

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Sprint) Docket No. 961173-TP
 Communications Company Limited)
 Partnership d/b/a Sprint for)
 arbitration with GTE Florida)
 Incorporated concerning)
 interconnection rates, terms,)
 and conditions, pursuant to the)
 Federal Telecommunications Act)
 of 1996.)

FIRST DAY - AFTERNOON SESSION

VOLUME 3

PAGES 299 through 399

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER DIANE K. KIESLING
 COMMISSIONER JOE GARCIA

DATE: Thursday, December 5, 1996

PLACE: Betty Easley Conference Center
 Room 152
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 Tallahassee, Florida

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PROCEEDINGS

1
2 (Transcript continues in sequence from
3 Volume 2.)

DAVID E. STAHLY

4
5 having been called as a witness on behalf Sprint
6 Communications, and being duly sworn, continues his
7 testimony as follows:

CONTINUED CROSS EXAMINATION

BY MR. McCORMICK:

8
9
10 Q Do you have paragraph 11 in front of you,
11 Mr. Stahly?

12 A Yes, I do.

13 Q Do you see about the second sentence of
14 paragraph 11, incumbent LECs have economies of density,
15 connectivity and scale. Do you see that?

16 A Yes, I do.

17 Q Do you have any reason to disagree with that?

18 A No, I do not.

19 Q And the FCC also says that the purpose of the
20 Act -- and this is about the last line on that page of
21 paragraph 11 -- is to enable the entrants to share the
22 economic benefits of that efficiency of economies of
23 scale and scope; doesn't it?

24 A Yes.

25 Q And so part of what the FCC envisions is that

1 entrants will enjoy that; isn't that right?

2 A Yes, it is.

3 Q And would you agree with me that if entrants
4 obtain the benefits of economies of scale without paying
5 for them, that would amount to a subsidy; wouldn't it?

6 A Again, I don't see how you say that we're not
7 paying for it. I mean the pricing standard is
8 clearly --

9 Q I didn't say that. My question --

10 COMMISSIONER KIESLING: Wait a minute. Wait a
11 minute. In Florida we follow rules of common courtesy.
12 We let the witness finish before we ask our next
13 question so that the court reporter can get it all
14 down.

15 MR. McCORMICK: Excuse me, Commissioner. I
16 apologize.

17 WITNESS STAHLY: I don't see how we're
18 receiving any subsidy if the price of the service is
19 based on the TELRIC cost plus an allocation of the
20 forward-looking joint and common costs. There is no
21 subsidy there.

22 Q (By Mr. McCormick) Let me ask you my question
23 again, and I'm not accusing Sprint of anything. If an
24 entrant in the abstract were to obtain the benefits of
25 economies of scale and scope, without paying for that

1 benefit, that would amount to a subsidy; wouldn't it?

2 A I'm sorry, I'm missing the point of how we're
3 not paying for that benefit.

4 COMMISSIONER KIESLING: Let me try to help.
5 He's not asking about Sprint. He's asking a
6 hypothetical. If any entrant --

7 WITNESS STAHLY: Right.

8 COMMISSIONER KIESLING: -- enjoyed those
9 benefits without paying for it, would that be a
10 subsidy?

11 WITNESS STAHLY: And I guess I go back to what
12 I answered before. Any entrant, regardless of Sprint or
13 others -- that was the intent of pricing services based
14 on costs, is to realize that there are economies of
15 scale and they should be shared with all market players.

16 Q (By Mr. McCormick) So if pricing did not
17 include a reasonable share of forward-looking common
18 costs, that would amount to a subsidy?

19 A Yes.

20 Q And is it fair to say that firms possessing
21 significant economies of scale and scope have common
22 costs?

23 A Yes.

24 Q Is it true that if economies of scale and
25 scope are significant, common costs are likely to be

1 significant as well?

2 A I've never looked at a direct correlation
3 between those two things.

4 Q But as an economist you don't feel that's
5 true?

6 A I'm not sure you can say there's -- there's a
7 correlation there. I mean large companies have large
8 common costs, if that's what you're getting at.

9 Q And you'd agree with me that prices that were
10 set just equal to incremental costs would not allow an
11 incumbent LEC to recover common costs?

12 A If they were set directly at TSLRIC, that
13 would be correct, they wouldn't recover common costs.

14 Q Are you familiar with the BCM-2, Benchmark
15 Cost 2 model?

16 A Yes, I am.

17 Q Is it true that in its negotiations with GTE,
18 Sprint advocated the use of the BCM-2 model?

19 A I'm not fully familiar with the negotiations
20 to this extent.

21 Q Do you know what results are obtained when the
22 BCM-2 model is run with Florida-specific data?

23 A I have not done those.

24 Q Do you know whether the prices that come out
25 of the BCM-2 model are similar to the prices advocated

1 by GTE?

2 A Again, I have not run the BCM-2 model to
3 calculate -- and I assume you're talking about your
4 unbundled loop prices; is that correct?

5 Q Yes, sir.

6 A I've reviewed the testimony and exhibits of
7 GTE Witness Mr. Steele, and he purports to show that the
8 BCM-2 model does yield prices that would be similar to
9 what GTE was proposing for the unbundled loop costs.

10 My concern with that exhibit, if I may
11 explain, is that it's hard to tell if you made the
12 appropriate adjustments to have the BCM-2 cost model
13 really reflect an unbundled loop. BCM-2, generally
14 speaking, is the cost of local service. So it not only
15 includes the cost of a loop, but it includes the cost of
16 switching, includes the cost of a line card in your
17 network interface device. To properly calculate the
18 cost of an unbundled local loop you need to take those
19 costs out of the model, and there are some other
20 adjustments too.

21 Additionally, it uses ARMIS data to calculate
22 carrying charges as opposed to a forward-looking look at
23 carrying charges. So you would have, obviously,
24 different maintenance factors in there. And then
25 another big adjustment is that the BCM-2 model assumes a

1 price discount of 20 percent on equipment purchases. So
2 to the extent that GTE could obtain a larger discount,
3 say, 30 percent, that would significantly lower their
4 investment in an unbundled loop. So without knowing
5 whether Mr. Steele made those adjustments, it's
6 difficult to say whether his exhibit fairly represents
7 the price of an unbundled loop in Florida.

8 Q Is it fair to say that after the FCC issued
9 its First Report and Order on August 8th of this year
10 that Sprint stopped advocating the use of the BCM-2
11 model?

12 A I am not aware of that position, no.

13 Q Let me ask you, as a telephone network is
14 divided into smaller and smaller unbundled elements,
15 costs that were once attributed to a TSLRIC suddenly
16 become unattributed as common costs; isn't that true?

17 A Are you saying the nature of the cost changes
18 from a TSLRIC to a common cost?

19 Q Yes, sir. As you divide a network in smaller
20 and smaller elements, costs that were once attributed,
21 say shared costs between two services, suddenly become
22 unattributed common costs; is that fair to say?

23 A I'm sorry, I don't see how you get at that.
24 When you're calculating the direct cost of a service,
25 it's pretty clear how you calculate that cost looking at

1 that.

2 Q Let me ask you, certainly there are shared
3 services that would share costs, or services that would
4 have shared costs?

5 A Yes.

6 Q And then as you unbundle services, and sell
7 individual elements, costs that may be shared between
8 those services, there would be some costs that suddenly
9 are unattributable; isn't that right?

10 A Unattributable, what, from the perspective of
11 GTE is what you're saying, or --

12 Q Well, I'm asking just in the abstract.

13 A Well, again, I can't follow how you're having
14 those costs change or become unattributable, so I
15 apologize, I can't answer that.

16 Q So it's your position that there shouldn't be
17 unattributable costs as you divide a network into
18 smaller elements?

19 A It's my position I can't follow your line of
20 questioning to give you a good answer.

21 Q Let me try to rephrase it so you can
22 understand it. You would have certain services that
23 might have shared costs; isn't that correct?

24 A That is correct.

25 Q Can you give us an example of what a service

1 like that would be?

2 A There's a number of them. Switch provides
3 local switching, custom calling features, poles used for
4 interoffice transmission loops.

5 Q And it's also fair to say that under any of
6 those services you could further subdivide them into
7 individual elements; couldn't you?

8 A Yes.

9 Q And really, the difference between TSLRIC and
10 TELRIC, a TSLRIC concept implies some shared costs that
11 may not be available at TELRIC costs. Is that fair to
12 say?

13 A Well, no. The difference between TSLRIC and
14 TELRIC is simply TSLRIC does the LRIC price of a service
15 and TELRIC does the price of an element, unbundled
16 network element.

17 Q And you don't think as you move toward that
18 unbundled element there are some costs that drop out and
19 simply can't be attributed?

20 A If your question is if you're using a TSLRIC
21 standard and a TELRIC standard, determination of shared
22 costs should be similar overall for the corporation
23 under either standard.

24 Q Now, on Page 16 of your testimony, you
25 advocate that there should be a uniform markup for

1 allocating common costs?

2 A Yes.

3 Q Does Sprint use a uniform markup in pricing
4 its own products and services?

5 A No, they do not.

6 Q Do you know of any company that uses a uniform
7 markup?

8 A I'm not aware of any.

9 Q And also on Page 24 of your testimony, you
10 advocate deaveraging, geographic deaveraging?

11 A Yes.

12 Q That means splitting up the state into three
13 zones: High density, low density, medium density?

14 A It looks like we've proposed three, or
15 recommended three, yes.

16 Q And that's -- there's an inverse relationship
17 between density and cost, isn't there? The greater
18 density the lower cost per unit?

19 A Yes, that's correct.

20 Q Certainly Sprint is free to target customers
21 in any of those three zones; isn't it?

22 A Sprint is free to target customers anywhere in
23 the state.

24 Q And conversely, Sprint is free to not target
25 customers in any zones it chooses not to; isn't that

1 accurate?

2 A That's true. Although our strategy is to
3 target all our customers, quite honestly.

4 Q Sure, but nothing forces you to do that; does
5 it?

6 A We're not forced, but as capitalists it's in
7 our incentive to go after all our customers.

8 Q And it's certainly in your incentive to go
9 after the lowest cost customers; isn't it?

10 A There are higher margins there.

11 Q The concept of geographic deaveraging is based
12 on a stayed provision of the First Report and Order;
13 isn't it?

14 A The concept of geographic deaveraging is in
15 other FCC orders too, as well as other state
16 commissions.

17 Q The Telecommunications Act doesn't provide for
18 geographic deaveraging; does it?

19 A I'm not sure about any specific phrase or
20 ruling in the Act that would speak to that. Clearly
21 they talk about services being based on cost, and one
22 could easily construe that if you're basing services on
23 cost, it makes sense to geographically deaverage to some
24 extent and have prices in those areas more closely
25 mirror the underlying costs.

1 Q Is it fair to say that -- well, let me re-ask
2 my last question because I'm not sure I got an answer to
3 it. Is there any place in the Telecommunications Act
4 that speaks to geographic deaveraging?

5 A I am not aware of any, but there may be. I
6 don't know.

7 Q You can't point us to a provision of it?

8 A That's correct, I can't point you to one.

9 Q In terms of competition, it's fair to say
10 right now that Sprint has the ability to purchase
11 switches from any number of manufacturers; doesn't it?

12 A That's correct.

13 Q Companies like Lucent or Northern Telecom
14 manufacture switches?

15 A Yes.

16 Q In fact, GTE doesn't even manufacture
17 switches; does it?

18 A I don't believe they do.

19 Q And the same is true for competitive access
20 providers of transport services, there are any number of
21 competitive access providers on the market today?

22 A Yes.

23 Q Such as Time Warner and other companies?

24 A And the question is, what, they're free to
25 purchase switches from whoever?

1 Q No, sir, I'm just asking you, Sprint has
2 access to those competitive access providers of
3 transport services; doesn't it?

4 A Yes, we do.

5 Q Do you agree that even after the
6 Telecommunications Act, companies like GTE and
7 Sprint United will continue to be the carrier of last
8 resort in their service areas?

9 A Perhaps initially they envision a time that
10 will come where we'll have a fully competitive market
11 where such may not be the case.

12 Q But right now they have those universal
13 service obligations?

14 A Currently they do, but again, that too I
15 envision will change as you have more entrants coming
16 in.

17 Q And today with those universal service
18 obligations, they receive universal service funds?

19 A They do.

20 Q Those funds are built into their present rate
21 structure?

22 A Yes.

23 Q And after the Telecommunications Act, GTE will
24 continue to be obligated to make capital investments to
25 serve those customers of last resort; isn't that true?

1 A I guess I don't know of anything that would
2 change that.

3 Q And there's, conversely, nothing that really
4 forces Sprint to make any facilities-based investment;
5 is there?

6 A You're speaking of Sprint the ALEC?

7 Q Yes, sir.

8 A No, there's nothing that forces us to make
9 those investments.

10 Q It's simply a business decision as to whether
11 Sprint chooses to become a facilities-based entrant?

12 A That's true.

13 Q Sprint is free under the law to simply be a
14 reseller?

15 A We could choose to be a reseller. However, we
16 are -- we are very interested in being a
17 facilities-based provider, and one should not make the
18 assumption that current technology is the only type of
19 technology that will be used in the future. So to
20 assume that all technologies are high cost would be an
21 error.

22 Q But there's certainly nothing that under the
23 law would make Sprint make investments to become a
24 facilities-based entrant?

25 A It will be a business-based decision.

1 Q Turn, if you would, back to Exhibit 9. And
2 Chairman Kiesling, I'm a little bit unclear as to how
3 far I can go asking questions, given that this isn't in
4 evidence, and that was my purpose for offering it
5 earlier. But I would like to ask Mr. Stahly a question
6 about on Page 2 of the brief.

7 COMMISSIONER KIESLING: You can ask the
8 question, and I'll hear an objection if there is one.

9 Q (By Mr. McCormick) You see under Page 2 under
10 the paragraph that says, Summary of the Argument?

11 A Yes.

12 Q The last -- under the last sentence of that
13 paragraph, it states that -- talking about the First
14 Report and Order -- that it establishes rules for the
15 unbundling of network elements that are contrary to --

16 MR. BOYD: Objection, Commissioner. Can we
17 have him ask the question and not read from the document
18 that's not in evidence?

19 COMMISSIONER KIESLING: That's my preferable
20 course of action. If you have a question, ask him the
21 question.

22 MR. MCCORMICK: Could I ask Mr. Stahly to read
23 that paragraph to himself, because I understand he's
24 never seen this document before this morning, so I can
25 ask him about it?

1 MR. BOYD: Commissioner, I guess he can ask
2 him to read the whole thing if he wants to, but if he
3 asks him a question that involves the text of this
4 document, we're going to object because it's not in
5 evidence, it's not relevant, and it's full of hearsay --
6 it is hearsay, and there are many other reasons.

7 COMMISSIONER KIESLING: Why don't I do this.
8 Even though it's usually our established procedure to
9 take exhibits at the end of the testimony, why don't we
10 go ahead and deal with Exhibit 9 and whether or not it's
11 going to be admissible, because that will at least allow
12 us to know what questions can be asked and what ones
13 can't. So you wish to move Exhibit 9?

14 MR. McCORMICK: I do, Commissioner Kiesling.
15 And my purpose of offering it, I think the legislative
16 intent of the Telecommunications Act ought to be a
17 central issue this commission addresses in deciding what
18 relief is appropriate here. I think Exhibit 9 is some
19 very compelling evidence of what that intent was, and we
20 would offer it for that purpose, to -- the Commission --
21 and recognizing this is not a court of law and the
22 standards of evidence are a little bit looser than they
23 would be if we were in court, and this is an
24 arbitration. I think it's something the Commission
25 really should consider in determining what Congress

1 meant when it passed the Telecommunications Act and how
2 the First Report and Order misconstrues that
3 congressional intent.

4 COMMISSIONER KIESLING: And just so that I'm
5 sure I understand what you're offering this for, are you
6 asserting that whatever this document says four
7 congressmen think the intent was is probative to what
8 the intent of all 400 and however many members who voted
9 was?

10 MR. McCORMICK: Certainly the Commission can
11 give it whatever weight the Commission chooses, but
12 these are not just four of the 490 congressmen. These
13 are four congressmen who were involved in drafting the
14 Act.

15 MR. BOYD: Excuse me, Commissioner. Now we're
16 having testimony about who these people are, what their
17 background is, their involvement in the passage of the
18 legislation.

19 COMMISSIONER KIESLING: I think he was
20 responding to my question.

21 MR. BOYD: I think he is, but he's going
22 pretty far afield.

23 MR. McCORMICK: I'm not testifying. I'm
24 simply paraphrasing what's on the first paragraph of
25 Page 2. They say they're members of the Committee on

1 Commerce which had jurisdiction over the Act.

2 COMMISSIONER KIESLING: All right, and go
3 ahead and state your objection and your argument for
4 it.

5 MR. FINCHER: Commissioner, this -- there's no
6 indication that these four members of Congress are
7 speaking for the entire Congress. This is not the
8 highest and best evidence as to what the intent of
9 Congress was. The highest and best evidence would be
10 the legislative history, Congressional record, something
11 like that. This is nothing but hearsay. It's four
12 members of Congress that filed a brief. It has no
13 probative value whatsoever in this proceeding, as to
14 what Congress's intent was when they passed the
15 Telecommunications Act of '96.

16 COMMISSIONER KIESLING: All right. Staff, do
17 you have any words of wisdom on this?

18 MS. BARONE: I was thinking about the
19 conference committee report and what that -- if we took
20 official recognition of that, what type of weight the
21 Commission would give to that in terms of Congress's
22 intent. I don't think every single member of Congress
23 is on that committee. So it may be that you would want
24 to take official recognition of it.

25 But in terms of questioning the witness with

1 regards to the intent, I would object to that. And then
2 the Commission could take whatever -- could give
3 whatever weight it wanted to to that document. But,
4 again, it's not the type of document that normally we
5 take official recognition of. Normally it's official
6 actions from courts, orders, that type of thing.

7 COMMISSIONER KIESLING: All right. Any
8 response, Mr. McCormick?

9 MR. McCORMICK: I certainly have no objection
10 to the Commission taking official recognition of it.
11 But I think the Commission can give this document
12 whatever weight it chooses. If the Commission chooses
13 to disregard it, that's fine, but it's evidence, it's
14 compelling evidence, in my view, of what --

15 COMMISSIONER KIESLING: Argue the document and
16 why it's admissible as to opposed to what weight you
17 think we should give it, if you would, please.

18 MR. McCORMICK: Well, I think the -- again,
19 the question of legislative intent is central to what
20 this Commission needs to decide. Perhaps this may not
21 be the best evidence. I don't think a best evidence
22 standard applies. This isn't a will or that sort of
23 thing. I think it's probative evidence and it's some
24 evidence. It's certainly relevant in my view, and I've
25 heard hearsay objections, and I don't know that the

1 hearsay rule is applied as strictly in an arbitration as
2 it would be in a court of law. I think it's compelling
3 evidence that the Commission ought to decide -- ought to
4 consider.

5 COMMISSIONER KIESLING: Something you want to
6 add?

7 MS. BARONE: I think one of my concerns is
8 that it's not evidence because there are not facts in
9 this document upon which this commission can make a
10 decision in this case. So I would object to it being
11 used as evidence in this docket.

12 COMMISSIONER KIESLING: Anything else?

13 MR. McCORMICK: I think it's -- the intent of
14 the drafters is a good enough reason. I don't think it
15 has to be offered as the intent of the whole Congress,
16 which is really Sprint's objection. I think it's
17 evidence of these four drafters, and we believe it
18 should be considered.

19 COMMISSIONER KIESLING: All right, I'm going
20 to sustain the objection. I don't think that there's
21 been any predicate laid as to who these four people are,
22 except for your representations, and whatever probative
23 value that it may have is so minuscule in this
24 proceeding as to render it not admissible. While I do
25 recognize that ordinarily hearsay and things like that

1 are admissible, but they have to be relevant, probative,
2 and I don't see any probative value to this as to the
3 element -- the issues in this case.

4 Q (By Mr. McCormick) Mr. Stahly, could you turn
5 to Page 21 of your original testimony?

6 A Okay.

7 Q You say on Line 1 that fill factor should be
8 the actual fill factors of incumbent LEC. I think your
9 answer may start at the end of the previous page.

10 A I think the entire sentence, if you start on
11 Page 20 and then take that sentence in context, would be
12 that's the starting point, but that they should be
13 examined for reasonableness, that there may be some
14 adjustments appropriate to that.

15 Q Do you know whether the fill factors used in
16 GTE's cost studies are higher than the actual fill
17 factors?

18 A I do not. And that is one of my concerns with
19 reviewing their cost studies is the appropriateness of
20 their fill factors.

21 Q Have you made a review of the fill factors in
22 the cost studies?

23 A I looked at some of the fill factors and I did
24 not see supporting evidence to show why some of the fill
25 factors were selected. I certainly saw that they

1 selected, but as to the reasonableness or
2 appropriateness of them, I didn't see any supporting
3 evidence.

4 Q You say on Page 9 of your testimony that
5 Sprint has not been afforded the opportunity to review
6 GTE's cost studies. Now I know your testimony was filed
7 on October 4th. Since that time have you had an
8 opportunity to review GTE's cost studies?

9 A We have had a brief limited time, certainly
10 not the amount of time that is necessary to fully go
11 through and determine all the problems and adjustments
12 that need to be made.

13 Q Are you aware of meetings that were held
14 between Sprint and GTE in July of this year to review
15 GTE's cost studies?

16 A I'm aware that there were a few meetings.

17 Q Those meetings were attended by Randy Farrar
18 and Rod Thompson; is that true?

19 A That's correct.

20 Q Mr. John Ivanuska participated by telephone?

21 A Yes. He was the lead negotiator.

22 Q Are you aware of whether they reviewed the
23 cost studies at those meetings?

24 A My conversation with Mr. Thompson was that in
25 principle they discussed philosophies on TELRIC. When

1 they came to the point of geographic deaveraging, there
2 was a disagreement or disconnect there, and Rod relayed
3 to me that basically there was no point even reviewing
4 the cost studies since there was a major disagreement in
5 how they should be conducted.

6 Q Is it fair to say that GTE offered Sprint the
7 cost studies and Sprint refused?

8 A I don't believe that we were allowed to take
9 them home with us. They were offered to Mr. Thompson
10 while he was there for the afternoon, but I don't
11 believe they weren't taken back to Kansas City.

12 Q And GTE didn't offer to send them to Kansas
13 City?

14 A I'm not aware of that.

15 Q But you yourself have not made any further
16 review of the cost studies?

17 A Other than the July meetings?

18 Q Other than what you've talked about today.
19 Let me ask you this, when did you first see -- you,
20 yourself, see GTE's cost studies?

21 A I first saw the Florida study when it was
22 sent -- I'm not sure of the exact date, but a couple
23 weeks ago in this docket.

24 Q And you've reviewed that cost study?

25 A Yes, I have. But again, there hasn't been

1 sufficient time for me to review that, given the several
2 arbitrations that we've been involved in with GTE and
3 others.

4 MR. McCORMICK: Thank you, Mr. Stahly.
5 Nothing further, Commissioner.

6 THE COURT: Staff?

7 CROSS EXAMINATION

8 BY MS. BARONE:

9 Q Good afternoon, Mr. Stahly.

10 A Good afternoon.

11 Q In your summary you were discussing how you
12 believe the Commission set a market price in the
13 AT&T/GTE/MCI proceeding. Do you remember that?

14 A Yes, yes, I do.

15 Q Did you look at the recommendation that Staff
16 submitted and the Commission approved in those
17 proceedings?

18 A Yes.

19 Q Now you're aware that the prices in that
20 proceeding were based on the evidence submitted by AT&T,
21 MCI and GTE; is that correct?

22 A Yes, I am.

23 Q And you're also aware that all carriers were
24 not a part of that proceeding; is that correct?

25 A Yes.

1 Q Would you please explain then why you believe
2 the Commission set a market price with that
3 understanding?

4 A Well, market in the sense that once a price
5 has been determined for some players that are going to
6 be purchasing those services, that to charge another
7 player would be a discriminatory price, so in essence
8 there has been a level set which all players should be
9 availed of.

10 Q But you would agree that the Commission did
11 not -- or the Staff did not recommend to the Commission
12 that this be a market price. That was not in the
13 recommendation; was it?

14 A That's correct. Market price is just a term
15 of art, if that's what you're referring to. It is not a
16 price that would be a competitively determined market
17 price. It's a price resulting from a determination by
18 Staff and the Commission.

19 Q Based on the evidence submitted by those three
20 companies; is that correct?

21 A Yes.

22 Q Would you explain further what you mean by how
23 you believe that price or why you believe that price
24 should be available to all carriers in Florida?

25 A There's several reasons. First, start with

1 the Act, there's numerous places within the Act, 251(c),
2 252(d), et cetera, that refer to for the need for the
3 rates to be nondiscriminatory.

4 The simplest explanation of discriminatory
5 would be simply taking an unbundled element, such as an
6 unbundled loop. If AT&T were allowed to purchase that
7 loop at \$20 but Sprint were required to purchase that
8 exact same loop from GTE for \$33.08 or .04, that would
9 be simple discrimination. There is no underlying cost
10 difference between Sprint or AT&T, when GTE serves them,
11 that would justify that difference in price. Such a
12 discriminatory price would really have a chilling effect
13 on promoting and developing competition in the market;
14 that in the early stages of developing competition there
15 really needs to be a level playing field to give all the
16 ALEC competitors an equal chance at least with each
17 other.

18 Q Do you think it would be appropriate for one
19 company to have a price for one element and perhaps
20 offset a price for another element, therefore the two
21 companies may have different prices for different
22 elements but overall the agreement might not be
23 discriminatory? Can you contemplate that?

24 A The one problem you get in doing that is there
25 are a number of niche players that are coming into the

1 market that are seeking to be solely facilities-based or
2 solely resale-based. And I've seen a number of the
3 interconnection agreements entered by other companies,
4 and BellSouth in particular, where a reseller may
5 receive a very favorable wholesale price if they agreed
6 to bad unbundled network element prices. There's a
7 trade there.

8 So I guess it's hard for me to imagine that an
9 ALEC that comes in, such as AT&T or Sprint, which is
10 going to purchase all services -- I mean, we intend to
11 purchase resale, unbundled network elements, et cetera.
12 It's hard to imagine -- and again, if I had time enough
13 to think all through that, but it's hard to imagine how
14 you could really pull that off successfully to have that
15 give and take there. I mean it almost needs to be
16 coming out of the gate, and the same price for all
17 carriers for all services.

18 Q So what is your interpretation of the Act
19 where it says -- where it appears to encourage
20 negotiations?

21 A That's a curious thing. And again, as we had
22 gone through this process and started looking at
23 negotiation, we came to the inevitable conclusion that
24 out of the starting gate when you have a monopoly
25 provider of services, what's there to negotiate? Sprint

1 has absolutely no leverage with GTE, we have nothing to
2 offer them that would incent them to negotiate a better
3 price, and that's why we're in arbitration. It was a
4 take it or leave it, here it is.

5 Negotiation really comes into play when you
6 have a viable, alternative facilities-based carrier.
7 If, say, AT&T were in GTE's territory and had equal
8 facilities so that I could come to your house and go to
9 those two different parties and say, okay, I want an
10 unbundled loop to this house, what price are you going
11 to give me, then there's some leverage there. There's
12 an opportunity to go back and forth say and, well,
13 they're going to give me this and this. Then you have
14 some room to negotiate. When there's just a monopoly
15 provider at the start, there really isn't that ability
16 or value in negotiating. It really comes down to almost
17 a rate proceeding in a sense.

18 Q But you would agree that the Act encourages
19 negotiations?

20 A Oh, I do. And I think longer term, they'll
21 definitely have a viable and active role in setting
22 prices.

23 Q But it's your testimony that it is impossible
24 to negotiate at this time; is that correct?

25 A I think the values of negotiations are pretty

1 limited at this point; that initially, as long as there
2 is only one facilities-based provider, you're almost in
3 a rate case type proceeding.

4 Q Will there be different costs associated with
5 different companies in terms of negotiating those
6 elements?

7 A You mean the transaction that the company
8 incurs themselves to send people to negotiate?

9 Q The actual elements themselves. I'm trying to
10 understand if there would be a cost differential between
11 different companies, which might mean there may need to
12 be a difference in price.

13 A Okay. For 99.9 percent of the services there
14 should be no difference in cost. If I buy an unbundled
15 loop to your house that's provided by GTE, it doesn't
16 matter who they sell to, AT&T or Sprint or anyone else,
17 the cost for that should be the same. Where you do get
18 into cost differences would be in the volume discounts
19 for your DS3 type services, where there are some
20 economies of scales. And for those cost differences we
21 say prices should reflect cost, and appropriately so.
22 But for most unbundled network elements, they're such a
23 separate, disaggregated thing that there really aren't
24 any economies of scale in the direct costs there.

25 Q If there were any differences in costs, would

1 Sprint agree to some differential between the --

2 A Yes, if it's truly proven that there are
3 legitimate differences in costs, Sprint agrees to
4 different prices for those.

5 Q Earlier you stated that you're familiar with
6 the Staff's recommendation which was approved in 960847
7 and 960980, which are the GTE/MCI/AT&T agreements.
8 Staff is going to pass out the issues list from that
9 proceeding.

10 A Okay.

11 Q I just have a couple questions.

12 A Okay. Let me grab that in my briefcase.

13 MR. BOYD: Ms. Barone, is this not a complete
14 list of the issues? Issues 1 through 10?

15 MS. BARONE: Yes. I'm going to ask Mr. Stahly
16 a couple questions with respect to Issues 6(a), (b),
17 (c), and also one other issue.

18 Sir, I'd like you to take a look at Issues
19 6(a) (b) and (c). If you could, tell me if those issues
20 are similar to the issues in this proceeding, Issues 6,
21 7 and 8. And the reason I'm asking you about this is
22 because you've stated, or Sprint has stated, that they
23 would agree to the terms and conditions provided in the
24 AT&T/MCI/GTE proceeding.

25 WITNESS STAHLY: I need to see our issues that

1 she is referring to.

2 MS. BARONE: That would be in the prehearing
3 order. (Pause)

4 MR. BOYD: Ms. Barone, can you repeat your
5 question so he can focus in on --

6 MS. BARONE: That's what I was about to do.

7 Q (By Ms. Barone) I would like you to compare
8 Issues 6(a), (b), (c) from the issues list from the 847
9 proceeding, to Issues 6, 7, 8 in this proceeding. And
10 do you believe that those issues are comparable? And if
11 you do not think they are, I would like to know what the
12 significant differences are between the two.

13 A Okay. (Pause) Just a caveat, I was not the
14 witness assigned these issues, but I'll do my best to
15 address your question. I believe they are the same.

16 Q The reason I'm asking this question is because
17 Mr. Stahly in his rebuttal stated that Sprint would
18 agree to all of the terms and conditions in the
19 AT&T/GTE/MCI.

20 MR. BOYD: Sure, that's correct. And your
21 question is whether the issues are similar?

22 MS. BARONE: Yes.

23 WITNESS STAHLY: I believe they are.

24 Q (By Ms. Barone) So is it Sprint's position
25 that they then would agree to abide by the decision in

1 the Docket 960847, the AT&T/MCI/GTE proceeding?

2 A Yes.

3 Q Also, do you believe Issue 9 in this
4 proceeding is comparable to Issue 9 in Dockets 960847
5 and 960980?

6 A Could you cite that again, please?

7 Q Issue 9 in both proceedings. Take your time.

8 A Thanks.

9 Q Issue 9, if you'll take a look at the
10 prehearing order on Page 14, Issue 9 is set forth
11 there.

12 A I believe it is the same issue.

13 COMMISSIONER KIESLING: Page 13?

14 MS. BARONE: I have the issue -- do you have
15 the issued or non-issued copy, Commissioner Kiesling and
16 Commissioner Garcia?

17 COMMISSIONER KIESLING: I have the issued
18 copy.

19 MS. BARONE: Do you have Issue 9 before you?

20 WITNESS STAHLY: I do, and I believe they are
21 the same.

22 Q (By Ms. Barone) And again, would Sprint agree
23 to the same terms and conditions for Issue 9 in this
24 proceeding that the Commission ordered in 960847 and
25 960980?

1 A Yes, we would.

2 Q Now, I have a few questions regarding your
3 direct testimony. If you would like to turn to Pages 3
4 through 4?

5 A Okay.

6 Q You state that GTE Florida will need to
7 provide or file further testimony when TELRIC cost-based
8 studies are provided. Can you explain why you believe
9 that GTE Florida's cost studies do not satisfy the
10 requirements of the FCC -- of the Act, rather, and the
11 FCC's order?

12 COMMISSIONER KIESLING: Could you give us a
13 line reference? I'm having a little trouble finding
14 that.

15 MS. BARONE: Yes. Actually, if you'll look on
16 Page 4, Line 1.

17 COMMISSIONER KIESLING: Okay.

18 WITNESS STAHLY: Okay, I guess there's two
19 parts to this answer: One, that at the time of the
20 testimony, I don't believe we had seen a cost study from
21 GTE; two --

22 Q (By Ms. Barone) Right, and if I may clarify
23 for the record, the question that you're answering is,
24 has GTE provided cost studies that satisfy the
25 requirements of the Telecommunications Act of 1996 and

1 the FCC's First Report and Order released August 8,
2 1996, CC Docket 96-98, and you have stated that --
3 no --

4 A Okay, and I can give a brief delineation of
5 the number of concerns that we had of the costs where it
6 did not meet what we felt were the requirements of the
7 Act. And I'll try and be brief. And I'll focus just on
8 a couple issues, one with common costs. The order is
9 fairly clear on forward-looking common costs. The
10 testimony of Dennis Trimble discusses a cost methodology
11 of determining common costs by taking their 1995
12 revenues and subtracting their TSLRIC or TELRIC
13 underneath. Clearly that's not a cost standard. That's
14 an apples and oranges of comparing revenues to
15 underlying costs. He then goes on to use a cost
16 standard of looking at 1995 USOA accounts, which we
17 would believe is more correct, but there's no
18 forward-looking adjustment.

19 In GTE's 1995 annual report, their chairman
20 states that they will save \$1 billion in corporate
21 overheads by 1997. We would anticipate or would have
22 anticipated some type of adjustment would have been made
23 to the cost study in this proceeding to reflect those
24 forward-looking efficiencies that GTE would realize, and
25 that we didn't see those. Again, a question was made

1 regarding allocations of investment. There simply
2 wasn't enough information to determine if the
3 allocations that GTE had chosen were correct or not.

4 Having priced services for United Telephone
5 and being very familiar with cost studies, it is very
6 easy to -- I suppose this comes more from my background,
7 just being familiar with cost studies. The allocation
8 can greatly affect the amount of investment that you
9 have there, and can be -- could be manipulated, if one
10 chose to, to lead to the price that one desired; and
11 that the allocation that GTE chooses or chose for each
12 particular service needs to be fully debated as to
13 whether or not that is truly the right allocation or is
14 a reasonable allocation of cost to that investment.

15 And I would cite simply as an example, DS1
16 investment on interoffice transport, basically you have
17 a chunk of -- say a \$30,000 investment. It may carry 12
18 DS3s or three. And the question there can be a lot of
19 discussion and argument around, how much of that \$35,000
20 should be allocated to the cost of one DS1. And the
21 answer greatly affects the resultant price. And that's
22 why, you know, those types of things should be more
23 fully investigated.

24 Additionally, carrying charges. Carrying
25 charges were listed, but how do we know that they're the

1 appropriate carrying charges for cost of capital, for
2 depreciation, for maintenance? How do we know they're
3 the right numbers? That's something that needs to be
4 looked at further.

5 The same with avoided cost studies. They were
6 proffered, but -- and again, this is just
7 generalizations about the results between our two
8 companies in looking at an avoided cost study. We find,
9 or our local affiliate finds, a greater percentage of
10 their accounts -- which would be 6611, 6612, 6613,
11 6623 -- they find a greater percentage of those costs
12 being avoided than does GTE. That needs a fuller look
13 at as to why certain costs were and were not included.
14 And it was within that context that I made the comment
15 that we don't believe, or that I don't believe, that
16 these -- or that GTE's studies fully meet the
17 requirements of the FCC's order.

18 Q Did Sprint perform any analysis itself?

19 A We have not conducted our own cost studies.
20 We simply didn't have time to.

21 Q Can you point to or cite portions of the Act
22 or order that you believe these cost studies do not
23 comport with?

24 A I could. It may take a few minutes, I guess.

25 Q We'll move forward. That's okay.

1 A I was just trying to gather my thoughts. I
2 need a copy of the Act. I'll have to take Mike's copy.

3 MR. FINCHER: Monica, did you want to move on
4 or --

5 COMMISSIONER KIESLING: That's what she said.

6 MR. FINCHER: You said you want to move on?

7 MS. BARONE: Just a moment.

8 Q (By Ms. Barone) Sir, earlier you were stating
9 that the basis for your testimony is that because you
10 hadn't had an opportunity to see the new cost studies.
11 Is your testimony the same based on your review of that
12 updated cost study?

13 A Well, my testimony would be that I have not
14 had adequate time to fully review their cost studies.
15 I've made a cursory review, but certainly not the review
16 that needs to be made.

17 Q That's fine. Thank you.

18 We'll go ahead and look at Page 5 of your
19 direct testimony. Earlier you were discussing
20 geographic deaveraging?

21 A Uh-huh.

22 Q You state that one of the criteria for
23 establishing interconnection and unbundling rates is to
24 geographically deaverage. Do you believe that the
25 states are required to establish geographical

1 deaveraging, either by the Act or by the order?

2 A And again, I'm going from memory. I don't
3 believe they are required to specifically geographically
4 deaverage, per se, in the Act. I believe the FCC order
5 does address the issue, but as to whether or not that
6 requires states to geographically deaverage, I don't
7 believe so. And it comes down to an interpretation of
8 what do you believe is cost-based. If a state
9 determines that cost-based should be averaged rates,
10 then that could be construed to meet the requirements of
11 the Act and the order.

12 Q So are you saying that you can't cite to a
13 specific portion of the FCC order or the rules that
14 require ILECs to geographically deaverage?

15 A Let me check.

16 Q We can take a moment.

17 A Thanks. (Pause) Okay. I cannot find
18 anything in the specific rules. And again, just going
19 from memory, I believe that they talked about
20 geographically deaveraging rates, but did they
21 specifically require? I don't believe they did, no.

22 Q Sir, on Page 24 of your direct testimony, you
23 state that ILECs should geographically deaverage prices
24 for network elements, and you also state that switching
25 transport costs are a function of traffic density and

1 should be deaveraged, and that loop costs are a function
2 of loop length and the density of end user locations.

3 What specific elements does Sprint request
4 that GTE Florida geographically deaverage?

5 A I have not made a specific list or put those
6 together for that specific request. Generally speaking,
7 it would apply to most elements, but I haven't put
8 together a specific list.

9 Q What do you -- you say most elements. What
10 would -- what would make a difference --

11 A Physical network type elements.

12 Q So what type of elements wouldn't be
13 geographically deaveraged?

14 A I would really have to think about that, to be
15 honest. I just haven't thought through that.

16 Q So I'm trying to understand then, what does
17 Sprint want from GTE Florida?

18 A Well, in this immediate proceeding, simply
19 just the AT&T rates. If there were to be another
20 proceeding again to review GTE's cost studies, we would
21 want geographically deaveraged rates for all rate
22 elements to which it's applicable. That would include
23 loops. It would include transport type elements,
24 switching functions. But as to some of the other
25 unbundled elements, I just haven't thought through

1 whether or not it applies to those. But again, in this
2 immediate proceeding what we're looking for is the
3 prices that have been established in the AT&T docket.

4 Q I understand, but GTE Florida hasn't agreed to
5 that and that's why you're in arbitration proceedings.
6 So I need to understand what Sprint wants so we'll have
7 that in the record.

8 A Right.

9 Q Is there a list?

10 A No, we haven't put together a list.

11 Q If Sprint wants to geographically deaverage
12 elements, this Commission is going to need to know
13 specifically what the company wants. If you don't know
14 whether that exists, perhaps we can get a late-filed --
15 I'm trying to understand if a request has been made to
16 GTE Florida on specific elements.

17 A Well, we never made a request because right at
18 the outset they said no way, no how. So we never put
19 that forward. I mean it was cut off right at the
20 start.

21 Q Sir, you said that Sprint has asked for that
22 on a general basis. Then this next question is, then
23 how would you recommend that GTE Florida deaverage those
24 network elements generally?

25 A In terms of just general costing procedure,

1 how would we do that?

2 Q Yes.

3 A Speaking very generally, I mean you would
4 identify geographic areas of density and do cost studies
5 specific to those study areas. And those study areas
6 would show different levels of investment in cost for
7 the services within those areas.

8 Q So you have nothing further regarding --

9 A Not at this point. We could offer a
10 late-filed exhibit if that would be helpful.

11 Q No, thank you. I would like to refer you to
12 Page 13 at Lines 11 through 13 of your direct
13 testimony.

14 COMMISSIONER KIESLING: What was the page
15 reference again?

16 MS. BARONE: Page 13.

17 Q (By Ms. Barone) You state that contribution
18 to common costs should be set as a percentage markup
19 above the TELRIC of the element to reflect the
20 forward-looking shared costs of a reasonably efficient
21 firm. What markup would Sprint recommend that GTE use?

22 A Sprint has taken the position before the FCC,
23 and I believe in our own filing here with the MCI
24 arbitration of a markup of no more than 15 percent.
25 That does not mean pegged at 15 percent, but rather you

1 would determine the reasonableness up to that level.

2 Q Now, would you apply that markup to both
3 unbundled elements and to the termination requested by
4 Sprint?

5 A The transport and termination?

6 Q Yes.

7 A I think they're under the same pricing
8 standard.

9 Q Now I would like to refer you to Page 39 of
10 your direct testimony at Line 15.

11 A The whole answer?

12 Q Excuse me?

13 A The whole answer?

14 Q No. Where you respond: Has GTE provided
15 avoided cost studies that satisfy the requirements of
16 the Act and the FCC order? Why don't you believe, or
17 why doesn't GTE Florida believe that -- or Sprint
18 believe that GTE Florida's avoided cost studies do not
19 satisfy the requirements of the Act and the order?

20 A Just briefly, as I mentioned earlier, that
21 with at least four of the USOA accounts mentioned by the
22 FCC of 6611 with product management, 6612-sales,
23 6613-advertising, 6623-customer service, with those four
24 accounts, we don't believe that GTE has accounted for or
25 excluded all the costs found within those accounts that

1 should be considered in an avoided cost study.

2 Q Can you identify those specifically for me?

3 A I cannot. I don't have the detail with me.

4 It would be just a general observation that studies that
5 our local affiliate have conducted have come up with
6 larger percentages of those accounts, as avoided,
7 compared to GTE.

8 Q Could you provide a late-filed exhibit to
9 Staff which would specifically explain why or what parts
10 of those accounts should not be included or should have
11 been included?

12 A We can do that.

13 MR. McCORMICK: Commissioner Kiesling, would
14 GTE have the opportunity to be able to address the
15 late-filed exhibit?

16 COMMISSIONER KIESLING: No. I mean, you can
17 object to certain portions, you can do that, but you're
18 not going to have an opportunity to present testimony
19 regarding it.

20 MR. McCORMICK: Well, or certainly something
21 of our own exhibit. Otherwise we would object to a
22 late-filed exhibit on that basis, if we can't come back
23 and either cross-examine it or respond on our own. I
24 think that's patently unfair, as to what they could come
25 in and -- and we certainly disagree with a lot of their

1 views on what should properly be an avoided cost, and
2 it's inconsistent to their own internal positions, and
3 if we don't have the opportunity to address that, either
4 in the briefs or somewhere, I think that's terribly
5 unfair.

6 COMMISSIONER KIESLING: Let me go ahead and at
7 least get clear what it is that's going to be in it and
8 then I'll deal with your objection. What is it exactly
9 that you want in it?

10 MS. BARONE: Mr. Stahly has identified several
11 accounts, 6611, 6612, 13, 6623, and I don't remember the
12 other one. And he stated, I believe -- correct me if
13 I'm wrong, Mr. Stahly -- that there were items that were
14 included that should not have been included and items
15 that were not included that should have been included.
16 If I'm wrong --

17 WITNESS STAHLY: That's correct.

18 MS. BARONE: But he has not been able to tell
19 me what those are, and I need to see those. It's my
20 understanding that that would be provided to Staff and
21 to GTE Florida so that they would have an opportunity in
22 their briefs to address that.

23 COMMISSIONER KIESLING: Okay, so I'm trying to
24 come up with a short title as well as a description.

25 MS. BARONE: Sprint's Objections to Avoided

1 Cost Studies of GTE Florida, specifically accounts --
2 various accounts. I tried to get it short for you.

3 COMMISSIONER KIESLING: Let me try to ask a
4 clarifying question, just so that I can understand.
5 Sprint has objected to -- as reflected on Page 39 of his
6 direct testimony. They've objected to -- they disagree
7 that the avoided cost studies provided by GTE meet the
8 requirements of the Act and the order.

9 MS. BARONE: Yes, ma'am.

10 COMMISSIONER KIESLING: But they haven't told
11 us why, or the basis for those disagreements that it
12 meets those?

13 MS. BARONE: They haven't told us, if they
14 have, where they've provided that information.

15 COMMISSIONER KIESLING: Well, and I guess part
16 of -- in some ways I share Mr. McCormick's concern
17 because what this would be is allowing them to
18 supplement their direct testimony to fill in a gap
19 that's not there and which no one would ever be able to
20 cross-examine.

21 MS. BARONE: Yes, ma'am, I agree.

22 COMMISSIONER KIESLING: And so that does cause
23 some concern on my part. It's not just a late-filed
24 exhibit where they're going to, you know, summarize
25 information that everyone already has. And so unless

1 you can tailor it down to -- I'll --

2 MS. BARONE: I'll withdraw the request,
3 unless -- I'll ask him one more time.

4 Q (By Ms. Barone) Mr. Stahly, is there anywhere
5 in your testimony that addresses your objections to
6 those accounts?

7 A Not in the specific detail that you are
8 seeking.

9 Q Thank you.

10 COMMISSIONER KIESLING: All right, since I had
11 already somewhat identified something as a late-filed
12 exhibit, I'll just -- 10 is no longer going to be used,
13 and your request for a late exhibit is withdrawn.

14 MS. BARONE: I'll withdraw the request. Thank
15 you. That's all I have.

16 MR. McCORMICK: Commissioner Kiesling, can I
17 clarify one point that Mr. Stahly made regarding GTE's
18 annual report? I don't intend to conduct recross, but
19 he made a statement about the annual report, and I would
20 like to ask one question to clarify that, since that
21 came up nowhere in my examination of him.

22 COMMISSIONER KIESLING: One.

23 RECROSS EXAMINATION

24 BY MR. McCORMICK:

25 Q Mr. Stahly, do you recall your -- I'll have to

1 make it a long question. In your testimony I believe I
2 heard you say that the chairman of GTE said in the
3 annual report that GTE would save a million dollars.
4 And my question to you is, is that for GTE Florida or is
5 that corporate-wide?

6 COMMISSIONER GARCIA: Wasn't it a billion
7 dollars?

8 WITNESS STAHLY: A billion.

9 BY MR. McCORMICK:

10 Q You said a billion?

11 A Yes.

12 Q And that's not for GTE Florida; is it?

13 A It's corporate-wide.

14 Q And do you know when that statement was made?

15 COMMISSIONER KIESLING: That's more than one.

16 MR. McCORMICK: They're whispering in my ear.

17 COMMISSIONER KIESLING: Sorry, but that was at

18 least three. So that's it. Do you have any questions?

19 Redirect.

20 REDIRECT EXAMINATION

21 BY MR. FINCHER:

22 Q Mr. Stahlly, you remember the discussion on
23 cross examination by GTE counsel about the percentage of
24 discount in Florida in the AT&T/GTE proceeding?

25 A Yes.

1 Q I believe, as I recall, the figure 13 percent
2 was sort of exchanged between you and GTE's counsel?

3 A Yes.

4 Q Would you agree that 13.04 is the correct
5 percentage?

6 A No, I would not. I agree it's the price that
7 we should get, inasmuch as it's been determined in
8 another proceeding, but whether or not that's truly the
9 right number, I don't agree.

10 Q My question is, was 13.04 the actual
11 percentage ordered in the AT&T/GTE proceeding rather
12 than 13 percent?

13 A Yes.

14 Q Just to be specific.

15 A Yes, that was.

16 Q You were asked a question about Sprint
17 changing its position subsequent to filing at the FCC
18 earlier this year. Do you recall that question?

19 A Yes.

20 Q What happened subsequent to the filing of the
21 petition at the FCC that caused Sprint to change its
22 position on some issues?

23 A Sprint felt that it should comply with the FCC
24 order. So subsequently its position was different after
25 the order than before.

1 Q Can you recall the discussion on avoidable
2 versus avoided costs?

3 A Yes.

4 Q What is Sprint's distinction between those two
5 terms?

6 A Avoided costs would be those directly avoided
7 costs found in 6611 through 13 and 6623. Avoidable
8 would include indirect overheads found in other accounts
9 identified by the FCC in their order.

10 Q Do you recall the questioning concerning
11 deaveraging?

12 A Yes.

13 Q Okay. Would you look at FCC Rule 51.507?

14 A 51.507.

15 Q Is that the rule that you were looking for in
16 terms of the state commission establishing rate
17 deaveraging?

18 A It was. And it appears I missed something
19 there. It looks -- in 51.507, subsection F, it
20 discusses geographic deaveraging. "The state commission
21 shall establish different rates for elements in at least
22 three defined geographic areas within the state to
23 reflect geographic cost differences." I overlooked that
24 when I was looking through before.

25 MR. FINCHER: Thank you. That's all I have.

1 COMMISSIONER KIESLING: Exhibits?

2 MR. FINCHER: I move Exhibit 8.

3 COMMISSIONER KIESLING: Exhibit 8 is admitted
4 without objection. And 9 and 10 have already been dealt
5 with.

6 (Exhibit No. 8 received into evidence.)

7 MR. McCORMICK: Commissioner Kiesling, could
8 we renew one more time not that GTE Exhibit 9 be offered
9 into evidence, but that the Commission at least give
10 official recognition to the brief?

11 COMMISSIONER KIESLING: That's not something
12 we ordinarily give official recognition to. Do you want
13 to cite to me the provisions under which you think
14 that's appropriate?

15 MR. McCORMICK: Again, I simply just -- and I
16 won't repeat my argument earlier -- I believe it's
17 evidence the Commission should consider and give
18 whatever weight the Commission feels it's entitled to.
19 I simply renew my request.

20 COMMISSIONER KIESLING: And I'll renew my
21 denial of that request. How about if we reconvene at
22 2:00?

23 (Witness Stahly excused.)

24 * * *

25 (Recess from 1:12 p.m. until 2:08 p.m.)

1 COMMISSIONER KIESLING: Come back to order.
2 And I believe we are to Mr. Sibley, GTE's witness?

3 MR. McCORMICK: Yes, Commissioner Kiesling.

4 COMMISSIONER KIESLING: Have you been sworn
5 in?

6 MR. McCORMICK: No.

7 COMMISSIONER KIESLING: Are there any others
8 that have shown up since --

9 MR. McCORMICK: I don't believe so. I believe
10 Mr. Trimble and -- they were sworn? They were sworn.

11 COMMISSIONER KIESLING: Would you please raise
12 your hand and stand up?

13 DAVID S. SIBLEY

14 was called as a witness on behalf of GTE Florida, and
15 having been duly sworn, testified as follows:

16 COMMISSIONER KIESLING: Thank you. Ready to
17 proceed?

18 DIRECT EXAMINATION

19 BY MR. McCORMICK:

20 Q Please state your name and business address
21 for the record.

22 A My name is David Sibley. My business address
23 is the Department of Economics, University of Texas at
24 Austin, Austin, Texas.

25 Q Dr. Sibley, in what capacity are you employed

1 and by whom?

2 A I'm employed by the university. My position
3 is the John Michael Stuart Centennial Professor of
4 Economics.

5 Q Are you adopting the testimony of Michael
6 Doane in this proceeding?

7 A Yes.

8 Q Did you cause to be prepared substitute
9 testimony to replace Pages 1 and 2 of Mr. Doane's
10 testimony?

11 A Yes.

12 Q And did you prepare a substitute exhibit as
13 Exhibit 1, your curriculum vita?

14 A Yes.

15 MR. McCORMICK: Commissioner Kiesling, can we
16 mark Exhibit 1 for identification purposes?

17 COMMISSIONER KIESLING: Were there any
18 exhibits -- there were exhibits also to Mr. Doane's, so
19 it would -- since there's going to be an exhibit -- did
20 you withdraw NJD-1, and is this a substitution for it?

21 MR. McCORMICK: Yes.

22 COMMISSIONER KIESLING: Then I'll just let it
23 be a substitute, and when I number all the exhibits, it
24 will just be the one that we number for the composite.

25 MR. McCORMICK: Thank you.

1 Q (By Mr. McCormick) Dr. Sibley, are you
2 adopting Exhibit 2 to Michael Doane's testimony?

3 A Yes.

4 MR. McCORMICK: Commissioner Kiesling, can we
5 mark Exhibit 2 for identification purposes?

6 COMMISSIONER KIESLING: I'm going to mark all
7 the exhibits as a composite exhibit, one number, so you
8 can just put them all together.

9 MR. McCORMICK: Okay, thank you.

10 Q (By Mr. McCormick) Dr. Sibley, do you have
11 any other corrections, deletions or additions to your
12 testimony?

13 A No.

14 Q If I asked you the same question that's in
15 Mr. Doane's testimony today, would your answer remain
16 the same, aside from the changes we've just mentioned?

17 A Yes.

18 MR. McCORMICK: Commissioner Kiesling, may we
19 have Dr. Sibley's testimony and the adopted testimony
20 inserted into the record as though read?

21 COMMISSIONER KIESLING: Yes. There are no
22 other changes, deletions, withdrawals? Nothing else is
23 going to happen to it?

24 MR. McCORMICK: No.

25 COMMISSIONER KIESLING: I will substitute the

1 new pages 1 and 2 for the old pages 1 and 2, and also
2 substitute the Exhibit 1 and admit -- insert this
3 testimony as though read, and I will now number the two
4 exhibits as composite Exhibit 11.

5 (Exhibit No. 11 marked for identification.)
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GTE FLORIDA INCORPORATED
DIRECT TESTIMONY OF DAVID S. SIBLEY
DOCKET NO. 961173-TP

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is David S. Sibley, University of Texas at Austin, 22nd and
Speedway, Austin, TX, 78712.

**Q. PLEASE STATE YOUR PROFESSIONAL QUALIFICATIONS AND
EDUCATIONAL BACKGROUND.**

A. I am the John Michael Stuart Professor of Economics at the
University of Texas at Austin. Prior to joining the University of Texas
at Austin, I was Head of the Economics Research Group at Bell
Communications Research. I also served as a member of technical
staff at Bell Laboratories. I have taught graduate level courses in
regulation at the University of Pennsylvania and Princeton
University, in addition to my work at the University of Texas

During the Carter Administration, I served as Senior Staff Economist
on the Council of Economic Advisors and as advisor to the Chairman
of the Civil Aeronautics Board. During the last twenty years, I have
carried out extensive research in the areas of regulation, industrial
organization, and microeconomic theory. I have published articles
on regulation and pricing in a number of academic journals, including
the *Journal of Economic Theory*, *Econometrica*, *American Economic*

1 *Review, Rand Journal of Economics, Journal of Public Economics,*
2 *and the Journal of Regulatory Economics.* I am a coauthor with
3 Steven J. Brown of the textbook *The Theory of Public Utility Pricing*
4 published by Cambridge University Press in 1986 and now in its
5 fourth printing, and co-editor of *Telecommunications Demand*
6 *Analysis: An Integrated View*, published by North-Holland in 1989.
7 Currently, I serve as Associate Editor of the *Journal of Regulatory*
8 *Economics*

9

10 I received a B.A. in Economics from Stanford University and a Ph.D.
11 in Economics from Yale University

12

13 **Q. HAVE YOU PREPARED A VITAE THAT DESCRIBES YOUR**
14 **EDUCATION, PUBLICATIONS, AND EMPLOYMENT HISTORY?**

15 **A Yes.** A copy of my most recent vitae is attached as Exhibit No. DSS-
16 1.

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1 Q. IN CONNECTION WITH THE PREPARATION OF YOUR REPORT,
2 WHAT MATERIALS HAVE YOU REVIEWED?

3 A I reviewed the Telecommunications Act of 1996 and the August 1996
4 order of the Federal Communications Commission (FCC) in its local
5 competition docket, *Implementation of the Local Competition Provi-*
6 *sions in the Telecommunications Act of 1996 and Interconnection*
7 *between Local Exchange Carriers and Commercial Mobile Radio*
8 *Service Providers, First Report and Order*, CC Dkt. Nos. 96-98, 95-
9 185 (released Aug. 8, 1996) [hereinafter *First Report and Order*] The
10 report [hereinafter *First Report and Order*] has been stayed by the
11 Eighth Circuit Court of Appeals in St. Louis. I have also reviewed the
12 testimony of Sprint's pricing witnesses Messrs. Carlson, Phelan, and
13 Sywenki. Additionally, I have reviewed the testimony and report
14 prepared on behalf of AT&T by David L. Kaserman et al. entitled
15 "Local Competition Issues and the Telecommunications Act of 1996"
16 and a report prepared by August H. Ankum, et al. entitled "An
17 Economic Analysis of Issues to be Arbitrated Under Section 252 of
18 the Telecommunications Act of 1996."

19

20

21 Q. WHAT IS YOUR IMPRESSION OF THE INTENT OF THE
22 TELECOMMUNICATIONS ACT OF 1996?

23 A The Act offers the promise of an end to more than a half a century of
24 monopoly regulation of the local exchange and telephone industry.
25 The Act holds out the further promise of a new "pro-competitive

1 deregulatory" system for fostering competition in all segments of the
2 telecommunications industry

3

4 **Q. WHAT ARE THE CENTRAL PRINCIPLES OF THE**
5 **TELECOMMUNICATIONS ACT?**

6 A. To open all telecommunications markets to competition so as to
7 provide a procompetitive, deregulatory neutral policy framework
8 designed to accelerate the delivery of advanced communications and
9 information technologies to all Americans.

10

11 **Q. HOW ARE THESE PRINCIPLES BEING IMPLEMENTED?**

12 A. The Act requires incumbent local exchange carriers to offer their
13 resale services to other carriers at wholesale costs. The Act also
14 contains sweeping interconnection and unbundling provisions.
15 Although Congress has provided guidance on the types of services
16 subject to wholesale and unbundling requirements, "just and
17 reasonable" rates must be negotiated or determined state-by-state,
18 in proceedings like this one.

19

20 **Q. WHAT DO YOU SEE AS THE CONSEQUENCES OF THESE**
21 **STATE-BY-STATE ARBITRATIONS?**

22

23 A. These arbitrations can affect the financial viability of GTE and every
24 state's incumbent local exchange carriers. That issue, in turn, will
25 have profound ramifications for the consumers of the state. For

1 example, if prices are not appropriately set for mandatory network
2 access, that will impair GTE's financial integrity. This will starve the
3 local telecommunications network of future investment. That
4 investment, however, is critical not only to replacing the existing
5 infrastructure as it wears out, but also to maintaining and expanding
6 that infrastructure so that it can serve as the backbone on which new
7 competitors would enter the new competitive marketplace. Finally,
8 many of the benefits that should accrue to all citizens from robust, fair
9 competition will be eroded if GTE and other local exchange carriers
10 are so weakened that they are unable to compete effectively with
11 those companies entering the marketplace.

12

13 **Q. WHAT DOES ECONOMIC ANALYSIS IMPLY ABOUT THE PROPER**
14 **OUTCOME OF THIS ARBITRATION PROCESS?**

15 A. Economic analysis indicates that, if GTE is to be required to sell or
16 make available its services and products to Sprint and others, GTE
17 should be reimbursed for all its costs and be allowed the opportunity
18 to earn a reasonable rate of return as expressly authorized by
19 Congress. Anything less would be a taking of GTE's property.
20 Importantly, it would also deny the consumers of this state the
21 substantial benefits that ought to flow from robust, fair competition.

22

23 **Q. WHAT DOES THE ACT REQUIRE WITH RESPECT TO THE PRICE**
24 **TO BE CHARGED BY INCUMBENT LOCAL EXCHANGE**
25 **COMPANIES FOR UNBUNDLED NETWORK ELEMENTS?**

1 A In section 252(d)(1), the Act requires three things. First, it requires
2 that the price be "based on the cost (determined without reference to
3 a rate of return or other rate-based proceeding) of providing the
4 interconnection or network element." Second, it requires that the
5 prices be "non-discriminatory." Third, the Act requires that such
6 prices "may include a reasonable profit."

7

8 **Q. HAS SPRINT PROPOSED A PRICING RULE FOR THE STATES TO**
9 **USE FOR SETTING PRICES FOR UNBUNDLED NETWORK**
10 **ELEMENTS?**

11 A. Yes. According to the report written by Sprint's pricing witness on
12 behalf of Sprint and Sprint's petition for arbitration, Sprint is arguing
13 that prices should be set equal to Total Element Long-Run
14 Incremental Costs (TELRIC) per unit plus a uniform markup not to
15 exceed fifteen percent.

16

17 **Q. WHAT IS TELRIC?**

18 A. The TELRIC of a network element equals those costs that are
19 incremental (or attributable) to individual network elements. In the
20 attached report, we use the term "TSLRIC" to refer to the long-run
21 incremental costs of a particular retail service, e.g., single-line
22 business service.

23

24 **Q. DOES SPRINT'S PRICING PROPOSAL SATISFY THE ACT'S**
25 **REQUIREMENTS?**

1 A. Absolutely not

2

3 Q. WHY DOES SPRINT'S PRICING PROPOSAL FAIL TO SATISFY
4 THE ACT'S REQUIREMENTS?

5

6 A. One important flaw in the proposal is that unbundled network element
7 prices equal to TELRIC plus fifteen percent will not recover GTE's
8 forward looking costs. Thus, the Sprint proposal is structured to
9 require monumental subsidies from GTE to Sprint, so that Sprint
10 would become a free rider on GTE's local exchange network.

11

12 Q. HOW WOULD YOU CHARACTERIZE SPRINT'S PROPOSAL
13 OVERALL?

14 A. Sprint's pricing proposal is arbitrary and has no basis in economic or
15 business logic. A uniform markup above TELRIC will fall short of a
16 "reasonable" (market-based) allocation for some network elements
17 and will exceed a "reasonable" (market-based) allocation for others.
18 In the first instance, GTE would under recover its costs, while in the
19 second instance Sprint's proposed price would exceed stand-alone
20 costs ensuring no cost recovery for GTE. Thus, what Sprint proposes
21 is clearly arbitrary. There is no economic or business management
22 basis for equal proportional markups on diverse elements or services.
23 GTE faces competition in many of its markets for services and network
24 elements. Prices that are too high relative to the market will
25 encourage uneconomic bypass and place GTE at a competitive

1 disadvantage, thus creating economic losses for GTE. Prices that
2 are too low will encourage excessive use and discourage efficient
3 entry. GTE will experience excessive use of services or elements
4 that are priced below cost, thus magnifying economic losses for the
5 company.

6

7 **Q. PLEASE GIVE EXAMPLES OF COMPETITION FOR UNBUNDLED**
8 **NETWORK ELEMENTS.**

9 A There are multiple commercial providers of signaling services. There
10 are competitive commercial providers of switching services, including
11 competitive access providers (CAPS) and adaptation of long distance
12 switching facilities to carry out local exchange switching. According
13 to *Business Week*, October 7, 1996 at 128, AT&T can use its own
14 switches or those leased from CAPS, and AT&T has signed contracts
15 with six CAPS covering over 80 cities. Moreover, there are
16 alternative providers of loops and substitutes for loop services
17 including wireless services (cellular and PSC), cable telephony,
18 CAPS, and facilities established by entering competitive local
19 carriers.

20

21 **Q. WHY DO YOU THINK TELRIC PLUS FIFTEEN PERCENT IS NOT**
22 **A REASONABLE PRICING RULE FOR STATE COMMISSIONS TO**
23 **USE?**

24 A As the attached report notes, there are at least ten specific problems
25 with using TSLRIC pricing of unbundled network services.

1 These problems, each of which applies to Sprint's proposal of
2 TELRIC plus fifteen percent are listed below. Specifically, TELRIC
3 pricing

- 4 (1) does not reflect the firm's total direct costs.
- 5 (2) does not reflect the firm's economic costs.
- 6 (3) is not competitive pricing;
- 7 (4) promotes free riding by competitors;
- 8 (5) subsidizes entrants;
- 9 (6) does not take into account the shifts in costs from attributable
10 costs to joint and common costs due to unbundling, thus
11 creating incentives for excessive and economically inefficient
12 unbundling;
- 13 (7) fails to include joint and common cost increases that are due
14 to unbundling,
- 15 (8) creates incentives for the incumbent to reduce its joint and
16 common or shared costs;
- 17 (9) lacks dynamic pricing flexibility and creates incumbent
18 burdens; and
- 19 (10) is discriminatory.

20

21 **Q. SPRINT'S PRICING WITNESS JUSTIFIES USING THE EQUAL**
22 **PERCENTAGE MARKUP RULE BECAUSE IT "TREATS THE NON-**
23 **COMPETITIVE MARKETS AS IF THEY WERE COMPETITIVE" AND**
24 **"UNIFORM MARKUPS ARE NONDISCRIMINATORY." DO YOU**
25 **AGREE?**

1 A. No, I do not. Competitive markets do not have equal markups, rather
2 the markups chosen by competitive firms differ considerably across
3 products and markets. Otherwise, teaching management students
4 would be greatly facilitated, as every manager could apply the basic
5 uniform markup rather than taking into account market demand and
6 cost conditions. Uniform markups are more likely to be discriminatory
7 since they create subsidies for some services and result in selling
8 below cost for other services. While it is understandable that Sprint
9 wishes to procure something for less than it costs, a seller cannot
10 stay in business very long if it is forced to sell its services below cost.

11

12 **Q. WHAT DOES SPRINT PROPOSE FOR PRICING OF RESALE**
13 **SERVICES?**

14 A. Sprint's pricing witness states "I recommend that GTE should offer a
15 specific wholesale discount rate for at least five separate categories
16 of service that reflect the different underlying avoided costs inherent
17 in the five categories.

18

19 **Q. HOW DO YOU EVALUATE SPRINT'S WHOLESALE PRICING**
20 **PROPOSAL?**

21 A. Sprint's wholesale pricing proposal is flawed because it is based on
22 "avoidable" costs, that is, it subtracts all costs that might conceivably
23 be avoided without determining whether such costs are indeed
24 avoided. Thus, the proposal is not designed to determine accurately
25 what is the appropriate wholesale discount, but rather to create the

1 maximum possible discount. Again, the result is to give excessive
2 discounts to Sprint allowing them to freeride on GTE's services at the
3 expense of GTE. Such an approach is discriminatory toward GTE,
4 places it at a competitive disadvantage, and creates economic losses.
5 It is interesting that Sprint argues for nonuniform markdowns when it
6 suits its purpose (for wholesale services) and uniform markups when
7 it suits its purpose (for unbundled network elements). The only
8 consistent explanation for these pricing proposals is the desire of
9 Sprint to obtain services and unbundled network elements below their
10 economic cost.

11

12 **Q. WHAT DOES SPRINT PROPOSE IF ITS PRICING METHODOLOGY**
13 **IS NOT ADOPTED?**

14 A. Sprint proposes adopting the default prices of the now-stayed FCC
15 *First Report and Order*. The prices for loops and other unbundled
16 network elements generally are below even the TELRICs of GTE and
17 thus create operating losses for GTE, and fail to recover any shared
18 or common costs. All of the problems that I have already identified for
19 TELRIC pricing apply to the default prices, which are, if anything even
20 worse than TELRIC.

21

22 **Q. HAVE YOU PROPOSED A PRICING RULE THAT DOES MEET THE**
23 **REQUIREMENTS OF THE ACT?**

24 A. Yes, I have.

25

1 Q. WHAT WERE THE UNDERLYING REQUIREMENTS THAT YOU
2 THOUGHT YOU HAD TO SATISFY IN CREATING THIS
3 APPROACH?

4 A. I wanted an approach that would satisfy all the requirements that
5 Congress established for setting prices for resale and unbundled
6 networks. Specifically, the approach had to generate prices that
7 would be based on cost, would be non-discriminatory, and would
8 allow the Incumbent Local Exchange Carrier (ILEC) the opportunity
9 to earn a reasonable profit. Furthermore, without endorsing all
10 aspects of the pricing proposals contained in the FCC's *First Report
11 And Order*, I wanted the pricing rule to satisfy the FCC's condition
12 "that, under [a total element long-run incremental cost] methodology,
13 incumbent LECs' prices for unbundled network elements shall
14 recover the forward-looking costs directly attributable to the specified
15 element as well as a reasonable allocation of forward-looking
16 common costs." That condition can be found at paragraph 62 of the
17 *First Report And Order*.

18

19 Q. WHAT DO YOU CALL YOUR PRICING RULE?

20 A. The Market-Determined Efficient Component-Pricing Rule, or the M-
21 ECPR

22

23 Q. HOW DOES THE M-ECPR RELATE TO THE ECPR DESCRIBED
24 AND REJECTED BY THE FCC IN ITS *FIRST REPORT AND
25 ORDER*?

1 A. There are some very important differences. First, to avoid confusion,
2 I will call the rule discussed by the FCC the "FCC-ECPR." The FCC-
3 ECPR was properly rejected by the FCC. It was a very simplistic rule.
4 It failed to take into account that there would be competitive entry in
5 setting prices for unbundled network elements. This is a very
6 significant omission when you consider that the entire purpose of the
7 Telecommunications Act of 1996 is to foster competitive entry. That
8 is why I have labeled my pricing rule the Market-Determined Efficient
9 Component-Pricing Rule, or the M-ECPR. In other words, the M-
10 ECPR takes full account of the competitive entry when setting prices
11 for unbundled networks elements. In that respect, the M-ECPR
12 benefits consumers and avoids all of the shortcomings that the FCC
13 quite properly attributed to the FCC-ECPR.

14

15 **Q. WHAT IS THE M-ECPR?**

16 A. The M-ECPR is a market-based method for determining, as the FCC
17 directed, the reasonable share of forward-looking common costs that
18 should be allocated to the prices for the ILEC's various unbundled
19 network elements. The M-ECPR price for an unbundled network
20 element is equal to the sum of its TELRIC plus its opportunity cost, as
21 constrained by market forces. Opportunity costs refers to the net
22 return that an unbundled network element will bring GTE if it is not
23 sold at wholesale to a competitor. Like the market, the M-ECPR does
24 not permit GTE to charge a price for an unbundled element that
25 exceeds that element's stand-alone cost. That market-determined

1 outcome coincides precisely with the regulatory prescription in
2 section 51.505(a)(1) of the rules announced in the FCC's *First Report*
3 *and Order* -- namely, that "[t]he sum of a reasonable allocation of
4 forward-looking common costs and the total element long-run
5 incremental cost of an element shall not exceed stand-alone costs
6 associated with the element "

7

8 **Q. DOES THE M-ECPR ALSO CALCULATE THE PRICE FOR GTE'S**
9 **WHOLESALE SERVICES RESOLD TO COMPETITORS?**

10 A. Yes. Again, the M-ECPR is consistent with the resale provisions
11 contained in the Telecommunications Act and the *First Report And*
12 *Order*.

13

14 **Q. IS THE M-ECPR A COMPLETE SOLUTION TO ALL PRICING**
15 **PROBLEMS?**

16 A. No. The M-ECPR does not alter the traditional problems faced by a
17 regulated local exchange carrier operating with a retail rate structure
18 that contains cross subsidies mandated by regulation.

19

20 **Q. WHAT IS THE PRACTICAL EFFECT OF THAT LIMITATION?**

21 A. The M-ECPR does not afford GTE the opportunity to recover fully its
22 forward-looking common costs, as would regulated rates absent
23 competitive entry. Facilities-based entry and M-ECPR pricing of
24 unbundled network elements will, therefore, permit stranded costs to
25 arise. I define stranded costs to be the present value of the firm's net

1 revenues under regulation minus the present value of the firm's net
2 revenues under competition. To ensure that GTE receives a
3 reasonable opportunity to recover all of its forward-looking common
4 costs, it is necessary for this arbitration to establish a competitively
5 neutral, non-bypassable end-user charge.

6

7 **Q. WHAT KINDS OF FORWARD-LOOKING COSTS WOULD THE**
8 **END-USER CHARGE RECOVER?**

9 A. There are six categories of costs that GTE cannot fully recover
10 through competitive M-ECPR prices but nonetheless will incur on a
11 forward-looking basis to discharge its obligation to serve

12

13

14 **Q. WHAT ARE THEY?**

15 A. They are:

16 (1) shared costs of network operation, incurred among two or
17 more (but not all) of GTE's services, but not wholly attributable
18 to any single service,

19 (2) common costs of network operation, incurred among all of
20 GTE's services,

21 (3) losses incurred in GTE's provision of services to preferred
22 classes of customers at regulated prices that are below GTE's
23 incremental cost of providing such services,

24 (4) costs incurred as a result of incumbent burdens that GTE
25 continues to bear after the advent of competition, but which

- 1 GTE's competitors are not required to bear, such as carrier-of-
2 last-resort obligations.
- 3 (5) costs incurred by GTE to accomplish government-mandated
4 unbundling of network elements or resale of network services
5 and
- 6 (6) losses incurred when GTE's avoided costs are incorrectly
7 overstated and are used to establish the discount that
8 competitors receive when purchasing wholesale services from
9 GTE.

10

11 **Q. WOULD THE END-USER CHARGE ALLOW GTE TO RECOVER**
12 **MONOPOLY PROFITS OR COSTS INEFFICIENCIES?**

13 A No. Its sole purpose is to allow GTE a reasonable opportunity to
14 recover the costs that I have just described. Without an end-user
15 charge, GTE would be assured of incurring losses on its sale of
16 unbundled network elements.

17

18 **Q. DO YOU EXPECT THAT THE END-USER CHARGE WILL**
19 **NECESSARILY BE A PERMANENT RECOVERY MECHANISM?**

20 A No. The need for an end-user charge will diminish over time as the
21 incumbent LEC recovers the cost of its past investment. Other
22 Commission actions, such as rate rebalancing, can reduce the need
23 for such a charge. It is possible, though, that end-user charges will
24 be needed permanently to cover forward-looking common costs.

25

1 Q. WHAT IS YOUR ASSESSMENT OF THE *FIRST REPORT AND*
2 *ORDER* RELEASED BY THE FCC ON AUGUST 8, 1996?

3 A. The language of the *First Report and Order* could be read to preclude
4 GTE from recovering all of its forward-looking costs. It also makes no
5 effort to allow GTE to recover its historic costs. Prohibiting GTE from
6 recovering these costs would violate the plain terms of the 1996 Act
7 that requires incumbent local exchange carriers to be compensated
8 for their costs. Even more, as I have been advised by GTE's
9 attorneys, it would lead to a taking of GTE's property.

10

11 Q. DOES YOUR REPORT PRESENT PRICES COMPUTED
12 ACCORDING TO ONE OF THE RECOMMENDED METHODS OF
13 ALLOCATING FORWARD-LOOKING COMMON COSTS THAT IS
14 CONTAINED IN THE FCC'S *FIRST REPORT AND ORDER*?

15 A. Yes. Although I do not endorse any version of fully distributed cost
16 (FDC) pricing, the report calculates prices for GTE's unbundled
17 network elements using a procedure that is equivalent to the FCC's
18 recommended method of allocating forward-looking common costs
19 according to a fixed percentage markup over total element long run
20 incremental cost.

21

22 Q. CAN YOU GENERALIZE CONCEPTUALLY THE DIFFERENCES
23 BETWEEN SPRINT'S PRICING RULE AND THE M-ECPR THAT
24 YOU ENDORSE?

25

1
2 A Yes. First, Sprint's proposal would protect competitors and promote
3 new forms of regulation that would attempt to "manage" competition.
4 The proposal would appear to involve excessive analyses of costs as
5 well as updating of costs studies to support changes in prices over
6 time. GTE's proposal will promote competition and efficient entry,
7 and it will allow regulation to recede as competition develops.
8
9 Second, although both parties agree that the pricing of unbundled
10 network elements should be based on economic costs, there is
11 disagreement on what is the proper definition of economic costs.
12 Sprint argues that economic costs should be limited to GTE's TELRIC
13 plus fifteen percent. GTE maintains that economic costs should also
14 include opportunity costs, as constrained by the market. The
15 attached report demonstrates that economic costs include market-
16 determined opportunity costs.
17
18 Third, although both parties agree that the pricing of resale services
19 should equal the retail rate minus avoided retail costs in accordance
20 with the 1996 Act, Sprint proposes to exclude GTE's wholesaling
21 costs and asserts that per-unit avoided costs should be calculated
22 assuming GTE ceases to provide retail services. GTE maintains that
23 net avoided retail costs (that is, avoided retail costs net of any
24 additional wholesale costs) should be the discount, moreover, the
25 size of the discount should be determined on the basis of a

1 reasonable projection of the amount of retail services that GTE will no
2 longer provide as a result of reseller entry. The accompanying report
3 will show that a discount equal to the net avoided retail costs is the
4 economically correct discount.

5

6 **Q. HOW WOULD YOU SUMMARIZE THE CHOICE THAT THE**
7 **COMMISSION MUST MAKE BETWEEN SPRINT'S PRICING RULE**
8 **AND YOUR PRICING RULE?**

9 A. Sprint's pricing formulas would deny GTE recovery of its total costs
10 require GTE's shareholders to subsidize Sprint's entry into local
11 exchange telephony, and confiscate the private property of GTE's
12 shareholders. GTE's pricing formulas would meet the deregulatory
13 objectives set forth in the Telecommunications Act of 1996, satisfy the
14 FCC's recommendation that prices for wholesale services and
15 unbundled network elements be priced on the basis of forward-
16 looking costs, and allow competition and economically efficient entry
17 into the marketplace.

18

19

20 **Q. DO YOU HAVE ANY ATTACHMENTS TO YOUR TESTIMONY?**

21 A. Yes. I attach as Exhibit No. MJD-2, and incorporate into my
22 testimony, "An Economic Framework for Implementing the Pricing
23 Provisions of the Telecommunications Act of 1996," which I have
24 prepared with J. Gregory Sidak, David S. Sibley, Daniel F. Spulber,
25 and Michael A. Williams.

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2 A. Yes.

3

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1 Q (By Mr. McCormick) Dr. Sibley, do you have a
2 summary of your testimony?

3 A Yes.

4 Q Please present that, sir.

5 A The Commission's decision in this arbitration
6 should take into account two key facts: First, common
7 costs are large, approximately 30 to 36 percent of total
8 costs, on a forward-looking basis; two, substantial
9 competition exists now in the provision of unbundled
10 network elements. I'm going to elaborate on these
11 points a bit because they are key to our proposal.

12 Common costs first. There really isn't any
13 precise way of measuring them. Any way you take
14 requires approximations and assumptions. It's not like
15 auditing GTE of Florida's payroll. One way of attacking
16 the problem is to start with total costs and subtract
17 off the TELRICs and the retail costs. To operationalize
18 this approach, to make it useful, we approximate total
19 forward-looking costs by revenues, so common costs then
20 would be computed as a contribution type residual.

21 There are two potential problems with this
22 approach, but neither of them applies with any force
23 here. One potential problem is that revenues might
24 include some above-normal profits. That would tend to
25 overstate the common costs if that were true. However,

1 GTE in Florida, by the standards set up by the
2 Commission, is not earning excess profits. Its return
3 on equity at the end of 1995 was 11.96 percent as
4 compared to the authorized level of 12.2, and that
5 pattern goes back into time.

6 The second potential problem is that GTE's
7 costs might not be forward-looking. What does that
8 mean, really, apart from being a mantra that we all
9 repeat? One thing it could mean is that the technology
10 is outdated. The second thing it could mean is perhaps
11 there are padded costs.

12 Now, suspicion of outdated technology and
13 padded costs would have been reasonable if we could warp
14 in time back to the 1960s into the heyday of
15 cost-of-service regulation when if GTE's costs went up
16 they would come in for rate hearing and get higher
17 prices, but it doesn't fit GTE in Florida for some time
18 now. GTE formally now is under price caps, and the last
19 general rate increase, to the best of my understanding,
20 was in the early 1980s. So for well over ten years,
21 GTE, in effect, has been under a system where nominal
22 prices were either constant or falling during that
23 time. In this kind of setup, GTE's incentives are not
24 those of a firm, subject to cost of service regulation.
25 GTE's incentives are to be efficient because a penny

1 saved is a penny earned if the prices are independent of
2 that.

3 As evidenced, GTE is 100 percent digital in
4 Florida. It uses SONET and ISDN technology. And to the
5 best of my understanding, its quality of service ratings
6 have been adequate as well. So absent above-normal
7 profits, and absent any documented evidence of
8 inefficiency -- and I don't believe any has been
9 offered -- revenues are a good approximation to total
10 forward-looking costs. Common costs then are correctly
11 calculated as the difference between total
12 forward-looking costs and the TELRICs having netted out
13 the retail costs.

14 Using this approach, we get a common cost
15 figure of roughly 36 percent of total costs.
16 Mr. Trimble will present another approach in which the
17 common cost figure comes out to 30 percent. Either way,
18 it's a big number. The second key fact to understand is
19 there's already third party provision for most of the
20 network elements. And let's go over those quickly one
21 by one.

22 Signaling - there are a number of commercial
23 vendors. GTE itself buys signaling from Sprint.

24 Switching - GTE is a customer of switches
25 now. It buys its new switches from Lucent, Northern

1 Telecom and few others. It's just not a monopoly
2 input.

3 Local transport - not only are their CAPs
4 delighted to sell capacity, but the fact that CAPs are
5 installing fiber rings -- in fact ACSI was to install
6 fiber rings, its own switching and loops. The fact that
7 rather small firms like that can do it suggest that it's
8 not impossible for Sprint to do it either.

9 Loops come a little bit closer to being
10 monopoly input, but even there you can overstate the
11 case, because again, CAPs, which are in a lot of the
12 areas that Sprint would like to enter -- the downtown
13 business areas -- CAPs already have loops there. They
14 will resell them.

15 Also, my understanding is that wireless
16 unbundled loop technology is viable now and will be in
17 use within two or three years. With this background, I
18 advocate a two-part approach. The first is the M-ECPR
19 pricing of wholesale services and unbundled network
20 elements. The second is an end user charge. The
21 M-ECPR, applied to wholesale services, just retail less
22 avoided cost. Applied to unbundled network elements,
23 the M-ECPR says to price each element at the TELRIC plus
24 the opportunity cost; how much could GTE make using this
25 element itself? This is a rule businesses across the

1 country use in every industry. There's nothing
2 controversial about it. And in fact Sprint has accepted
3 prices based on it, in Minnesota. Yesterday in Texas
4 they said that they would accept those prices if the MCI
5 and AT&T arbitration didn't come down first.

6 So for loops, GTE has proposed a price of \$33
7 because that's GTE's estimate of the standalone cost of
8 a loop in its territory. If GTE's estimate is too high,
9 market forces will act to force GTE to lower that. The
10 M-ECPR does not allow the firm to cover its costs. It's
11 not a make-whole device. To the give some idea of the
12 loop price that would replicate GTE's current level of
13 contribution is approximately \$65 for the average
14 business customer. We're asking 33. The M-ECPR will
15 not recover costs.

16 That brings up the need for a competitively
17 neutral end user charge. As I've indicated, GTE's
18 common costs are pretty big. If competitive entry with
19 unbundling makes it impossible for GTE to recover its
20 cost through its rate structure, then in order for GTE
21 to remain financially viable, and to avoid a taking of
22 GTE's property, a competitively neutral end user charge
23 will be needed. We're not proposing a charge in this
24 arbitration, but we would ask that the Commission reaffirm
25 the need for such a charge to be designed at a future

1 date.

2 Without this charge, GTE will not be able to
3 upgrade its networking, will not be able to provision or
4 maintain it. And this hurts everyone, including
5 Sprint. In fact, AT&T and MCI witnesses, perhaps Sprint
6 for all I know, have conceded the need for end user
7 charges in this setting in Hawaii, Minnesota, Wisconsin
8 North Carolina and Texas.

9 A final point. It's tempting to try to argue
10 that competition will be enhanced the lower the prices
11 for unbundled network elements. But this is a dangerous
12 policy to pursue too far. If loops, for example, must
13 be sold below GTE's TEIRIC, the Commission will have
14 enacted a situation akin to rent control. There would
15 be excess demand for resold loops by the alternative
16 LECs, no incentive to provision or invest in them by
17 GTE. Instead of the market guiding the allocation of
18 loops, an administrative means would need to be found,
19 reminiscent of gasoline price controls in 1979, natural
20 gas wellhead price controls in the seventies and New
21 York City rent controls. To avoid these traps and
22 institutionalize effective local exchange competition in
23 Texas, I urge the Commission to adopt the M-ECPR end
24 user charge mechanism that I describe in my testimony.
25 To do any less would be inhibit the growth of

1 competitive market forces in the local exchange market
2 in Florida and would be a taking of GTE's property.

3 COMMISSIONER KIESLING: All right.

4 MR. McCORMICK: We now tender Dr. Sibley for
5 any cross-examination.

6 MR. FINCHER: Thank you, Commissioner.

7 CROSS EXAMINATION

8 BY MR. FINCHER:

9 Q Mr. Sibley, Ben Fincher with Sprint. You are
10 a professor at the University of Texas?

11 A That's correct.

12 Q That's a full-time position?

13 A It is a full-time position. At present time
14 I'm on an unpaid leave of absence.

15 Q And do you -- have you testified for GTE in
16 other jurisdictions?

17 A Yes, I have.

18 Q Have you testified for any other
19 telecommunications company?

20 A No, I have not.

21 Q GTE is the only communications company in
22 which you've presented testimony; is that correct?

23 A That's true. In fact, I didn't do any
24 telecommunications consulting until last spring.

25 Q You have never worked for a telecommunications

1 company; have you?

2 A Well, yes. Most of my career was spent at
3 Bell Telephone Laboratories and Bellcore.

4 Q And you're not appearing here today on behalf
5 of the University of Texas; are you?

6 A No, I am not.

7 Q And you've testified in the GTE/AT&T Florida
8 proceeding?

9 A I submitted testimony, as you may recall. On
10 my particular phase of it, it was decided just to
11 stipulate the written testimony and depositions, so I
12 didn't actually appear in the hearing.

13 Q But you presented testimony?

14 A That's right.

15 Q And the testimony you presented in that case
16 and the testimony you're presenting in this case are
17 similar?

18 A That's right.

19 Q And the pricing representations are basically
20 substantially the same?

21 A That's right.

22 Q Would you refer to what's been identified as
23 Exhibit 11 in your testimony?

24 A I'm not sure what that is --

25 Q "An Economic Framework for Implementing the

1 Pricing Provisions."

2 A You mean the report that was appended to the Q
3 and A?

4 Q That's part of the composite Exhibit 11,
5 right.

6 A What page?

7 Q Just the first page. What is the relationship
8 between yourself and Michael Doane, Gregory Sidak,
9 Daniel Spulber and Michael Williams?

10 A Well, the five of us were retained by GTE,
11 with the staff work to be supplied by Analysis Group, in
12 order to provide expert testimony in these arbitration
13 proceedings. As you can see by looking at the
14 footnotes, a couple of us are academics, one works for a
15 think tank and the other two work for Analysis Group.

16 Q This report was prepared at request of GTE?

17 A That's right.

18 Q And it's being used throughout the country in
19 the GTE arbitration proceedings?

20 A That's right.

21 Q This report has never been published or put in
22 a book or anything, has it?

23 A The report hasn't, no. There are a couple of
24 papers, I believe, that have been written summarizing
25 some of the contents which have been submitted for

1 publication.

2 Q What date with this report written?

3 A The exact date I don't actually remember. We
4 started working on it, I guess at some point during the
5 summer. I believe that it was completed some time in
6 mid August. I just don't remember the exact date.

7 Q Would you look at Page 3 of your testimony?

8 A I have it.

9 Q At Line 11 through 13?

10 A I'm sorry, I don't have line numbers. Are you
11 talking the Q and A testimony now?

12 Q I'm sorry, the testimony, right.

13 A Okay.

14 Q And you state that -- make the statement there
15 that you have reviewed the testimony of Sprint's pricing
16 witnesses, Messrs. Carlson, Phelan and Sywenki. Where
17 and in what proceeding did you review those testimonies?

18 A Well, let's see now. I think I first saw
19 Mr. Carlson's testimony about the time of the AT&T/MCI
20 arbitration here in Florida. I just got it through
21 Federal Express. And I've looked at it additionally in
22 the last week or two to prepare for the arbitration in
23 Texas between Sprint and GTE.

24 Q Was that testimony filed here in Florida?

25 A I don't know.

1 Q What about Mr. Phelan, when did you see his
2 testimony?

3 A At some point in the last couple of weeks.
4 But it didn't seem as relevant to what I was interested
5 in as Mr. Carlson. So I just skimmed that.

6 Q What about Mr. Sywenki?

7 A The same.

8 Q And throughout your testimony you refer to the
9 Sprint's pricing witnesses. When you use that term, are
10 you referring to Carlson, Phelan and Sywenki?

11 A I'm referring -- I believe it's primarily
12 Carlson, but generically I'm referring to the proposal
13 that says to price the unbundled elements at TELRIC plus
14 a fixed uniform markup of, I believe, 15 percent.

15 Q Have you reviewed the testimony of Mr. Stahly
16 that was filed in this proceeding?

17 A I went over it very quickly. I'm not well
18 acquainted with it.

19 Q So what you say in your testimony with respect
20 to Sprint's position is based on the testimony of
21 Mr. Carlson, Phelan and Sywenki; is that correct?

22 A Primarily on Carlson. I have reviewed the
23 other two.

24 Q And it's your understanding that Mr. Carlson's
25 testimony has not been filed in Florida; is that

1 correct?

2 A I don't know. I did hear the witness who was
3 just on this morning discuss the unbundled network
4 proposal in the same terms that Mr. Carlson does. So
5 perhaps he has adopted Carlson's testimony. I don't
6 know.

7 Q But you don't know if Mr. Carlson or Phelan's
8 and Sywenki's testimony was actually introduced in this
9 proceeding?

10 A No.

11 Q Throughout your testimony several places, and
12 also in your summary, you use the words "taking" of
13 GTE's property?

14 A Yes, I have.

15 Q And "confiscation" of GTE's property. Do you
16 remember that?

17 A Yes.

18 Q You're not a lawyer; are you?

19 A No.

20 Q Have you done any legal research to determine
21 exactly what that phrase means or would mean?

22 A I haven't. I would point out, though, that
23 one of the authors of the report, Mr. Sidak, is in fact
24 a lawyer, and obviously had a lot to do with the writing
25 of those particular passages. In my economist's/

1 layman's definition of a taking, it's setting up rules
2 of the game that make it impossible for GTE, however
3 efficiently it might operate, to recover its costs.

4 Q So from your perspective you're using that
5 term from an economist's standpoint and not as a legal
6 standpoint?

7 A I'm only an economist. I have heard lawyers
8 discuss this, and my impression is there is a lot of
9 difference between the two concepts.

10 Q So basically your use of the term is based on,
11 I take it, the article that you coauthored?

12 A It's based on the report here, which does have
13 a good deal of legal argumentation in it.

14 Q You also cite to Section 252(d)(1)(a) of the
15 Act concerning the pricing standards for unbundled
16 elements, and you make the point about assuring a
17 profit, or a reasonable profit, or including a
18 reasonable profit under -- I believe it's under
19 paragraph I. Do you recall that?

20 A Yeah, I believe -- what GTE wants here is the
21 opportunity to return a reasonable profit. It is
22 against rules of the game, which however efficiently it
23 might act, would make it impossible to earn a reasonable
24 profit.

25 Q But you would agree with me under the

1 Telecommunications Act it does not mandate or require a
2 reasonable profit; does it?

3 A I don't believe -- I just can't imagine that
4 when Congress put the words in you're referring to, they
5 contemplated that prices of unbundled network elements
6 would be constructed, which taken together would make it
7 not possible for GTE to earn a reasonable profit --

8 Q But you agreed with me previously that the
9 word is "may" contain a reasonable profit or "may"
10 include a reasonable profit?

11 A If we're talking wording here, it might be
12 useful if you could show me the precise passage you're
13 talking about.

14 Q Look on Page 6, Line 6 of your testimony.

15 A I have it.

16 Q "Third, the Act requires that such prices may
17 include a reasonable profit."

18 A The word "may" is in there.

19 Q And you copied that from the Act?

20 A That's right.

21 Q Are you aware of the decision reached by this
22 commission on Monday in the AT&T/GTE arbitration?

23 A I'm aware a decision was reached. I know one
24 or two of its general thrusts. I have not read the
25 decision.

1 Q Is it your understanding that the Commission
2 rejected your M-ECPR pricing methodology?

3 A I have not read the decision carefully enough
4 to be able to answer the question.

5 Q Have you read the Staff's recommendation?

6 A I've read the part on loop prices.

7 Q Have you read the part on the pricing of
8 unbundled elements?

9 A Not all of it, no.

10 MR. FINCHER: Commissioner, may I approach the
11 witness?

12 COMMISSIONER KIESLING: What do you need to
13 approach him for? The reason is that it's difficult
14 for -- you have to be at a mike in order for the court
15 report to take down your testimony. So if you want him
16 to look at something, perhaps you could let someone else
17 hand him the document.

18 MR. McCORMICK: Commissioner Kiesling, could
19 we have identified what he's going to show Dr. Sibley so
20 we can get it out, too?

21 MR. FINCHER: It's the Staff's recommendation
22 dated November 22nd, 1996 in Docket 960847 and 960980
23 that was decided on Monday.

24 Q (By Mr. Fincher) Would you look at Page 147?
25 I'm sorry, 149.

1 A Yes, I've got it.

2 Q Down at the bottom of the page in the last
3 paragraph above Staff's analysis, "Therefore." You see
4 that word, "Therefore"?

5 A Yes, I do.

6 Q "Therefore, based on the excessively large
7 markups on GTEFL's proposed rates and the Commission's
8 prior rejection of the ECPR, Staff recommends that the
9 Commission reject GTEFL's proposed M-ECPR to generate
10 rates for unbundled network elements." Is that your
11 understanding of what the Commission acted on Monday?

12 A That's what it says here, yes.

13 Q And this is the same study that you presented
14 in this proceeding; is that correct?

15 A Yes. And I think to gain perspective, it's
16 useful to note that it's the same study that produced
17 rates that Sprint agreed to in Minnesota and
18 Pennsylvania, and where in Texas yesterday they said
19 that if the AT&T/MCI arbitration got finished after the
20 Sprint/GTE one, that it would take Sprint's rates. So I
21 don't see that there's a difference in principle between
22 Sprint and us on the use of the M-ECPR.

23 Q But my question is this Commission rejected
24 that, though; is that correct?

25 A That's what it says in the passage that you

1 gave me.

2 Q Mr. Sibley, if an ILEC furnishes network
3 elements or services to a CLEC, and the CLECs -- CLEC A,
4 B and C, are only -- are locked into different rates,
5 would you agree that would be discrimination?

6 A Well, I'm not a lawyer. I'll say as a
7 practical matter, the answer is certainly not. I mean,
8 let's consider some real world examples here before we
9 start theorizing too much. It's quite common for large
10 business customers of telecommunications to cut
11 contractual deals with telecommunications providers for
12 an array of products and services. Those contracts are
13 oftentimes not known to participants in other
14 contracts. They may well be different, but we don't
15 call that, legally, price discrimination.

16 Q What would you call price discrimination?

17 A Well, there are a couple of -- there are
18 degrees of price discrimination, first, second, and
19 third. Which one did you have in mind?

20 Q Well, let's just take this example. Suppose
21 AT&T, for example, was entitled to rates on a lower base
22 as the net that was offered to a smaller CLEC, which is
23 MCI, MCI Metro or Sprint. In your view, would that
24 discriminate against those smaller carriers in their
25 efforts to enter the market?

1 A Well, you have to consider the context here.
2 In fact, let's make it a little more down to earth and
3 consider, say, Sprint versus AT&T, MCI. These are
4 contracts that are the results of private negotiations,
5 and their outcome depends very much on the skill in
6 negotiating and on the sheer resources that the parties
7 decide to put into it. If you don't put much into it,
8 you can't expect to get much out of it. Now in the
9 AT&T/ MCI/GTE negotiation, it was certainly the case
10 that AT&T cost witnesses had analyzed our cost stuff.
11 In this case that's not the case. So, you know, if the
12 outcome is different, that may have something to do with
13 it.

14 Q I'm not talking about negotiation, I'm talking
15 about arbitration, what comes out of arbitration
16 proceedings.

17 A Oh, but arbitration is simply the sort of
18 final step to an attempt to negotiate.

19 Q That's your definition of arbitration?

20 A I believe so. Haven't the parties met and
21 discussed terms and conditions, failed to resolve some
22 of them and come here?

23 Q What I'm talking about is what comes out of
24 this proceeding, out the arbitration proceeding, those
25 rates that come out of the arbitration proceeding.

1 Would it not be discriminatory to have different rates
2 with different ceilings?

3 A I'll simply say that we see that kind of stuff
4 all the time in the business world and no one sues
5 anybody else for price discrimination.

6 Q Would you agree that the telecommunications
7 industry is a declining cost industry?

8 A Depends on the segment of it you're
9 discussing. Which segment are you discussing?

10 Q Local service.

11 A It's widely believed that local service has
12 some elements which contain economies of scale or scope
13 that would make it a natural monopoly. Perhaps that's
14 what you're referring to. Declining costs could also
15 mean that the technology is improving over time so that
16 costs would fall independent of volume simply due to
17 better technology. Which is it you're asking about?

18 Q Talking about the industry.

19 A I am too.

20 Q The local --

21 COMMISSIONER KIESLING: Wait a minute. Wait a
22 minute. You can't talk at the same time. Same rules
23 apply to you that did for the last witness. You listen
24 to his entire question. Don't try to guess what he's
25 going to ask you, so that you hear the whole question

1 before you start to answer. And Mr. Fincher, once he
2 starts to answer, let him finish. Thank you.

3 WITNESS SIBLEY: I was just asking for a
4 clarification on what the question referred to.

5 MR. FINCHER: I'm sorry, I didn't make the
6 question clear.

7 Q (By Mr. Fincher) Getting back to the question
8 of the declining cost industry, you would agree that
9 technology, new technology in the industry, results in
10 declining costs -- on the industry as a whole; is that
11 correct?

12 A I'm not trying to be difficult. Let me assess
13 what -- there are two things you could be meaning, which
14 are consistent with the way you phrased the question.
15 Do you mean that unit cost falls as the volume of output
16 increases? That's one possible interpretation of
17 declining costs. Or do you mean that technology is
18 improving so that whether or not unit costs decline with
19 output they all get lower over time simply because
20 technology is getting better?

21 Q Number two, the second one.

22 A Gotcha. My understanding is that technology
23 is improving in telecommunications.

24 Q I believe in your summary you mentioned about
25 the competition, CAPS, for example, in Florida.

1 A I did mention them, yes.

2 Q Can you tell me how many CAPs are authorized
3 to provide service in Florida?

4 A Not offhand, but if I were given a five-minute
5 break, I'm sure I could come up with a number.

6 Q Do you know if there are any CAPs authorized
7 in Florida?

8 A Yes, I do have some information. ICI, for
9 example, operates in the Tampa area, which is a GTE
10 area, in the Orlando area, which is a BellSouth area.
11 It has a switch in Tampa, a switch in Orlando and fiber
12 optic cable. Metropolitan Fiber Systems also operates
13 in Florida. It has a switch somewhere, but I've been
14 unable to determine precisely where. And MCI has an
15 interim agreement, I think with MFS, to use a switch in
16 Orlando. So these are CAPs, they operate, and since you
17 mention it, I just want to reinforce the point. They
18 are on their own -- not being huge corporations like GTE
19 and Sprint -- on their own are supplying what some
20 people would like to call monopoly inputs. They're
21 laying down fiber, they're installing their switching,
22 terminals if necessary, and AT&T in fact, as I'm sure
23 you know, has signed switching agreements with CAPs
24 covering 80 cities. So it's a fairly ubiquitous
25 phenomenon, and I stand by what I said earlier.

1 Q Do you know the market share those CAPs have
2 in Florida?

3 A I would assume in terms of revenues, it's
4 small, but there are two points you need to mention when
5 you bring up that one. One is that from the standpoint
6 of having capacity which could be resold, you need to
7 count dark fiber, which of course doesn't produce
8 revenue and wouldn't be reflected in the market share
9 you're talking about. But more importantly, my point is
10 that since relatively small companies without uniformly
11 good access to the kinds of capital markets that Sprint
12 and GTE have access to, since they can put down fiber
13 and buy switches and arrange for loops on their own, I
14 have trouble understanding how any of those things would
15 be considered a monopoly element uniquely within the
16 control of GTE.

17 Q I'm not so sure you answered the question.

18 COMMISSIONER KIENSLING: It was a yes or no
19 question, so -- and it didn't have anything to do with
20 anything you just said. But it would be very helpful,
21 Dr. Sibley, if you would answer the question yes or no
22 before you begin your explanation, so that to the extent
23 you're able to, we can understand what -- where you're
24 coming from with your explanation.

25 WITNESS SIBLEY: I should have said "Yes,

1 but."

2 COMMISSIONER KIESLING: Okay.

3 Q (By Mr. Fincher) You said the percentage of
4 customers that had access to CAPs, or alternative
5 providers, was very low. Is that correct? Did you say
6 that?

7 A I don't know specifically what it is in
8 Florida, but on a nationwide basis, the percentage of
9 customers or revenues that are with CAPs is fairly
10 small. That's not true, of course, in some of the big
11 money areas, downtown areas with lots of large business
12 customers. In that case the percentage is higher.

13 Q But you don't know what it is in Florida; do
14 you?

15 A Again, I could get information easily in the
16 course of a break from a binder I have. I don't recall
17 it at this point.

18 MR. FINCHER: That's all I have. Thank you.

19 COMMISSIONER KIESLING: Staff?

20 MS. BARONE: Staff doesn't have any
21 questions.

22 COMMISSIONER KIESLING: Any redirect?

23 MR. McCORMICK: Just a few, Commissioner.

24 REDIRECT EXAMINATION

25 BY MR. McCORMICK:

1 Q Dr. Sibley, is it your view that if the prices
2 for unbundled network elements do not allow GTE to
3 recover a reasonable share of its forward-looking common
4 costs, that would amount to a taking?

5 A Yes.

6 Q Why is that?

7 A If it's restricted to prices for unbundled
8 elements which do not recover common costs, GTE, in
9 order to have the network function, must cover these
10 costs itself. If others are not covering them and GTE
11 must cover them, GTE cannot survive.

12 Q And if the prices which -- if a reseller was
13 able to obtain prices below costs, what would that do to
14 the facilities of the telecommunications network in the
15 state?

16 A Well, it would give GTE no incentive to
17 provision or maintain them. The result, I believe,
18 would be risk for everyone.

19 MR. McCORMICK: Nothing further. Thank you.

20 COMMISSIONER KIESLING: All right, exhibits?

21 MR. McCORMICK: We would move to admit GTE
22 Exhibit 11.

23 COMMISSIONER KIESLING: It's just Exhibit 11.
24 We just start with 1 and go through the end and don't
25 assign them to a particular party. And without

1 objection, Exhibit 11 will be admitted.

2 (Exhibit No. 11 received into evidence.)

3 This witness is excused. Yes?

4 MR. McCORMICK: Yes.

5 (Witness Sibley excused.)

6 * * *

7 (Transcript continues in sequence in

8 Volume 4.)

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