rate, but we were trying  
19 to get agreement on adoption of an interim  
20 cross-connect rate.

21 Q And the FCC did not set a proxy rate for the  
22 cross-connect?

23 A I believe that's correct, but Mr. Harris  
24 could correct me on that if that's a fact.

25 Q I should direct any further questions on the

1 cross-connect to Mr. Harris?

2 A Yes, any detailed questions on cost pricing  
3 or FCC rules related to that.

4 Q The third issue that you talked about was  
5 information services traffic and whether or not Sprint  
6 will act as a clearinghouse for MFS on the calls that  
7 an MFS customer might make to an information services  
8 provider. Is that accurate?

9 A Yes, to the extent that would be the third  
10 issue, I don't totally agree in terms of saying it's a  
11 purely just a clearinghouse function, but there'd be  
12 some billing, exchange of record function between the  
13 parties, yes.

14 Q And wasn't this an issue that MFS raised in  
15 the state arbitration that took place in the spring?

16 A Yes, that's correct.

17 Q And didn't this Commission rule that Sprint  
18 was not required to perform that function?

19 A I don't remember exactly, but I believe  
20 generally that was the outcome, but in this case the  
21 FCC, you know, identifies billing as an element to be  
22 unbundled, and I think that should have some impact to  
23 the resolution of it in this case.

24 Q Will Sprint be doing any billing on behalf  
25 of MFS under this --

1           A     Yes, because MPS would be billing its end  
2 user customers, and Sprint would be billing the  
3 information service provider.

4           Q     Would Sprint be billing the information  
5 services provider, or would Sprint be sending money to  
6 the information services provider under your scenario?

7           A     Well, Sprint would be doing both, because  
8 they have a relationship with the information service  
9 provider. They have an arrangement where they would  
10 be paid for their services, and they would remit  
11 moneys also to the information service provider for  
12 the moneys left over after Sprint was paid for its  
13 function and MPS was paid for its function.

14          Q     What would Sprint's -- well, let's just  
15 paint the scenario a little more completely. Under  
16 what you're asking for, if an MPS customer were to  
17 call an information services provider that had an  
18 agreement with Sprint, that in that situation MPS  
19 would bill its end user for the information services  
20 call, would deduct an amount for your handling of  
21 that, remit the amount to Sprint, and Sprint would  
22 then remit that amount to the information service  
23 provider; isn't that correct?

24          A     Yes, that's exactly correct.

25          Q     And in that situation Sprint would not be

1 Billing on behalf of MPS or the information services  
2 provider, would it?

3 A I mean, you'd be collecting billing money --  
4 I don't know. I've been in this industry about 15  
5 years, and there's a lot of exchange of billing  
6 records, whether it's meet-point billing or other  
7 functions, and there's billing, exchanging dollars,  
8 moneys. I think billing is a rather broad term.

9 Q Under the scenario that you've just  
10 outlined, would the information services provider know  
11 that MPS played any role in the handling of that call?

12 A They may or may not. It would depend what  
13 level of detail that they wanted to be provided or  
14 needed to be provided.

15 Q Wouldn't they just assume that that call was  
16 handled by Sprint and that Sprint was remitting  
17 whatever the agreement was with Sprint?

18 A Sure. That could be an option.

19 Q Is there anything to prohibit or to prevent  
20 MPS from contracting directly with the information  
21 service provider?

22 A No, I don't believe so. It's just that to  
23 do it day one, we just don't have the resources with  
24 all the other things of just trying to get into  
25 business; and we do have agreements with several other



1 LECs that we're doing the same thing, and we just  
2 think that it's a pragmatic, practical way to approach  
3 things.

4 Q Let's talk now a little bit about the local  
5 interconnection and termination of traffic, the fourth  
6 issue. I may have them in a different order than you  
7 gave them, but this is the fourth of the four issues.  
8 We've talked about the other three.

9 A Yes. It's nice that it's a little bit more  
10 simplified than normal.

11 Q Just so we can set the stage, what we're  
12 talking about here is a termination of traffic from  
13 one carrier to the other; in other words, when MPS's  
14 customer calls a Sprint customer, this agreement  
15 provides for the interconnection and termination of  
16 that call; isn't that correct?

17 A Yes, generally. I mean, specifically it's  
18 the termination once it gets past the dedicated  
19 transport. So once it gets past the interconnection  
20 point, that piece, yes.

21 Q Okay. Let's just talk about it in stages,  
22 if we may. Then there's a reciprocal, too. There  
23 will be instances where a Sprint customer wishes to  
24 call an MPS customer?

25 A Yes.

1 Q And this is the interconnection and  
2 termination to make that call go through to the end  
3 user?

4 A Yes.

5 Q I've handed to you and your counsel earlier  
6 a schematic, and I'm going to hand it out to the  
7 Commission and ask that the Chairman -- well, let me  
8 ask him to identify it, and then if we could get an  
9 exhibit number for that.

10 MR. FONS: Could we have that marked for  
11 identification purposes?

12 CHAIRMAN CLARK: We will mark it as Exhibit  
13 4, and this is the interconnection and termination of  
14 local traffic schematic.

15 (Exhibit 4 marked for identification.)

16 Q (By Mr. Fons) Do you have Exhibit 4 before  
17 you?

18 A It's marked as Exhibit 4?

19 Q Yes.

20 A Yes, I do.

21 Q Let's just walk through this, if we may.  
22 End user A is an MFS customer, and that customer is  
23 connected to the MFS switch, which is point E, by a  
24 loop; isn't that correct?

25 A Yes, that would generally be the scenario.

1 Q And then from the switch B, there is a  
2 facility that runs to the Sprint United switch; isn't  
3 that correct?

4 A Yes.

5 Q And that facility is provided by whom?

6 A Between B and D?

7 Q Yes.

8 A Well, how we've structured the agreement is  
9 that that will be a jointly provided facility between  
10 Sprint and MFS.

11 Q But at some point there is a point of  
12 interconnection, is there not?

13 A Yes, in a sense. I mean, it's a shared  
14 facility. We each have responsibility for portions,  
15 but we each basically have responsibility for half of  
16 the facilities.

17 Q So if there's a call that's made by end user  
18 A to end user B, the facilities between B and D,  
19 there's no exchange of payment between MFS and Sprint?

20 A That's correct. If a call were to originate  
21 and terminate on MFS's network, that would all be  
22 within the MFS network, and no compensation between  
23 MFS and Sprint.

24 Q And on the right-hand side, the first switch  
25 that I show on this exhibit, the Sprint United/Centel

1 side of the exhibit, there's a tandem switch which is  
2 marked D-1?

3 A Yes.

4 Q And then there's a transport facility  
5 between that and end office switch D-2?

6 A Yes.

7 Q And then there's a loop that goes out to the  
8 end user?

9 A Yes.

10 Q Now, under the FCC, both the Act and the FCC  
11 order and rules, compensation is to be reciprocal  
12 between the parties for the facilities that are used  
13 to terminate calls; isn't that correct?

14 A Yes, for local call termination; yes, that's  
15 correct.

16 Q And the issue that we're talking about is  
17 the compensation for the transport piece between the  
18 tandem switch, D-1, and the end office switch, D-2;  
19 isn't that correct?

20 A Yes. We have a difference of interpretation  
21 in application of local call termination compensation  
22 that would include local transport as a component of  
23 that, yes.

24 Q And transport, can you tell me what the  
25 definition, the FCC's definition, of transport is?

1           A     I'd have to look at it more closely again.  
2     And, you know, Mr. Harris actually spent a lot of time  
3     with the FCC order, and maybe could -- if you may want  
4     to have any more clarifying questions with him. But  
5     generally it's the transporting of local call  
6     termination between the tandem and end office  
7     functionality.

8           Q     Okay. So I've accurately described what  
9     transport is on this Exhibit 4?

10          A     Yes. I would say based on the, you know,  
11     historical thought of it, and of course it doesn't  
12     consider forward thinking technology and architecture,  
13     which is talked about a lot in the FCC order.

14          Q     But if Sprint has transport between its  
15     tandem switch and end office switch, under the Act and  
16     the FCC order and rules Sprint is to receive  
17     compensation for that transport, is it not?

18          A     Yes. Just as we feel MFS should also  
19     receive compensation for transport as part of local  
20     call termination.

21          Q     Now, on the left-hand side of this schematic  
22     we show a switch B for MFS. Is there a comparable B-1  
23     and B-2 for MFS in this schematic?

24          A     No. MFS using, you know, forward looking  
25     technology, most of the new entrants out there are

1 using switches that have combined end office and  
2 tandem switching functionality within the same  
3 switching fabric.

4 Q So there is no transport, then, between a  
5 tandem and an end office on the MF side of this  
6 schematic?

7 A Well, there's not any discretely defined  
8 transport in terms of the historical sense of  
9 definition of transport, but if you were to actually  
10 take your diagram and assume -- let's say if you  
11 assumed and took the end user E and end user A, and  
12 maybe brought them down below this whole diagram and  
13 put them in the same building, which is very  
14 conceivable, MFS could actually transport a call  
15 between the same two points as Sprint.

16 And while the classical historical  
17 definition may be different, we could actually be  
18 incurring the same costs and transporting a call the  
19 exact same distance between the exact same two  
20 customers in same buildings. It's just the  
21 architecture is different. We're using a forward  
22 technology that doesn't require tandem end office  
23 hierarchy of switching.

24 Q Now, if a Sprint customer E calls MFS's  
25 customer A and the call transverses the Sprint

1 United/Centel network and arrives on the MFS network,  
2 when it hits the MFS switch B that switch will switch  
3 it to whatever end user MFS is serving in that area;  
4 isn't that correct?

5 A Yes; that's generally correct.

6 Q Now, when the MFS customer A calls a Sprint  
7 customer and it reaches the tandem D-1, doesn't that  
8 tandem switch also have subtending switches, end  
9 office switches?

10 A Yes; that's the concept of tandem end office  
11 hierarchy.

12 Q So we could have D-3, D-4, D-5, D-6 and an  
13 end user -- or end users off of each one of those end  
14 office switches?

15 A Yes, that's correct.

16 Q So that the transport is for the connection  
17 between the tandem office and any end office  
18 subtending that tandem switch; isn't that correct?

19 A Yes, in the historical, classical sense. I  
20 mean, you do have some situations where you might even  
21 have your end office switch and tandem switch in the  
22 same building. That's often common. You'll have a  
23 wire center that has a tandem switch, because it's an  
24 aggregator and an end office switch, so -- again there  
25 would still even be transport in that case, but it's

1 very analogous to what MPS has where you have a single  
2 switch that does tandem end office and it's in the  
3 same building.

4           So I guess what I'm saying is, yes, that's  
5 correct, that's factual, but then the application of  
6 the functionality, you know, I think when you put it  
7 all together, it's the end-to-end termination of a  
8 call when you talk about local call termination.

9           Q     What physical facility would MPS be  
10 providing that Sprint would have to compensate you for  
11 if Sprint has to pay you a transport rate?

12           A     Well, what we would be doing is -- in the  
13 situation I had talked about earlier -- and I could  
14 draw on the chart, if it would be helpful for you. I  
15 could explain where MPS would actually be doing some  
16 transport.

17           Q     And talking about transport between the --  
18 internal to the switch?

19           A     Well, transport for local call termination.  
20 If you take your diagram and take end user A and end  
21 user B and put them underneath B, C, D and D-2,  
22 continue to have A served from B --

23           CHAIRMAN CLARK: Mr. Devine, I think you  
24 better choose another name for your customer. Maybe  
25 end user F.



1           WITNESS DEVINE: Okay. Then why don't we  
2 draw end user F, take it just south of switch B and  
3 kind of center it in the middle of this diagram, so if  
4 you put end user F underneath this point of  
5 interconnection box in the tandem switch box, so that  
6 would be end user F, and then have end user G coming  
7 off of this D-2 end office switch, and have that end  
8 user G right next to end user F, and then if you could  
9 just draw a larger circle around end user F and G --

10           COMMISISONER KIESLING: I'm sorry. I'm  
11 getting lost. Can we have you draw it up on the  
12 board?

13           CHAIRMAN CLARK: Yes, that might be a good  
14 idea.

15           COMMISISONER KIESLING: I mean, first of  
16 all, it was hard for me to figure out south on this  
17 piece of paper.

18           CHAIRMAN CLARK: Mr. Devine, maybe right  
19 there, because you're going to have to use the mike,  
20 and Mr. Fons and Wahlen can get up and look at it if  
21 they need to.

22           WITNESS DEVINE: Okay.

23           CHAIRMAN CLARK: I'll tell you what,  
24 Mr. Devine; we're going to go ahead and take a lunch  
25 break until quarter of 2:00, and you can draw your

1 diagram and we'll come back on the diagram.

2

3 (Thereupon, lunch recess was taken at 1:00

4 p.m.)

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6 (Transcript continues in sequence in

7 Volume 2.)

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