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September 23, 1996

Ms. Blanca S. Bayó
Director, Records and Reporting
Florida Public Service Commission
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Re: Local Number Portability -- Docket No. 950737-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. are the original and 15 copies of the prefiled direct testimony of Elizabeth G. Kistner.

By copy of this letter, this document has been furnished to the parties on the attached service list.

Very truly yours,

Richard D. Melson

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cc: See Certificate of Service
Martha McMillin
Beth Kistner

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DIRECT TESTIMONY OF ELIZABETH G. KISTNER

ON BEHALF OF MCI TELECOMMUNICATIONS CORPORATION

DOCKET NO. 950737-TP

September 23, 1996

I. INTRODUCTION

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

A. My name is Elizabeth G. Kistner. My business address is 3 Spoede Ridge, St. Louis, Missouri 63141.

Q. **PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.**

A. I am a consultant in private practice, specializing in analysis of telecommunications public policy issues. During the past three and a half years, I have focused on issues related to the introduction of competition in the local exchange market, and especially on interim and permanent local number portability ("LNP") implementation issues. With respect to interim LNP ("ILNP"), I have reviewed numerous Local Exchange Carrier ("LEC") ILNP tariff filings, and in Michigan, testified on behalf of MCI on appropriate costs and rates for ILNP. With respect to permanent LNP, I have been involved in all aspects of national LNP implementation on behalf of MCI, including participation in numerous state LNP workshops.

Before entering private practice, I was employed for eight years by MCI

Telecommunications Corporation ("MCIT"). From 1989 to 1990, I was Manager, Market and Business Analysis, in the Marketing Department, responsible for providing intrastate pricing and competitive market analysis. From 1986 to 1989, I was a Staff Analyst in the Regulatory Department -- Southwest Division, responsible for analyzing the impact of LEC intrastate access and toll tariffs filed in Missouri, Arkansas, Kansas, Oklahoma, and Texas, with emphasis on tariffs impacting 800 and WATS-type services. From 1982 to 1986, I worked in MCI's Litigation Support Department in Washington, D.C., providing supervisory and analytical support to MCI litigation efforts.

I am a graduate of Tufts University, Medford, Massachusetts, with a Bachelor of Arts in International Relations.

Q. **HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS?**

A. Yes. I have testified on behalf of MCI in the states of Oklahoma, Missouri, Texas and Michigan.

II. PURPOSE OF TESTIMONY

Q. **WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. The purpose of my testimony is to respond to the issues identified by the Florida Public Service Commission ("PSC") regarding the appropriate cost recovery mechanisms for ILNP, including the appropriateness of the recovery mechanism previously approved in Order No. PSC-95-1604-FOF-TP in Docket No. 950737-TP (the "*LNP Order*"). Specifically, I will explain why the *LNP Order* is inconsistent with the Federal Communication Commission ("FCC") First Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 95-119 ("*FCC Order*"), and recommend that the PSC direct each LEC and Alternative Local Exchange Carrier ("ALEC") to pay for its own costs of ILNP measures. I will also recommend that the PSC require application of its decision in this case retroactively to the date of the *FCC Order*. Finally, I will ask the PSC to require all LECs and ALECs to adopt appropriate meet-point billing arrangements for access charges paid by Interexchange Carriers ("IXCs") terminating calls via ILNP measures.

III. <u>CONSISTENCY OF FLORIDA *LNP ORDER* WITH *FCC ORDER*</u>

Q. WHAT IS YOUR UNDERSTANDING OF THE REQUIREMENTS OF THE PSC'S *LNP ORDER* WITH RESPECT TO ILNP COST RECOVERY?

A. The PSC's *LNP Order* identified costs associated with providing Remote Call Forwarding ("RCF"), and established rates and a cost recovery mechanism. The costs identified were: service implementation costs, central office equipment and software costs, and interoffice networking costs. (*LNP Order* at 15) The rates approved by the PSC consisted of a monthly per-line charge, a monthly additional path charge, and a non-recurring charge. (*Id.* at 16-17) These rates were to be charged to ALECs by BellSouth, GTE Florida ("GTEFL"), and Sprint, for each ALEC number ported from the incumbent LEC via RCF.

Q. WHAT IS YOUR UNDERSTANDING OF THE *FCC ORDER* WITH REGARD TO RECOVERY OF ILNP COSTS?

A. Fundamentally, the *FCC Order* requires that ILNP costs be recovered on a competitively neutral basis. Specifically, the FCC concluded that "...section 251(e)(2) [of the 1996 Act] gives [us] specific authority to prescribe pricing principles that ensure that the costs of number portability are allocated on a 'competitively neutral' basis." (*FCC Order* at ¶ 126) The FCC rejected recovering all ILNP costs on new entrants and stated the following:

> Ordinarily the Commission follows cost causation principles, under which the purchaser of a service would be required to pay at least the incremental cost incurred in providing a service. (*FCC Order* at ¶ 131)

However, the FCC properly recognized that interim portability is not a service and rejected the recovery of all the costs of interim number portability from new entrants on a cost-causative basis:

> ...number portability is a *network function* that is required for a carrier to compete with the carrier that is already serving a customer. Depending on the technology used, to price number portability on a cost causative basis could defeat the purpose for which it was mandated. (*FCC Order at* ¶ 131) [Emphasis added.]

Interim number portability is a mechanism that both enables competition and is used by carriers to route calls between their networks. If one must find a cost causer, then it is competition in general, in which all local telecommunications carriers will participate, and all local telecommunications users will benefit. In addition, local telecommunications carriers and their customers benefit from the ability to complete calls to any other user on the network -- the value of a network is directly related to the number of users that can connect and communicate. The routing of calls should not be considered a service, but rather, as the 1996 Act recognized in Section 251(b)(2), an obligation between carriers. In this capacity, number portability helps enable competition and is a network function, not a service, and it makes no sense to recover the costs of network routing from only new entrant carriers.

Q. WHAT DID THE FCC ULTIMATELY CONCLUDE REGARDING THE RECOVERY OF INTERIM NUMBER PORTABILITY COSTS?

A. The FCC determined that a competitively neutral cost recovery mechanism should satisfy two criteria:

> (1) "...a 'competitively neutral' cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber. In other words, the recovery mechanism should not have a disparate effect on the incremental costs of competing carriers seeking to serve the same customer." (*FCC Order* at ¶ 132)
>
> (2) "The second criterion for a 'competitively neutral' cost recovery mechanism is that it should not have a disparate effect on the ability of competing service providers to earn normal returns

on their investment." (*FCC Order* at ¶ 135)

Q. IS THE PSC'S *LNP ORDER* INCONSISTENT WITH THE *FCC ORDER* WITH REGARD TO THE RECOVERY OF ILNP COSTS?

A. Yes, it is. The cost recovery mechanism approved by the PSC, in which ALECs must pay incumbent LECs tariffed monthly and non-recurring rates in order to use interim number portability is equivalent to having them pay all the costs of interim number portability. This is an explicit violation of the FCC's competitively neutral cost recovery criteria. In its Order, the FCC gave the following example to explain its criteria:

> When a facilities-based carrier that competes against an incumbent LEC for a customer, the incumbent LEC incurs no cost of number portability if it retains the customer. If the facilities-based carrier wins the customer, an incremental cost of number portability is generated. The share of this incremental cost borne by the new entrant that wins the customer cannot be so high as to put it at an appreciable cost disadvantage relative to the cost the incumbent LEC would incur if it retained the customer. Thus, the incremental payment by the new entrant if it wins a customer would have to be close to zero, to approximate the incremental number portability cost borne by the incumbent LEC if it retains the customer. (*FCC Order* at ¶ 133)

The *FCC Order* goes on to conclude that a cost recovery mechanism that imposes the entire incremental cost of currently available number portability on a facilities-based new entrant would violate the first criterion. Such a cost recovery mechanism would impose an incremental cost on a facilities-based entrant that neither the incumbent, nor an entrant that merely resold the incumbent's service, would have to bear.

IV. APPROPRIATE COST RECOVERY MECHANISMS

Q. GIVEN THE *FCC ORDER*, WHAT IS AN APPROPRIATE COST RECOVERY MECHANISM FOR FLORIDA?

A. In its order, the FCC identified several cost recovery mechanisms that it found would meet its competitively neutral recovery criteria. *(FCC Order* at ¶ 136) The simplest and most direct of the recommended mechanisms is one whereby each local carrier would pay for its own costs of currently available number portability measures. Such a mechanism is competitively neutral because it recognizes that both incumbent LECs and ALECs will incur costs to forward calls to another carrier's network via ILNP methods.

Q. WHAT OTHER TYPES OF COMPETITIVELY NEUTRAL RECOVERY MECHANISMS DID THE FCC IDENTIFY?

A. The FCC described the following three additional cost recovery mechanisms that would satisfy its competitively neutral criteria:

1) The method used by carriers in Rochester, New York where a surcharge based on each carrier's number of ported telephone numbers relative to the total number of active telephone numbers in the local

service area is used.

2) A cost recovery mechanism that allocates number portability costs based on a carrier's number of active telephone numbers (or lines) relative to the total number of active telephone numbers (or lines) in a service area.

3) A cost recovery mechanism that would assess a uniform percentage assessment on a carrier's gross revenues less charges paid to other carriers. (*Ibid.*)

Q. WHY DOES MCI PREFER THE MECHANISM WHEREBY LECS AND ALECS EACH RECOVER THEIR OWN COSTS OF ILNP?

A. This mechanism is superior in that it does not require special reporting between carriers of revenues, minutes of use, number of customer telephone numbers, etc. In addition, it does not require carriers to produce, or the PSC to review, cost studies to determine the appropriate incremental costs for recovery. This is especially important because interim portability measures will soon be replaced by permanent number portability. Further, industry and state commission resources are already strained implementing all of the other provisions of the Telecommunications Act of 1996 without having to draw away resources to implement a new, temporary mechanism for the recovery of interim number portability costs. Development and monitoring of the accounting and reporting systems necessary to implement another, more complicated, competitively neutral cost recovery mechanism would be extremely inefficient given the short time frame it will be in place. The other cost recovery mechanisms specified by the FCC would have nearly the same effect on carriers as the method MCI advocates.

However, MCI recommends that the PSC select a cost recovery mechanism that comes without the additional effort and expense that would accompany other allocation-based cost recovery schemes.

Q. WHY WOULD ALL THE VARIOUS COMPETITIVELY NEUTRAL COST RECOVERY MECHANISMS IDENTIFIED BY THE FCC HAVE NEARLY THE SAME EFFECT ON CARRIERS?

A. The recovery mechanism preferred by MCI and the other mechanisms identified by the FCC are similar in that they all result in an allocation of costs based on the size of the local carrier's market share. With the method that MCI proposes, where each carrier must pay for its own costs of number portability, the result is nearly the same, only with fewer overall costs. This is because in the beginning it is likely that the number of customers porting away from a carrier will be in proportion to the market share of that carrier. In this case, most of the customers who port their number will port away from the incumbent LEC, with a smaller number porting away from the new entrant. Thus, using any of the suggested methods requires carriers to pay interim number portability costs based on their size and related market share. However, with the proposal that MCI advocates there are no unnecessary expenses and difficulties created with the development and implementation of allocative processes.

Q. HOW SHOULD THE COSTS OF INTERIM NUMBER PORTABILITY BE DETERMINED FOR ALLOCATION AND RECOVERY?

A. If MCI's recommended cost recovery mechanism is utilized there is no need to determine the costs of interim number portability because every carrier recovers its own costs. Further, with this method carriers have no incentive to inflate the costs of interim number portability. In fact they have an incentive to provide interim portability as efficiently as possible.

However, if the Commission adopts a different method of cost recovery that allocates the cost of interim portability to carriers based on some specific criteria it is important that only the *incremental* costs that are incurred due to the provision of interim portability be accurately identified and recovered. In its Order the FCC states that "[t]he principles we adopt should also mitigate any anti-competitive effects that may arise if a carrier falsely inflates the cost of currently available number portability." (*FCC Order* at ¶ 125)

While apportioning the cost of number portability by market share goes far toward discouraging the inflation of interim number portability costs it does not mitigate it as carriers paying their own costs would. Therefore, if carriers covering their own costs of number portability is rejected, and an allocation method is used, then the incumbent LECs' cost studies must still be scrutinized to determine that costs are not artificially inflated above absolute *incremental* costs. This must be done because an incentive to inflate costs might still remain since the portion of costs that the incumbent pays of its own costs may be simply a matter of "taking money out of one pocket and putting it into the other."

Q. DOES THE FCC IDENTIFY THE INCREMENTAL COSTS THAT ARE INVOLVED IN THE PROVISION OF INTERIM NUMBER PORTABILITY?

A. The FCC discusses the incremental costs of interim number portability and, relying on Bell Operating Company ("BOC") claims, states the following:

> "The BOCs claim, for example, that there are essentially three costs incurred in the provision of RCF for an intraoffice call:
>
> (1) switching costs incurred by the original switch in determining that the number is no longer resident;
>
> (2) switching costs incurred in performing the RCF translation, which identifies the address of the receiving switch; and
>
> (3) switching costs incurred in redirecting the call from the original switch to the switch to which the number has been forwarded.
>
> The BOCs further assert that the additional costs incurred for an interoffice call include:
>
> (1) the transport costs incurred in directing the call from the tandem or end office to the office from which the number was transferred and back to the tandem or end office; and
>
> (2) remote tandem or end office switching costs."
>
> (*FCC Order* at ¶ 129)

These are essentially the additional, or incremental, costs for the provision of interim number portability, and will be incurred by any LEC providing interim number portability, both new and incumbent.

Q. ARE THESE THE ONLY COSTS THAT ARE INCLUDED IN THE RATES BELLSOUTH, GTEFL AND SPRINT CURRENTLY CHARGE FOR RCF?

A. Apparently not. The PSC determined that the rates it approved in the LNP Order were above GTEFL's and Sprint's stated costs to provide RCF. The PSC found BellSouth's cost studies to be questionable, and so directed BellSouth to file new cost studies by March 31, 1997. (*LNP Order* at 17)

Q. IS IT NECESSARY FOR THE PSC TO REQUIRE LECS TO RE-FILE COST STUDIES AND TARIFFS?

A. If the cost recovery mechanism that MCI proposes is adopted, that is, if all carriers recover their own costs of interim number portability, then there will be no need for tariffs or cost reviews. In this situation carriers treat each other as part of a network instead of making customers out of each other (producing all the inherent conflicts that a situation such as this could create). Further, it will become unnecessary for carriers to produce, and PSC to evaluate, interim number portability tariff offerings. If this method is adopted it will only be necessary for the PSC to require LECs to provision number portability in a timely, non-discriminatory manner and set up safeguards to assure that these standards are met. If, however, the PSC chooses to distribute the costs of number portability based on access lines or numbers then it will be necessary to determine the incremental costs that are valid for recovery.

V. <u>RETROACTIVE APPLICATION OF DECISION</u>

Q. SHOULD THE PSC'S DECISION IN THIS CASE BE RETROACTIVELY

APPLIED?

A. Yes. It is appropriate that the PSC's decision in this case be retroactively applied to the release date of the FCC Order -- July 2, 1996. LECs should provide full refunds to ALECs of all amounts collected for RCF between that date and the date of the PSC's order in this proceeding. Depending on the cost recovery mechanism chosen, the cost of the RCF provided during that period can be reallocated accordingly.

VI. <u>OTHER ISSUES</u>

Q. ARE THERE OTHER REQUIREMENTS IN THE *FCC ORDER* REGARDING INTERIM NUMBER PORTABILITY THAT SHOULD BE ADDRESSED IN THIS PROCEEDING?

A. Yes, the *FCC Order* included requirements for the provision of Direct Inward Dial ("DID") as an ILNP method, and the collection of terminating access charges, that should be addressed by the PSC in this proceeding.

Q. WHAT DID THE *FCC ORDER* REQUIRE WITH REGARD TO PROVISION OF DID AS AN INTERIM NUMBER PORTABILITY METHOD?

A. The *FCC Order* required LECs "to offer number portability through RCF, DID, and other comparable methods because they are the only methods that currently are technically feasible." (*FCC Order* at ¶ 110) Thus, LECs must provide DID as a number portability option, along with RCF or other available methods, upon request from a competing carrier. The PSC should therefore make clear in this proceeding that the cost allocation and recovery mechanism it adopts applies to DID as well as RCF. This means that, in the event the PSC adopts a mechanism that requires the calculation of costs for allocation purposes, then the PSC must review and approve cost studies for DID as well as for RCF.

Q. WHAT DID THE *FCC ORDER* REQUIRE WITH REGARD TO TERMINATING ACCESS CHARGES?

A. In response to questions concerning the appropriate treatment of terminating access charges in the interim number portability context, the FCC concluded that meet-point billing arrangements between neighboring incumbent LECs provides the appropriate model for the proper access arrangement for interim number portability. (*FCC Order* at ¶ 140) Therefore, the PSC should direct the LECs to adopt meet-point billing arrangements for access charges paid by IXCs terminating calls directed to new entrants *via* LEC-provided RCF or DID. The appropriate split of access charges is the following:

(1) the forwarding LEC charges the IXC for transport from the IXC point of presence to the end office where the RCF/DID is provided; and

(2) the terminating LEC charges the IXC for the terminating LEC's terminating switching function, common line and RIC.

Any additional intermediate switching and transport costs incurred by the LEC would be recovered according to the competitively neutral mechanism adopted in this proceeding. In addition, if MCI is unable to identify the particular IXC carrying a call subject to forwarding, the forwarding LEC should provide MCI with the necessary information to permit MCI to issue a bill to the IXC. This may include sharing Percentage Interstate/Intrastate Usage data.

VII. CONCLUSION

Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION TO ELIMINATE INCONSISTENCIES BETWEEN THE PSC'S *LNP ORDER* AND THE *FCC ORDER*?

A. The PSC should determine that its prior *LNP Order* is inconsistent with the *FCC Order*, in that it established rates for RCF that are not competitively neutral according to the FCC's cost recovery criteria. The PSC should determine that the costs of number portability should be borne by each carrier providing portability consistent with the competitively neutral requirements of the Telecommunications Act of 1996 and the *FCC Order*. If the PSC declines to implement MCI's recommended cost recovery proposal, the Commission should alternatively allocate the cost of number portability based on the number of active access lines or telephone numbers. The PSC should then direct BellSouth, GTEFL, and Sprint to provide cost studies that identify only the necessary incremental costs that they will incur in the provision of interim number portability, including cost studies for both RCF and DID. Further, the PSC should require retroactive application of its order in this proceeding back to the date of the *FCC Order*, and require refunds to ALECs as appropriate. Finally, appropriate meet-point billing arrangements should be implemented for the sharing of terminating access.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.