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October 8, 1996

Ms. Blanca Bayo, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

BY HAND DELIVERY

Re: Docket No. 961169-TP

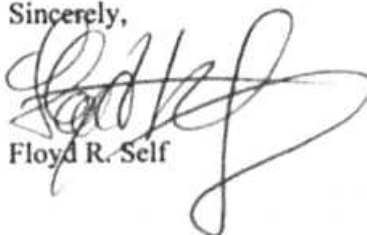
Dear Ms. Bayo:

Enclosed are an original and fifteen copies of the Direct Testimony of Dr. Marvin H. Kahn, the Direct Testimony of Richard Robertson and the Direct Testimony of C. William Stipe, III on behalf of American Communications Services, Inc. in the above-referenced docket.

Please indicate receipt of this document by stamping the enclosed extra copy of this letter.

Thank you for your assistance in this matter.

Sincerely,



Floyd R. Self

FRS/amb
Enclosures

cc: James Falvey, Esq.
Parties of Record

Kahn 10778-96
Robertson 10779-96
Stipe 10780-96

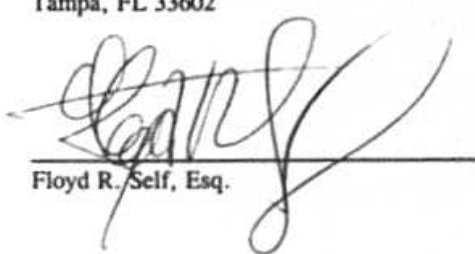
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony of Dr. Marvin H. Kahn, the Direct Testimony of Richard Robertson, and the Direct Testimony of C. William Stipe, III on behalf of American Communications Services, Inc. in Docket No. 961169-TP has been furnished by Hand Delivery (*) and/or Overnight Delivery (**) on this 8th day of October, 1996 to the following parties of record:

Donna Canzano, Esq.*
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Floyd R. Self, Esq.

**DIRECT TESTIMONY
OF
RICHARD ROBERTSON
ON BEHALF OF
AMERICAN COMMUNICATIONS SERVICES, INC.
DOCKET NO. 961169-TP
October 8, 1996**

**DIRECT TESTIMONY OF
RICHARD ROBERTSON**

1 **I. BACKGROUND AND QUALIFICATIONS**

2

3 **Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS**
4 **ADDRESS.**

5 **A. My name is Richard Robertson. I am the Executive Vice**
6 **President/General Manager -- Switched Services of American**
7 **Communications Services, Inc. ("ACSI"). My business address is 131**
8 **National Business Parkway, Suite 100, Annapolis Junction, Maryland**
9 **20701.**

10

11 **Q. PLEASE DESCRIBE YOUR BUSINESS EXPERIENCE AND**
12 **BACKGROUND.**

13 **A. I joined ACSI in April 1996 and serve as Executive Vice**
14 **President/General Manager -- Switched Services. Prior to joining ACSI,**
15 **I worked for BellSouth for 16 years and, since from 1991 to 1996, I**
16 **directed marketing activities for its \$4.0 billion network interconnection**
17 **business. In that role, my responsibilities included negotiating**
18 **interconnection agreements with competitive local exchange carriers**
19 **("CLECs"). I was responsible for development and implementation of**
20 **BellSouth's advanced intelligent network ("AIN") services for the**
21 **interconnection market and also formulated the company's plan for and**
22 **entry into the customer premise equipment ("CPE") market in the mid-**

1 1980s, leading that unit to achieve over \$100 million in sales in its first
2 year of operation. In other assignments during these 28 years, my
3 experience included outside plant, manufacturing, finance, purchasing,
4 strategy development and R&D positions with Western Electric,
5 Bellcore, and the U.S. Army. I have a bachelor's degree in electrical
6 engineering from Virginia Tech and an MBA from the University of
7 Virginia.

8
9 Q. PLEASE BRIEFLY DESCRIBE THE OPERATIONS OF ACSI AND
10 ITS OPERATING SUBSIDIARIES.

11 A. ACSI is a competitive local exchange carrier ("CLEC") focusing
12 primarily on markets in the South and Southwest. ACSI is a
13 publicly-traded Delaware corporation, traded on the NASDAQ Market
14 under the symbol "ACNS". ACSI, through its operating subsidiaries,
15 has already constructed and is successfully operating digital fiber optic
16 networks and offering dedicated services in several states. ACSI has
17 eighteen operational networks¹ and an additional six networks under

20 ¹ ACSI's operational networks are located in the following cities: Columbus,
21 Georgia; Louisville and Lexington, Kentucky; Jackson, Mississippi; Little
22 Rock, Arkansas; Fort Worth, Irving and El Paso, Texas; Tucson, Arizona;
23 Greenville, Columbia, Spartanburg and Charleston, South
24 Carolina; Albuquerque, New Mexico; Birmingham, Mobile and Montgomery,
25 Alabama; and Las Vegas, Nevada.

1 construction.² ACSI affiliates are currently certificated to provide local
2 exchange telecommunications services in Alabama, Georgia, Maryland,
3 Nevada, Tennessee and Texas, and dedicated telecommunications
4 services in Alabama, Arkansas, Georgia, Kentucky, Maryland, Nevada,
5 New Mexico, South Carolina, Tennessee and Texas. ACSI subsidiaries
6 have also applied for authority to provide switched and/or dedicated
7 local exchange telecommunications services³ in Arizona, Arkansas,
8 Colorado, Florida, Kansas, Louisiana, Mississippi, Missouri, Nevada,
9 New Mexico, Oklahoma, South Carolina, and Virginia.

10
11 Q. WILL ACSI INVEST SIGNIFICANTLY IN THIS STATE? CAN YOU
12 PROVIDE AN ESTIMATE OF ACSI'S PROPOSED INVESTMENT
13 IN THIS STATE?

14 A. Yes. As a facilities-based carrier, ACSI will spend tens of millions of
15 dollars in implementing our business plan in-state. In addition, we will
16 be adding a significant number of employees in this state in order to
17 begin offering switched services.

18
19 II. PURPOSE OF TESTIMONY
20

21 ² In addition, ACSI expects the following networks to be operational by
22 October 1996: Baton Rouge, Louisiana; Amarillo and Corpus Christi, Texas;
23 Chattanooga, Tennessee; Colorado Springs, Colorado; and Central Maryland
24 (Washington-Baltimore Corridor).

25 ³ In those states in which ACSI affiliates have not yet sought dedicated private
26 line services, those services have additionally been requested.

- 1 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?
- 2 A. The purpose of my testimony is to explain:
- 3 1) why unbundled loops are critical to the development of local
- 4 competition;
- 5
- 6 2) why this Commission must price local loops based on Total
- 7 Element Long Run Incremental Cost ("TELRIC"), not only to
- 8 comply with applicable federal law, but also in order to maximize
- 9 economic efficiency and promote local competition;
- 10
- 11 3) how proposed pricing for GTE's simple unbundled loops is: a)
- 12 anticompetitive, in that it will artificially drive up CLEC costs
- 13 and could eliminate the development of facilities-based
- 14 competition; and b) represents pricing for a *service*, as opposed
- 15 to an *unbundled element*, and one which provides significantly
- 16 more capability than ACSI needs in a simple unbundled loop;
- 17
- 18 4) why the Commission should direct that the Parties utilize "bill
- 19 and keep" arrangements to compensate each other for the
- 20 transport and termination of local traffic exchanged between
- 21 them;
- 22
- 23 5) why the Commission should compel GTE to allow
- 24 telecommunications carriers which are collocated in the same
- 25 GTE central office to cross-connect directly to each other;

- 1 6) how GTE's inflated proposed pricing for interim number
2 portability is anticompetitive and poses a barrier to entry into the
3 local services market;
4
5 7) why ACSI cannot allow GTE to restrict its ability to combine
6 unbundled network elements purchased from GTE; and
7
8 8) why inclusion of a "most favored nation" provision in its
9 interconnection agreement with GTE is critical to ACSI.

10

11 Q. AS A THRESHOLD MATTER, WHAT INCREMENTAL COST
12 STANDARD MUST THE COMMISSION APPLY?

13 A. As Dr. Kahn will discuss at greater length in his testimony, TELRIC is
14 the standard adopted by the FCC in implementing the
15 Telecommunications Act of 1996 ("1996 Act"). As noted in the FCC's
16 August 8, 1996 Order in its cc Docket No. 96-98 ("the *Interconnection*
17 *Order*"), TELRIC costs are based on the same principles as Total
18 Service Long Run Incremental Costs ("TSLRIC").

19

20 **III. BRIEF HISTORY OF NEGOTIATIONS WITH GTE**

21

22 Q. PLEASE BRIEFLY DESCRIBE YOUR NEGOTIATIONS WITH GTE.

23 A. ACSI's initial request for interconnection negotiations was received by
24 GTE on April 18, 1996. After protracted negotiations, we were able to
25 reach a handshake agreement on most issues, such as the physical

1 network architecture, the general terms applicable to the exchange of
2 local traffic and the availability of local network elements. The
3 companies are reducing our agreement on those points to writing, which
4 I expect to be filed in this proceeding shortly. However, we were
5 unable to agree on several critical points, which we have now asked the
6 Commission to resolve through arbitration.

7
8 Q. WHAT ISSUES BETWEEN ACSI AND GTE HAVE BEEN LEFT
9 UNRESOLVED?

10 A. The first issue on which we did not agree was the pricing of unbundled
11 local loops. ACSI requested incremental cost-based pricing of
12 unbundled loops, relying upon publicly available information gleaned
13 from the Hatfield Study discussed in Dr. Kahn's testimony. While the
14 parties agreed that unbundled loops should be made available, and on the
15 general terms and conditions which should apply to them, GTE would
16 not agree to TELRIC-based pricing. Additional technical information
17 concerning this issue is provided in the Direct Testimony of
18 Mr. William Stipe III of ASCI filed herein.

19 The second issue that must be arbitrated is how each party will
20 be compensated for the exchange of local traffic between them. ACSI
21 requested a mutual exchange, or "bill-and-keep," arrangement, whereas
22 GTE asked ACSI to agree to a system of cash payment reciprocal
23 compensation. I will discuss why a "bill and keep" system is both fair
24 and efficient. My testimony on this issue is supplemented by technical
25 testimony offered by Mr. Stipe.

1 Third, GTE has refused ACSI's request that it be allowed to
2 cross-connect directly to other telecommunications carriers when we
3 both have collocation arrangements in the same GTE central office.
4 Herein, I will discuss why we should be allowed to connect directly to
5 other collocators. William Stipe also will address this issue in his
6 testimony.

7 The fourth issue about which we disagree is the appropriate
8 pricing for interim number portability. Dr. Kahn will discuss the FCC's
9 pricing requirements for interim number portability, and why ACSI
10 believes that GTE's proposed prices fail to satisfy the FCC's criteria. I
11 will discuss the anticompetitive impact such rates would have on ACSI.

12 Fifth, GTE refused to agree to ACSI's request that it be allowed
13 to combine network elements obtained from GTE as it sees fit. I will
14 testify concerning the importance of this provision to ACSI.

15 The sixth area of contention is GTE's refusal to include any sort
16 of "most favored nation" provision in its interconnection agreement with
17 ACSI. I will describe why it is critical to ACSI that it be able to select
18 corresponding provisions of interconnection agreements reached between
19 GTE and other telecommunications carriers.

20 Finally, GTE refused ACSI's request to place remote switching
21 modules ("RSMs") in its collocation space at selected GTE central
22 offices. This issue will be addressed by my colleague, William Stipe, in
23 his Direct Testimony.

24
25 **IV. THE PRICING OF UNBUNDLED LOCAL LOOPS**

1 A **TELRIC-Based Unbundled Loops are Critical to the**
2 **Development of Local Competition**

3
4 Q. PLEASE DESCRIBE THE UNBUNDLED LOOPS YOU REQUIRE
5 AT THIS TIME.

6 A. The access line portion of local exchange service is comprised of two
7 key components: the *loop*, providing transmission between the customer
8 and the LEC central office, and to the *port*, the interface to the switch
9 which provides the capability to originate and terminate calls. ACSI is
10 requesting only the loop element at this time. Unbundled loops are
11 critical to ensuring that ACSI and other CLECs can serve a
12 geographically dispersed customer base. *Physically* unbundled loops are
13 worthless to ACSI and other CLECs if the *pricing* is not also unbundled,
14 and prices are set on an economically viable basis based on the direct
15 forward-looking costs of providing the loop.

16 Specifically, ACSI requests in this arbitration that the
17 Commission require GTE to make available at TELRIC-based pricing
18 (further discussed below and in Dr. Marvin Kahn's testimony) 2-wire
19 analog voice grade loops ("simple loops"), as well as the additional
20 classes of loops discussed below. These and other requested loops are
21 defined in further detail in ACSI's draft interconnection agreement with
22 GTE. ACSI specifically requested during the negotiations that
23 unbundled loops be made available at prices, including both recurring
24 and nonrecurring charges, based on TSLRIC cost. GTE responded by
25 offering pricing at levels set for special access which, as discussed

1 below, ACSI considers to be categorically unacceptable. Certainly, as
2 the FCC's recent decision on interconnection makes plain, such pricing
3 is inconsistent with the 1996 Act. Although ACSI was able to come to
4 terms with GTE, through good faith negotiations, on most
5 interconnection issues, it became clear that GTE's insistence on inflated
6 special access pricing for the loop element would require arbitration by
7 the Commission.

8
9 Q. WHY ARE UNBUNDLED LOOPS PRICED AT TELRIC-BASED
10 RATES CRITICAL TO THE DEVELOPMENT OF LOCAL
11 COMPETITION?

12 A. The ubiquitous local network in place today is a national asset developed
13 over the course of a century by incumbent local exchange carriers
14 ("ILECs") with ratepayer dollars. This national asset was developed by
15 ILECs with the myriad benefits of their government-sanctioned
16 monopoly franchises, including access to rights-of-way, building access,
17 a guaranteed revenue stream, and, most fundamentally, protection from
18 all competition. This monopoly franchise system made sense at a time
19 when technology limited the number of participants in the local exchange
20 marketplace. With the development of advanced switching technology,
21 however, we can now introduce competition -- the preferred American
22 market structure paradigm -- into the local exchange market. While
23 CLECs are rapidly building networks in dense, urban areas where it
24 currently makes economic sense to do so (just as the current incumbents
25 initiated their networks in urban areas, and eventually forfeited the less

1 profitable outlying areas to the independents), it may never make
2 economic sense to overbuild the entire ubiquitous ILEC network.
3 Moreover, the availability of unbundled loops where CLECs may
4 eventually build is critical to ensuring the CLECs' ability to compete
5 immediately while their networks are only partially completed.

6 Accordingly, the U.S. Congress and the FCC, in order to ensure
7 that the benefits of competition spread beyond large customers and
8 business centers, have mandated the unbundling of the "local loop,"
9 often referred to as the "last mile" from the LEC central office to the
10 customer premises. Even in urban areas, CLEC networks do not pass
11 by every building, and unbundled loops are therefore required to expand
12 CLECs' urban customer base, as well. If unbundled loops are priced
13 too high, consumers will be denied a choice of service providers and the
14 promised competition will not be realized.

15
16 Q. DOES GTE CURRENTLY HAVE A MONOPOLY OVER THIS
17 "LAST MILE" OF THE LOCAL NETWORK?

18 A. Yes. As further discussed in Dr. Kahn's testimony, the reason the U.S.
19 Congress and the FCC have required incremental cost-based pricing is
20 because the "local loop" is a monopoly bottleneck element. GTE
21 continues to have monopoly control over the "last mile" of the
22 telecommunications network. Facilities-based local connections between
23 most end-users and the GTE central offices will for some time to come
24 remain the exclusive province of GTE. This monopoly results from the
25 fact that this loop network consists mostly of transmission facilities

1 carrying small volumes of traffic, spread over wide geographic areas.
2 The "last mile" loop network, therefore, is an essential bottleneck
3 facility for any potential provider of competitive local exchange service.
4

5 Q. WHY WILL IT BE IMPOSSIBLE FOR ANY COMPANY TO
6 REPLICATE THE LOCAL LOOP IN THE NEAR TERM?

7 A. As a threshold matter, the reason Congress and the FCC have mandated
8 TELRIC-based unbundled loops is because there is no alternative to the
9 ILEC local loop available *today*. Because Congress has determined that
10 local competition should be implemented now, the question of whether
11 the local loop can be duplicated five, ten, or twenty-five years from now
12 is not relevant. Nonetheless, the reason it is unlikely that the local loop
13 will be replicated even in the foreseeable future is that CLECs do not
14 share the incumbents' advantages. Not only is it currently infeasible,
15 but it is economically inefficient for CLECs to duplicate the ubiquitous
16 network built over the course of the entire century by incumbents. New
17 entrants would find it prohibitively expensive to recreate the ubiquitous
18 local loop. This is true whether new entrants use current technology or
19 alternative -- and as yet not widely deployed -- telephone technology
20 such as wireless loops or cable television plant. This is in part because
21 new entrants have difficulty obtaining public and private rights-of-way,
22 franchises, and building access on the same terms as incumbent LECs
23 enjoy. Accordingly, if the local loop is not unbundled at TELRIC-based
24 rates, customers will be denied the benefits of local competition.
25

1 Q. HOW WILL UNBUNDLED LOOPS PRICED AT TELRIC-BASED
2 RATES OPEN UP THIS FINAL BOTTLENECK?

3 A. Unbundled loops, if appropriately priced based on TELRIC in
4 accordance with federal statutory and regulatory guidelines, will provide
5 access to an essential bottleneck facility controlled by GTE. TELRIC-
6 based rates are not only federally mandated, but are the only rates that
7 will permit economically viable competition to spread to *all* customers,
8 regardless of whether they live in the city, the suburbs, or the country.
9

10 Q. WHY IS IT IMPORTANT THAT NEW ENTRANTS BE PERMITTED
11 TO COMPETE BEYOND THE RANGE OF THEIR CURRENT
12 NETWORKS?

13 A. There are a number of reasons why competition should not remain
14 limited. First, the benefits of competition should be permitted to spread
15 to all customers throughout GTE operating territory. Second, ACSI and
16 other new entrants are facing a daunting competitor in GTE, which
17 already has dramatic competitive advantages: a nearly 100% market
18 share in switched services, a customer relationship with every customer
19 in their market, extensive marketing data on those customers, a
20 ubiquitous network, the benefits of its historical monopoly franchise, and
21 widespread name recognition.

22 The Commission is charged under the 1996 Act with ensuring
23 that GTE cannot perpetuate its overwhelming competitive advantage by
24 drastically limiting the potential serving area of CLECs to a discrete
25 geographic area. Part of ACSI's interest in unbundled loops stems from

1 the fact that many customers have multiple locations. In order for
2 CLECs to compete for these dispersed customers, unbundled loops will
3 be required to complement CLEC facilities. (Ironically, CLECs will be
4 forced to become "cream-skimmers" of more lucrative, lower service
5 cost areas and customers, a pejorative label often pinned on CLECs by
6 LECs, if unbundled loops are not available at economically viable
7 prices.) In short, if ACSI and other CLECs are not permitted to
8 compete *everywhere* through TELRIC-based loops, they may not, as a
9 practical matter, be able to compete *anywhere*.

10
11 **B. Unbundled Loops Must be Priced at TELRIC-Based Rates**
12 **Under the Telecommunications Act of 1996**

13
14 Q. PLEASE EXPLAIN YOUR UNDERSTANDING OF THE
15 UNBUNDLED ELEMENT PRICING REQUIREMENTS OF THE
16 TELECOMMUNICATIONS ACT OF 1996.

17 A. The Telecommunications Act of 1996 and the rules issued in Docket 96-
18 98 at the FCC greatly simplify this Commission's task in the arbitration
19 of pricing unbundled loops. Although I am not a lawyer, the plain
20 meaning of Section 252(d)(1) of the Telecommunications Act of 1996
21 requires that pricing for unbundled elements should be based on the cost,
22 without reference to rate-of-return regulation, of the unbundled network
23 element, must be nondiscriminatory, and *may* include a reasonable
24 profit. In its seminal *Interconnection Order* released on August 8, 1996,
25 the FCC correctly interpreted this language to require that unbundled

1 element rates must not only be nondiscriminatory, but must also be
2 based on TELRIC. Dr. Kahn's testimony will go into greater detail as
3 to the appropriate economic analysis to arrive at the appropriate rates for
4 unbundled elements. Dr. Kahn will also explain why the FCC's pricing
5 standard is not only the law of the land, but the only economically
6 efficient means to determine the costs of unbundled elements.

7
8 **Q. AS A BUSINESSMAN, WHY DO YOU BELIEVE IT IS NECESSARY**
9 **FOR THE COMMISSION TO ENSURE THAT UNBUNDLED**
10 **ELEMENT PRICES ARE NOT EXCESSIVE?**

11 **A.** In the simplest terms, if the Commission were to allow GTE to charge
12 non-TELRIC based rates for unbundled loops, new entrants such as
13 ACSI would not be able to compete. Local competition promises to
14 bring -- and in many ways already has succeeded in bringing -- lower
15 prices, higher quality service, and increased innovation statewide. If the
16 Commission overestimates the appropriate price of unbundled loops,
17 new facilities-based entrants will not succeed in entering the market, the
18 GTE monopoly will remain intact, and the benefits of competition will
19 not be realized.

20
21 **C. GTE Has Inappropriately Priced Its Unbundled Loops Like**
22 **Special Access Services**

23
24 **Q. HOW HAS GTE ESTABLISHED ITS PROPOSED UNBUNDLED**
25 **LOOP RATES?**

- 1 A. Since a full explanation was never given by GTE, I cannot be certain.
2 However, it appears that GTE treated the unbundled loop *facility* much
3 the same as it would a special access *service* (i.e., DSO), and based
4 upon this erroneous analogy, incorrectly priced them in a similar
5 fashion.
6
- 7 Q. WHY DOES THE SPECIAL ACCESS-LIKE PRICING OFFERED BY
8 GTE SUGGEST A FUNDAMENTAL MISUNDERSTANDING BY
9 GTE OF THE ENTIRE CONCEPT OF UNBUNDLING?
- 10 A. Special access-like pricing is wrongheaded in several respects. Simple
11 unbundled loops are technically very different from the more
12 sophisticated special access service. Because of these technical
13 differences, ACSI has asked to buy, in effect, the chassis for a Chevy
14 Cavalier and GTE offered us a fully assembled Cadillac, at Cadillac
15 prices. In other words, ACSI asked for an *element* of a relatively simple
16 service. While GTE will provide this simple service element, it quoted
17 a price for a complete *service*, and a relatively sophisticated service at
18 that.
19
- 20 Q. HOW IS SPECIAL ACCESS SERVICE DIFFERENT THAN A
21 SIMPLE UNBUNDLED LOOP?
- 22 A. For the time being, I would like to focus on the difference between
23 special access *service* and a simple unbundled loop *element*. Special
24 access entails a number of sophisticated specifications that a simple
25 unbundled loop does not meet, and that ACSI does not require. Special

1 access like DSO, is a digital service; the requested simple loops are
2 analog. Moreover, when ACSI requests simple unbundled copper loops,
3 it does not need several elements included in the digital special access
4 service. Instead, ACSI needs only the copper loop element, not the
5 entire service. Indeed, GTE's pricing suggests that it is offering to
6 provision a whole new end-to-end special access line; all that ACSI
7 requests is, in its simplest terms, moving GTE's existing copper loop
8 facility from its current connection to GTE's switch to its new
9 connection to ACSI's node. Because this is a key distinction, ACSI also
10 offers the testimony of Mr. William Stipe to expand on this distinction
11 and to provide further background on key technical points.

12
13 Q. WHAT DO YOU MEAN WHEN YOU SAY THAT GTE
14 MISUNDERSTANDS THE ENTIRE CONCEPT OF UNBUNDLING?

15 A. ACSI, as a facilities-based provider of switched services, can provide
16 many basic network elements without GTE. Accordingly, when it
17 orders an "*unbundled*" element of the kind that GTE must provide under
18 the Telecommunications Act of 1996, it is ordering an *element* of GTE's
19 network—the simple unbundled loop—and not a GTE *service*, such as
20 the special access service offered by GTE. Attachment I to my
21 testimony is a chart demonstrating several GTE bundled network
22 *services* with their associated basic network *elements*. This chart
23 demonstrates the distinction between a *service* and an *unbundled*
24 *element* and makes it clear that what GTE is offering, both physically
25 and from a pricing perspective, is a service and not an unbundled

1 element. The chart lists on the left-hand side GTE's services and across
2 the top (under "unbundled basic network elements") lists the elements
3 that constitute each service. GTE proposes to provide ACSI with the
4 Digital Private Line (56 kb/s) bundled network service. ACSI,
5 however, only requires the copper loop element for most of its
6 applications, with few exceptions. GTE is attempting to add in loop
7 conditioning, A/D Conversion and multiplexing elements that ACSI does
8 not need.

9
10 **D. Unbundled Loops Priced at GTE's Proposed Rates, or Any**
11 **Other Rate Not Based on TELRIC, Would Make It**
12 **Impossible For ACSI To Compete**

13
14 Q. AS A BUSINESSMAN WITH ALMOST THIRTY YEARS
15 EXPERIENCE IN THE INDUSTRY, IS IT CLEAR TO YOU THAT
16 GTE'S SPECIAL ACCESS PRICING IS GROSSLY INFLATED?

17 A. Yes. Although ACSI witness Dr. Kahn discusses the appropriate basis
18 for setting unbundled element rates, the excessiveness of GTE's
19 proposed rates can be quickly surmised from a comparison with existing
20 GTE and other rates, including existing GTE tariffed rates for
21 comparable services or facilities, and unbundled loop rates from other
22 states. This is true of both the nonrecurring and recurring charges for
23 GTE special access rates.

24

1 Q. ARE OTHER PROXIES AVAILABLE TO SUGGEST THAT GTE'S
2 RECURRING UNBUNDLED LOOP RATES ARE ALSO OUT-OF-
3 LINE?

4 A. Yes. In fact, unbundled loop rates are already in place in several states
5 which demonstrate that GTE's special access recurring charges are
6 substantially out-of-line with TELRIC-based rates. In Michigan, for
7 example, the Commission set an interim rate for a simple business loop
8 of \$8.00 based on an incremental cost study in that range.⁴ In
9 Connecticut, Southern New England Telephone was ordered to provide a
10 range of business unbundled loop rates beginning at \$10.18 for "metro"
11 business loops. (These and other rates are grouped in four geographic
12 zones, as they should be, as I will discuss at greater length below.)⁵ In
13 Illinois, Ameritech agreed with MFS to the following schedule of
14 unbundled loop rates:⁶

15 ⁴ *In re Application of City Signal*, Case No. U-10647, Opinion and Order at
16 35, 103 (Feb. 23, 1995).

17 ⁵ *Application of the Southern New England Telephone Company for Approval to*
18 *Offer Unbundled Loops, Ports and Associated Interconnection Arrangements*,
19 Docket No. 95-06-17, Decision at 84 (Dec. 20, 1995).

20 ⁶ *Interconnection Agreement Under Sections 251 and 252 of the*
21 *Telecommunications Act of 1996 by and between Ameritech Information Industry*
22 *Services and MFS Intelenet of Illinois* (May 17, 1996).

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2
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Monthly Rates			
Loop Type	Access Areas ⁷		
	A	B	C
Analog 2W	\$6.95	\$11.10	\$13.60
Analog 4W	\$13.90	\$22.20	\$27.20
ADSL 2W/HDSL 2W	\$6.95	\$11.10	\$13.60
ADSL 4W/HDSL 4W	\$13.90	\$22.20	\$27.20
BRI ISDN	\$6.95	\$11.10	\$13.60
PBX Ground Start Coin	\$6.95	\$11.60	\$14.10
Coin	\$6.95	\$11.60	\$14.10
Electronic Key Line	\$6.95	\$11.60	\$14.10

In California, Pacific Bell agreed to a basic business loop (including the EUCL) of \$12.50 for Zone 1 of three rate zones.⁸ These rates from other states provide a series of proxies for recurring unbundled loop charges that the Commission might consider while state-specific TELRIC-based prices are being developed.

21 ⁷ "Access Area" is as defined in Ameritech's applicable tariffs
22 for business and residential Exchange Line Services.

23 ⁸ *Co-Carrier Interconnection Agreement between Pacific Bell and MFS*, filed
24 by Advice Letter No. 17879, at 42 (Nov. 20, 1995).

1 Relying on this and other relevant evidence, the FCC established
2 a default proxy rate for Florida of \$13.68. As described hereafter (and
3 in Dr. Kahn's testimony), this is a statewide average rate that must be
4 deaveraged into at least three geographic zones.
5

6 Q. IS IT POSSIBLE THAT THE TELRIC OF UNBUNDLED LOOPS
7 WILL PROVE TO BE LOWER THAN THE RATES ESTABLISHED
8 IN THESE OTHER STATES?

9 A. Yes. Under the Telecommunications Act of 1996 and the FCC's rules,
10 the Commission must adopt TELRIC-based rates. Once these rates are
11 adopted, they should be available to ACSI. These should be completed
12 swiftly because otherwise the market signals will continue to be distorted
13 and competition could be harmed.
14

15 Q. IS IT POSSIBLE THAT GTE'S SPECIAL ACCESS PRICING COULD
16 LEAD TO A COST-PRICE SQUEEZE?

17 A. Yes. Although Dr. Kahn will be more prepared to describe this in
18 economic terms, what this means to me as a businessman is that I have
19 to buy a number of bottleneck services from GTE at the wholesale level,
20 such as number portability, intermediate transit, directory services,
21 unbundled loops, cross-connects, and in the future, other unbundled
22 elements. I then must turn around and compete with GTE at the retail
23 level. By pricing its wholesale services, and particularly unbundled
24 loops, at an exorbitant rate -- and one which greatly exceeds the cost-
25 based rate which GTE effectively charges itself -- and then lowering its

1 retail rates, GTE could easily "squeeze" any profit margin that ACSI
2 might have hoped to obtain. To the same end, GTE has begun to
3 request additional pricing flexibility and off-tariff contracting authority
4 for switched services in certain states to permit it to lower its rates to
5 end users, perhaps to fully effect this squeeze.

6 While a price squeeze might involve a number of bottleneck
7 elements that CLECs must purchase from GTE, the unbundled loop is a
8 critical element in this potential price squeeze. To protect against such a
9 price squeeze, the Commission should adhere to the TELRIC-based rates
10 required by Congress and the FCC, and supported in this proceeding by
11 the testimony of Dr. Kahn.

12
13 Q. ARE THERE OTHER PROBLEMS WITH THE UNBUNDLED LOOP
14 PRICING PROPOSED BY GTE?

15 A. Yes. GTE offered ACSI a single geographically-averaged rate for all
16 unbundled loops, whereas the cost of such facilities can vary greatly
17 depending upon population density and other factors. Generally
18 speaking, loop costs go down as the population density of a service area
19 increases. ACSI should only be charged the TELRIC cost to GTE of
20 providing loops in discrete service areas. This is the only way ACSI can
21 hope to have a reasonably level playing field with GTE in competing for
22 customers in the particular market areas in which we will compete with
23 each other.

24 Moreover, this is the only way the Commission can comply with
25 the FCC's requirement of TELRIC-based rates. Accordingly, the

1 Commission should order GTE to conduct TELRIC cost studies that take
2 into account density and distance. (As noted below, different categories
3 of loops will likewise reflect unique cost characteristics. GTE TELRIC
4 cost studies, in addition to including density and distance sensitive rate
5 categories, should provide separate rates for different categories of
6 loops.)

7
8 Q. IS THERE ANY PRECEDENT FOR THIS TYPE OF PRICING
9 STRUCTURE?

10 A. Yes. In fact, many of the rates I quoted above, including those of
11 Ameritech, SNET, and Pacific Bell, are broken out in three or four
12 density and/or distance-based categories. The FCC has also recognized
13 this phenomenon when it permitted ILECs to adopt zone density pricing
14 for special access services,⁹ and included a requirement in its rules for
15 pricing unbundled network elements which requires that state
16 commissions establish different rates for elements in at least three (3)
17 geographic areas in each state to reflect geographic cost differences
18 (§ 51.507(f)). The FCC has required TELRIC-based pricing for
19 unbundled elements. If the Commission fails to break unbundled loop
20 rates into density-based categories, rates will be significantly below cost
21 for loops in certain areas (most likely the sparsely populated areas where
22 GTE does not face competition), and well above cost in other areas
23 (namely, the urban centers where competition will develop first).

24 ⁹ *Expanded Interconnection with Local Telephone Company Facilities*, Report
25 and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369, 7454 (1992).
26

1 E. **GTE's Proposed Nonrecurring Charges For an Unbundled**
2 **Loop Present an Insurmountable Barrier To Entry.**

3
4 Q. DOES ACSI ALSO OBJECT TO GTE'S PROPOSED
5 NONRECURRING CHARGES FOR UNBUNDLED LOOPS?

6 A. Absolutely. GTE has proposed a nonrecurring charge for simple
7 unbundled loops equal to the nonrecurring charge in its special access
8 tariff. This rate is excessive in light of the technical differences between
9 provisioning special access loops and unbundled loops as described by
10 ACSI witness Mr. William Stipe. But it is also excessive when
11 compared, for example, to the nonrecurring charge for services, such as
12 basic business lines, currently tariffed by GTE. The basic business line
13 offered by GTE, for example, is by definition a combination of
14 unbundled loops and other unbundled elements, yet basic business line
15 nonrecurring charges are drastically lower (less than one third of the
16 GTE recommended charge in most states) than the nonrecurring
17 unbundled loop rates proposed by GTE. This makes GTE's pricing
18 proposal for nonrecurring charges blatantly discriminatory.

19
20 Q. WOULD SUCH INFLATED NONRECURRING CHARGES FOR
21 INSTALLATION OF UNBUNDLED LOOPS IMPAIR ACSI'S
22 ABILITY TO COMPETE?

23 A. ACSI would have to pass such costs along to its customers. If
24 installation charges are unreasonably high -- as proposed by GTE -- then
25 end user's will not be inclined to switch from their existing GTE service

1 to ACSI's local services. Thus, such unreasonably high up-front charges
2 are inherently anti-competitive. It was for just this reason that regulators
3 set PIC change charges in the long distance business in the low \$5 range
4 years ago. The same considerations apply here.

5
6 Q. HOW THEN SHOULD NONRECURRING CHARGES BE
7 ESTABLISHED?

8 A. The Commission should, at a minimum, set a ceiling on unbundled loop
9 nonrecurring charges at the current tariffed rate applicable to basic
10 business lines. This is not to say that the TELRIC-based price might not
11 turn out to be still lower, as discussed in Dr. Kahn's testimony. GTE's
12 inflated pricing proposal for nonrecurring costs is nothing more than a
13 transparent attempt to increase costs for its CLEC competitors in order
14 to thwart the development of competition.

15
16 F. **ACSI Requests Incremental Cost-Based Unbundled 2- and 4-
17 Wire Analog and Digital Loops**

18
19 Q. PLEASE DESCRIBE THE ADDITIONAL LOOPS ACSI REQUESTS,
20 IN ADDITION TO SIMPLE UNBUNDLED LOOPS.

21 A. While much of my testimony has focused on 2-wire analog loops, the
22 simple loops required for competition for less sophisticated end users,
23 ACSI also is requesting additional loop types be priced based on the
24 same TELRIC standard required by the FCC. These additional loop
25 types are as follows: (1) 4-wire analog voice grade loops; (2) 2-wire

1 ISDN digital grade links; (3) 2-wire ADSL-compatible loop; (4) 2-wire
2 HDSL-compatible loop; and (5) 4-wire HDSL-compatible loop. These
3 loops will enable ACSI to meet the needs of more sophisticated end
4 users that require advanced digital technology.

5
6 Q. WHY ARE THESE ADDITIONAL LOOPS CRITICAL TO ACSI AND
7 TO THE DEVELOPMENT OF COMPETITION?

8 A. If ACSI is limited to simple loops, its ability to serve sophisticated end
9 users will be limited. For example, sophisticated business customers
10 increasingly demand services such as ISDN. In order to provide ISDN
11 to customers located off of ACSI's network, ACSI must have access to
12 ISDN digital loops. ISDN simply cannot be offered using unconditioned
13 two-wire analog loops. Moreover, some PBX and key systems require
14 4-wire loops. ACSI must not be precluded from offering service to
15 customers demanding these types of services. Accordingly, the
16 Commission should require GTE to provide these as separate unbundled
17 loops at TELRIC pricing in order to permit ACSI to compete and to
18 encourage the development of local competition.

19
20 Q. DO THE SAME PRICING REQUIREMENTS APPLY FOR THESE
21 LOOPS?

22 A. Yes. While the TELRIC of providing these loops may be incrementally
23 higher than that of the simple 2-wire analog loop, the same arguments
24 apply with respect to how these types of loops should be priced as I have
25 discussed with respect to the simple unbundled loops: the 1996 Act and

1 the FCC have required pricing based on TELRIC; ACSI will be caught
2 in a price squeeze without TELRIC-based pricing; ACSI will not be able
3 to compete for these customers without such pricing; and withholding
4 such pricing will only delay the advent of widespread local competition
5 and the attendant benefits of lower prices, increased quality services, and
6 increased innovation.

7
8 **V. COMPENSATION FOR MUTUAL TRAFFIC EXCHANGE**

9
10 **Q. WHAT IS THE NATURE OF ACSI'S DISAGREEMENT WITH GTE
11 REGARDING RECIPROCAL COMPENSATION?**

12 **A. GTE has consistently refused to accept ACSI's proposals with respect to
13 use of a "bill and keep" system of reciprocal compensation, and
14 advocates a system of mutual cash payments in which the parties would
15 pay each other on a per minute of use basis for transport and termination
16 of local traffic. Most significantly, GTE's proposal would constitute a
17 direct barrier to entry to ACSI and similarly-situated competitors. The
18 cash payment system proposed by GTE would require ACSI to make a
19 substantial investment in back office operations, which might very well
20 not be supported by the mutual traffic imbalances. This unnecessarily
21 complex system would require ACSI to design its network inefficiently
22 and subsidize GTE's network inefficiencies. Instead, for the initial
23 period of competition ACSI advocates "bill and keep" by which carriers
24 exchange traffic on an in-kind basis, which recognizes the balance of
25 traffic exchanged between carriers.**

1 Q. WHY IS "BILL AND KEEP" THE PREFERABLE METHOD OF
2 RECIPROCAL COMPENSATION?

3 A. Reciprocal compensation arrangements for exchange of local traffic will
4 be critical to the success or failure of local competition. The start up
5 and administrative cost of a cash payment system will have a
6 considerably more dramatic impact on ACSI than on GTE. If cash
7 payments are required, ACSI will have to develop billing and tracking
8 mechanisms to record traffic exchanged, hire personnel capable of
9 developing and administering the system, and expand resources auditing
10 bills from GTE. This considerably increases ACSI's start up costs and
11 creates a potential barrier to entry by competitors such as ACSI. The
12 compensation scheme for interconnection that is established in this
13 arbitration proceeding can determine a significant portion of ACSI's cost
14 of doing business and is therefore critical to ensuring that ACSI's
15 business of providing competitive local exchange service is a viable one.

16
17 Q. WHY DOES ACSI BELIEVE THAT COMPETITORS SHOULD
18 UTILIZE A "BILL AND KEEP" SYSTEM OF RECIPROCAL
19 COMPENSATION?

20 A. The "bill and keep" method of reciprocal compensation is
21 administratively simple, avoids complex economic analysis, which is at
22 best subject to further questioning, and is fair. What is more, bill and
23 keep has been the historically recognized method of reciprocal
24 compensation between independent LECs throughout the country. The
25 FCC's *Interconnection Order* also authorizes use of "bill and keep."

1 Q. HOW DOES "BILL AND KEEP" WORK?

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

11

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

13 A. One of the principal advantages of the bill and keep method of
14 compensation, as compared with the per-minute charge advocated by
15 GTE, is that it economizes on costs of measurement and billing. With
16 present technology, carriers are unable to measure the number of local
17 calls that they terminate for any other given carrier. Measurement and
18 billing costs could significantly increase the TELRIC of the switching
19 function for terminating traffic and could result in higher prices for
20 consumers.

21

22 Q. WHAT IS THE IMPACT OF THIS INCREASED COST?

23 A. The overall impact on the cost of providing local exchange service could
24 be substantial for both business and residential consumers. In order for
25 this significantly increased cost of providing local exchange service to be

1 justified, there would have to be a very large imbalance in traffic to
2 make sure such measurement worthwhile for society. Moreover, the
3 costs of measurement would create entry barriers and operate to deter
4 competition, since they would be added to entrants' costs for nearly all
5 calls (those terminated on GTE's network), while being added only to a
6 small fraction of GTE's calls (those terminated on ACSI's network).

7
8 Q. WHAT ARE SOME OF THE OTHER ADVANTAGES TO "BILL
9 AND KEEP"?

10 A. The bill and keep method of compensation also provides incentives to
11 carriers to adopt an efficient network architecture, one that will enable
12 the termination of calls in the manner that utilizes the fewest resources.
13 A compensation scheme in which the terminating carrier is able to
14 transfer termination costs to the originating carrier reduces the incentive
15 of the terminating carrier to utilize an efficient call termination design.

16
17 Q. HAS "BILL AND KEEP" BEEN ADOPTED IN OTHER STATES?

18 A. The use of the bill and keep method of compensation in various forms
19 has been adopted by at least nine state public service commissions,
20 according to the National Association of Regulatory Utility
21 Commissioners, including several locations in GTE's operation region.
22 As the Washington Utilities and Transportation Commission said in
23 adopting bill and keep:

24 We would not adopt bill and keep if it appeared that new
25 entrant ALECs would be imposing more costs on the

1 incumbents than they would be incurring by terminating
2 incumbents' traffic. This might happen if all traffic were
3 from the ALECs to the incumbent LECs. . . . However,
4 the opponents of bill and keep have not demonstrated that
5 this situation is likely to occur, at least in the near term
6 when bill and keep will be in place. To the contrary, the
7 only evidence on the record favors the theory that traffic
8 will be close to balance.¹⁰

9
10 Q. HAS "BILL AND KEEP" BEEN SUCCESSFULLY INSTITUTED BY
11 INCUMBENT LECs?

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

19
20 Q. IS THERE GOOD REASON TO BELIEVE THAT TRAFFIC WILL
21 BE IN BALANCE BETWEEN GTE AND ACSI?

22 A. Actually, there is no good reason to believe that traffic will not be
23 materially balanced at this point. Although incumbents often argue that,

24 ¹⁰ [Citations omitted] *Fourth Supplemental Order, Washington Utilities and*
25 *Transportation Commission v. US West*, Docket Nos. UT-941464, 941465,
26 950146, 950265 (10/31/95) at 30.

1 if traffic is not in balance between two carriers, "bill and keep" is an
2 imperfect method of compensation, they cite to no solid evidence for
3 their contention. The fact is that ACSI and GTE will be direct
4 competitors in the local exchange market selling these same types of
5 local exchange services to an identical base of customer prospects.
6 Thus, I anticipate - in the absence of contrary data - that both companies
7 will have the same proportion of originating and terminating local
8 traffic.

9
10 **VI. CROSS-CONNECTION OF COLLOCATED**
11 **TELECOMMUNICATIONS CARRIERS**

12
13 **Q. WHAT IS THE NATURE OF THE DISPUTE INVOLVING CROSS-**
14 **CONNECTION TO OTHER TELECOMMUNICATIONS CARRIERS?**

15 **A.** The issue involves the ability of two CLECs collocated at the same wire
16 center to cross connect directly without transiting the GTE network.
17 ACSI requested GTE's permission and assistance in doing so, and GTE
18 has refused.

19
20 **Q. WHY IS IT UNREASONABLE FOR GTE TO PROHIBIT CLECS**
21 **FROM CROSS CONNECTING DIRECTLY?**

22 **A.** In negotiations, ACSI requested and GTE refused to permit, direct cross
23 connection between CLECs collocated at the same GTE central office.
24 ACSI's proposal is that either ACSI be permitted to install the
25 connection itself, or purchase a connection from GTE on a "time and

1 materials" basis. (Alternatively, GTE would provide such an
2 arrangement at one-half of its special access cross-connect rate.) While
3 ACSI and GTE were able to agree upon many of the details of
4 collocation, GTE would not permit such direct interconnection between
5 two collocated CLECs. GTE's proposal to require both carriers to
6 transit the GTE network is not only needlessly inefficient, but is also
7 designed to preserve GTE's central significance as the dominant, central
8 local carrier through whom virtually all parties must interconnect in
9 order to complete virtually all calls. Requiring carriers that are literally
10 yards apart to interconnect through GTE's network is a throwback to the
11 monopoly system; ACSI's proposal to interconnect directly with other
12 CLECs is, by contrast, a forward-looking, efficiency-maximizing
13 interconnection solution.

14
15 Q. HAVE OTHER COMMISSION'S PERMITTED THIS FORM OF
16 DIRECT INTERCONNECTION BETWEEN COLLOCATED CLECS?

17 A. Yes. The Florida Commission has required ILECs to permit such direct
18 interconnection in its recent MFS interconnection order stating: "we
19 agree that it is an efficient way for ALECs to interconnect with each
20 other and should be implemented... Therefore, BellSouth shall offer
21 such arrangements at one-half its special access cross-connect rate."¹¹

22 The New York Public Service Commission has likewise required ILECs

23 ¹¹ *In Re: Resolution of petition(s) to establish nondiscriminatory rates, terms,*
24 *and conditions for interconnection involving local exchange companies and*
25 *alternative local exchange companies pursuant to Section 364.162, Florida*
26 *Statutes, Docket No. 950985-TP, at 18-19 (March 29, 1996).*

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Q. WHAT IS THE NATURE OF THE DISPUTE CONCERNING THE PRICING FOR INTERIM NUMBER PORTABILITY?

A. As Dr. Kahn will explain, the basic problem is that GTE has proposed rates for interim number portability that recover a disproportionate share of the cost of providing interim number portability arrangements from new entrants such as ACSI. Although GTE offered to charge its current tariffed rates in Florida, these rates were established prior to the release this summer of FCC requirements for interim number portability pricing, and the tariffed charges are inconsistent with those requirements. These inflated number portability charges exacerbate the problem posed by GTE's overpriced rates for unbundled local loops. By artificially increasing the cost to ACSI of serving its customers, it substantially deters new entry and impedes ACSI's ability to offer a truly competitive local exchange offering.

VIII. COMBINING NETWORK ELEMENTS

Q. PLEASE DESCRIBE THE ISSUE CONCERNING ACSI'S ABILITY TO COMBINE UNBUNDLED NETWORK ELEMENTS PURCHASED FROM GTE.

A. ACSI proposes to purchase a number of network elements from GTE. Since GTE will also be ACSI's principal competitor in the GTE operating territory, it would be profoundly anticompetitive for GTE to

1 be able to dictate how ACSI will employ those network elements in its
2 own network. Both the Telecommunications Act (Section 251(c)(3)) and
3 the FCC's *Interconnection Order* (§§ 292-297) expressly state that
4 interconnectors such as ACSI should be able to recombine network
5 elements as they see fit, yet GTE has steadfastly refused to include such
6 a provision in its interconnection agreement with ACSI.

7
8 **IX. "MOST FAVORED NATION" STATUS**

9
10 **Q. WHAT IS THE NATURE OF THE DISPUTE BETWEEN ACSI AND**
11 **GTE REGARDING "MOST FAVORED NATION" STATUS?**

12 **A. The items covered by the draft interconnection agreements exchanged by**
13 **the parties, such as unbundled network elements, interconnection,**
14 **transport and termination pricing and number portability arrangements,**
15 **all are critical inputs into both the features and pricing of ACSI's**
16 **proposed local exchange service offerings. Indeed, some items, such as**
17 **unbundled local loops, are essential facilities that ACSI must obtain from**
18 **GTE in order to provide local exchange services at all. The importance**
19 **to ACSI of the availability, features, terms, conditions and pricing of**
20 **each of these services and facilities simply cannot be overstated.**

21 At the same time, however, ACSI is a relatively new and small
22 player in the telecommunications business. Unfortunately, ACSI cannot
23 match the bargaining leverage or enormous negotiating resources
24 possessed by some of the larger, more well-established players in the
25 business. If these larger players are able to use their advantages to

1 extract materially better terms than ACSI for such essential facilities,
2 they will have an artificial competitive advantage, and ACSI's ability to
3 compete will be unfairly hampered, if not destroyed. Indeed, since
4 smaller carriers cannot accept such risk rationally, without reasonable
5 assurance that better terms will *not* be made available to larger
6 competitors at a later date, new entrants such as ACSI will be effectively
7 forced to delay their interconnection negotiations until after GTE
8 concludes its interconnection agreements with all other major players.
9 "Wait and see" would become the watchword.

10 ACSI tried to resolve this dilemma by asking GTE to agree to a
11 "most favored nation"-type clause in the interconnection agreement.
12 Under our proposal, ACSI would be able to elect to replace any portion
13 of its GTE interconnection agreement with the corresponding portion of
14 any other interconnection agreement between GTE and other
15 interconnectors, regardless of whether the agreement was reached by
16 voluntary negotiations, arbitration or regulatory action. The specific
17 language proposed by ACSI is attached hereto as Attachment II to my
18 testimony. GTE refused to agree to our proposal or make any counter-
19 proposal on this issue.

20
21 Q. HAS ACSI'S MOST FAVORED NATION PROPOSAL BEEN
22 ACCEPTED ELSEWHERE?

23 A. Yes. Each of the other ILECs with which ACSI has concluded
24 interconnection negotiations (*i.e.*, BellSouth, Southwestern Bell and US
25 West) has agreed to the same or similar language proposed by ACSI.

1 This is not surprising since the express language of Section 252(i) of the
2 Telecommunications Act requires that a "local exchange carrier shall
3 make available any interconnection, service or network element provided
4 under an agreement approved under [Section 252] to which it is a party
5 to any other requesting telecommunications carrier upon the same terms
6 and conditions as those provided in the agreement." The FCC has
7 concluded that Section 252(i) enables requesting carriers "to choose
8 among individual provisions contained in publicly filed interconnection
9 agreements." (*Interconnection Order*, ¶¶ 1310, 1314). Notably, the
10 FCC expressly rejected GTE's position on this subject. (*Id.* at ¶ 1315).
11 Given this unambiguous language, we believe that GTE's refusal to
12 bargain on this point in tantamount to bad faith negotiations.

13
14 Q. HOW IMPORTANT IS THIS ISSUE TO ACSI?

15 A. It is absolutely critical. We regard the provisions of Section 252(i) to be
16 among the most important provisions of the Telecommunications Act.
17 The terms and conditions of interconnection can be expected to evolve
18 over time, and particular carriers should not later be penalized for being
19 willing to "go first" or for their lack of comparative bargaining leverage.
20 The "most favored nation" treatment of Section 252(i) -- and ACSI's
21 proposed contract language -- provides a critical safeguard that precludes
22 ILEC discrimination and creates a level playing field for all new entrants
23 in the local service market.

24
25 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

1 A. Yes.

Bundled Network Services	Unbundled Basic Network Elements								
	Copper Loop	Loop Conditioning	A/D Conversion	Multiplex	Switch Port	DTMF Signaling	Call Proc. Software	Trunk Signal-MF	Trunk Signal-SS7
Centrex Line	●				●	●	●	▲	▲
Switched Access (e.g., FG D)					●		●		
Special Access	●	●	●	●					
Analog DID Trunk	●				●	●	●		
Business Line (1FB)	●				●	●			
Digital Private Line (56 kb/s)	●	●	●	●					

- Element necessary to provide the service.
- ▲ This element or other element necessary to provide the service.