



ORIGINAL FILE COPY

Florida Cable Telecommunications Association

Steve Wilkerson, President

January 6, 1997

VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: DOCKET NO. 950737-TP

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are an original and fifteen copies of Florida Cable Telecommunications Association, Inc.'s ("FCTA") Posthearing Brief. Copies have been served on the parties of record pursuant to the attached certificate of service.

Also enclosed is a copy on a 3-1/2" diskette in WordPerfect format, version 6.1.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing.

Yours very truly,

Laura L. Wilson
President, Regulatory Affairs &
Regulatory Counsel

Enclosures

cc: Mr. Steven E. Wilkerson
All Parties of Record

RECEIVED & FILED

DOCUMENT NUMBER-DATE

310 North Monroe Street • Tallahassee, Florida 32301 • (904) 681-1990

FPSC-RECORDS/REPORTING

- ACK
AFA
APP
DAE
DMU
DTR
EAG
EG
IN
JPC
RCH
SEC
NAS
DTH

Handwritten signature of Laura L. Wilson

Handwritten name Green

Handwritten number 2

Handwritten number 5

Handwritten number 1

00099 JAN 6 1997

In re: Investigation into Temporary Local)
Telephone Number Portability Solution)
to Implement Competition in Local)
Exchange Telephone Markets)
_____)

Docket No. 950737-TP
Filed: January 6, 1997

FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION'S POSTHEARING BRIEF

The Florida Cable Telecommunications Association, Inc. ("FCTA") pursuant to Order No. PSC-96-1121-PCO-TP and Rule 25-22.056, Florida Administrative Code, respectfully submits the following Posthearing Brief in the above-referenced docket.

BASIC POSITION

The appropriate cost recovery mechanism for temporary number portability is a mechanism by which local providers absorb the additional incremental cost incurred. The solution is appropriate because Remote Call Forwarding is a technically inferior solution, 95 FPSC 12:422,428, that will impact the ALEC's service quality. It also uses up valuable numbering resources. Every incentive should be created for the parties to implement a more efficient permanent solution without delay.

The FCTA's recommendation also recognizes the temporary nature of the solution. Because the FCC's Order contains standards and a time line for implementation of the permanent mechanism in Florida, the Commission now knows that the temporary mechanism will be nearly obsolete in the next 12 to 18 months, assuming that the LECs are not permitted to delay. This represents a significant changed circumstance since the issuance of the 1995 Order. There are now time constraints placed around the duration of the temporary solution. Its short length does not justify implementation of a complex mechanism.

The FCTA's recommendation recognizes another changed circumstance: the passage of the Federal Act requiring a competitively neutral cost recovery mechanism. FCTA's proposal meets that criteria as well as the requirements of Florida Law. Florida law gives the Commission discretion to determine the appropriate cost standard to be used. The Commission has expressed a preference for basing any charges, not on RCF service as a whole, but on the increment that provides temporary number portability. 95 FPSC 12:432-3. The LECs have failed or refused to provide this data despite repeated opportunities to do so.

Pursuant to the new standard of competitive neutrality, the Commission should seek to mitigate the effects of inflated or inappropriate cost data. It must not reward the LECs for this action. Accordingly, it is appropriate for the Commission to require local providers to absorb the incremental cost of providing RCF as a temporary solution. If any company begins providing temporary number portability and determines that it is not covering its incremental cost, it may petition the Commission for relief and provide the appropriate cost information at that time.

Alternatively, if monetary charges are ordered, the charges should reflect the incremental cost of providing RCF as a temporary number portability solution. Once the LECs submit this information, the incremental costs should then be allocated among all local providers based upon the number of active access lines.

ISSUE ONE: Is Order No. PSC-95-1604-FOF-TP inconsistent with the Federal Communications Commission's First Report and Order and Further Notice of Proposed Rulemaking in the Matter of Telephone Number Portability in CC Docket No. 95-116?

***POSITION:** *Yes; FPSC Order No. PSC-95-1064-FOF-TP is inconsistent with the Federal Communications Commission's decisions on number portability.*

ANALYSIS AND ARGUMENT: Order No. PSC-96-1064-FOF-TP ("1995 Order") is inconsistent with the FCC's First Report and Order and Further Notice of Proposed Rulemaking in

the Matter of Telephone Number Portability in CC Docket No. 95-116 (hereinafter collectively referred to as the “FCC Order”). Tr. 21, 29, 190, 352, 389.

The 1995 Order implements Section 369.16(4), Florida Statutes, which (among other things) provides that number portability prices and rates shall not be below the costs. The 1995 Order identifies costs associated with Remote Call Forwarding (“RCF”) service (not the incremental costs incurred to provide the temporary number portability solution) and establishes rates and a cost recovery mechanism. Tr. 190. The costs of Remote Call Forwarding service identified in the 1995 Order are service implementation costs, central office equipment and software costs, and interoffice networking costs. 95 FPSC 12:431, 433. The Commission approved monetary charges consisting of a monthly per line charge, a monthly additional path charge, and a non-recurring charge. Id. at 435. These monetary charges are to be assessed on ALECs by LECs for each number ported, and vice versa. Id.

The passage of the Federal Telecommunications Act of 1996 (“Federal Act”) and issuance of the FCC Order occurred subsequent to the 1995 Order. Tr. 353. The new Federal Act and FCC Order require the recovery of number portability costs on a “competitively neutral” basis. Tr. 31, 354. Subsections 251(b)(2) and (e)(2) of the Federal Act provide:

(b) OBLIGATIONS OF ALL LOCAL EXCHANGE CARRIERS.--

Each local exchange carrier has the following duties: . . .

(2) NUMBER PORTABILITY.-- The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

(e) NUMBERING ADMINISTRATION.--

(2) COSTS.-- The costs of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

The FCC concludes that Section 251(e)(2) of the Federal Act grants specific authority to prescribe pricing principles that ensure the costs of number portability are allocated on a “competitively neutral” basis. FCC Order at par. 126. In so doing, the FCC rejects the notion that all interim

number portability costs should be recovered solely from new entrants and treats interim number portability as a network function rather than a service:

Ordinarily the Commission follows the cost causation principles, under which the purchaser of a service would be required to pay at least the incremental cost incurred in providing a service. With respect to number portability, Congress has directed that we depart from cost causation principles if necessary in order to adopt a “competitively neutral” standard because number portability is a network function that is required for a carrier to compete with the carrier that is already serving a customer. Depending on the technology used, to price number portability on a cost causative basis could defeat the purpose for which it was mandated. We emphasize, however, that this statutory mandate constitutes a rare exception to the general principle, long recognized by the Commission that the cost-causer should pay for the costs he or she incurs. [Emphasis supplied.]

FCC Order at par. 131. The FCC creates incentives for the incumbent LECs and new entrants to implement long term number portability at the earliest possible date since it is clearly preferable.

FCC Order at par. 125. The FCC also seeks to “mitigate the anti-competitive effects that might arise if a carrier falsely inflates the cost of currently available number portability.” Id.

The 1995 Order is inconsistent with principles enumerated in the Federal Act and the FCC’s Order. Tr. 106, 173, 307. This is primarily because the 1995 Order establishes charges that have the effect of placing all the LECs’ costs of temporary number portability on the new entrants. Tr. 21, 44, 193. The costs are not allocated on a competitively neutral basis. Tr. 193-4. The FCC Order specifically concludes that such a cost recovery mechanism does not comply with the statutory requirements on section 251(e)(2). FCC Order at Par. 134.

The record in this proceeding fully demonstrates that the cost recovery mechanism in the 1995 Order does not meet the Federal Act’s requirement that cost recovery must be on a “competitively neutral” basis. First, it was not designed to do so. The 1995 Order was issued at a time when it was uncertain whether the Federal Act would pass.

Second, the 1995 Order places ALECs at a competitive disadvantage relative to the incumbent LEC. Tr. 367. The incumbent LEC incurs no number portability cost if it retains a customer. FCC Order at par. 33. The incumbent LEC also incurs no number portability charge if it wins a porting customer back from an ALEC. Tr. 175. The incumbent LEC only incurs a number portability charge under the 1995 Order if the LEC obtains a customer that (1) was willing take a new phone number when it signed up for local service from an ALEC, or (2) is an entirely new customer that takes a new phone number and service from the ALEC. Tr. 171, 175-6. Given the known reluctance of customers to change their phone number, it is not likely that the first scenario above will occur often in the start-up phases of competition. Even in the second scenario, the ALECs will begin with zero to very small market share. Tr. 359, 379. As a result, ALECs will mostly be porting away from the LECs rather than vice versa. Tr. 215, 357.

Notwithstanding, to the extent that there are incremental costs in providing RCF as number portability, the ALEC will incur those costs in meeting its statutory obligations to provide temporary number portability just like the incumbent LEC. Tr. 194, 215. Because ALECs will mostly be porting away from the LEC, ALECs would pay charges to the LECs under the 1995 Order but would not have a fair opportunity for cost recovery from the LECs. The ALEC will thus pay the LECs' costs as well as cover its own costs. That disadvantages ALECs. It deters customers of incumbent carriers from transferring to a new service provider to the extent that the entrant passes on the costs of currently available number portability, in the form of higher prices for customers. FCC Order at par. 138.

Third, the 1995 Order requires facilities-based carriers to bear an inordinate amount of the cost burden vis a vis reseller ALECs. Number portability will only be utilized by facilities-based carriers. Tr. 60, 87, 175. Therefore, the 1995 Order imposes an incremental cost on a facilities-based entrant that a new entrant that merely resells the incumbent's service would not have to bear. Tr. 194. As the FCC Order notes "the reseller would (not) have to use currently available number

portability measures in order for the prospective customer to keep his or her existing number.” FCC Order at par. 134.

Finally, the 1995 Order also does not meet the new “competitively neutral” standard under the Federal Act because the charges established in the Order reflect inflated or inappropriate cost information. The 1995 Order concedes as much. The Commission concluded that “the costs should not be based on RCF as a whole, but just on the increment that provides temporary number portability.” 95 FPSC 12:432. However, due to a number of factors, the charges reflect cost estimates of providing Remote Call Forwarding service as a whole rather than the additional costs incurred to provide temporary number portability. Tr. 133-4.

Even with respect to the cost estimates provided for RCF service, the Commission found that BellSouth’s cost study was “speculative.” 95 FPSC 12: 432. BellSouth was given the option of submitting a statement agreeing that the rates in the order are above costs or an incremental cost study including only those costs components directly related to providing RCF as a temporary number portability solution. 95 FPSC 12:435. GTEFL’s and Sprint’s cost estimates also “appear(ed) to be more reasonable, but still do not lead to accurate cost estimates.” 95 FPSC 12:433. Moreover, “none of the companies were able to provide a reasonably accurate estimation of the nonrecurring costs for temporary number portability through RCF.” Id. The Commission ordered “that the precise cost of providing remote call forwarding as a temporary number portability solution cannot be determined based on the record in this proceeding as set forth in the body of this order.” Id. At 439.

None of the LECs have stepped forward since the 1995 Order to identify the incremental cost of providing RCF as the temporary solution despite repeated opportunities to do so. FCTA in fact requested the cost information in discovery and the LECs were unwilling or unable to provide it. Hearing Exhibit Nos. 2, 5, 10; Tr. 132-134, 169, 330.

The new federal requirement of “competitive neutrality” makes it inappropriate to have a cost recovery mechanism that rewards the LEC by reflecting speculative or inappropriate cost data or one that is geared toward erring on the side of being high enough to exceed the cost of Remote Call Forwarding service as a whole. The cost recovery mechanism should instead seek to “mitigate against the anti-competitive effects of inflated LEC cost estimates” such as the LEC cost estimates provided to date in this proceeding.

ISSUE TWO: What is the appropriate cost recovery mechanism for temporary number portability?

***POSITION:** Local providers should absorb the incremental costs incurred to provide RCF as the temporary solution. Alternatively, any charges should be based on the incremental costs of providing RCF as a temporary number portability solution. The incremental cost should then be allocated on the basis of active access lines.*

ARGUMENT AND ANALYSIS: The appropriate cost recovery mechanism is for each local provider to absorb the additional incremental costs incurred to provide RCF as the temporary number portability solution. Tr. 358. This mechanism is consistent with the Federal Act and the FCC Order, Florida law, the Stipulation between the parties, and is the best mechanism to promote local exchange competition. Alternatively, if the Commission approves monetary charges, then it should require the LECs to file cost studies identifying the incremental cost incurred as a result of providing RCF as a temporary number portability solution. The incremental costs should then be allocated among all local telecommunications providers based upon the number of active access lines.

I. FCTA's Primary Proposal

The Commission should adopt a mechanism that requires each carrier to pay for its own costs of providing temporary number portability. Tr. 22, 33, 358, 384. Temporary number portability should be provided as requested (of either the incumbent or the new entrant) at no charge for the reasons that follow:

A. FCTA's Proposal is Consistent with the Federal Act and the FCC's Order.

In Section 251(b)(2), the Federal Act establishes the duty of all local exchange carriers to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC. Section 251(e) (2) states:

The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission. [Emphasis supplied.]

The FCC concludes that RCF and DID are technically feasible today and that Section 251(e)(2) grants specific authority to prescribe pricing principles that ensure that the costs of number portability are allocated on a "competitively neutral basis." FCC Order at pars. 110, 126. The FCC further determined that any cost recovery mechanism should satisfy two criteria:

(1) a competitively neutral cost recovery mechanism should not give one service provider an appreciable, incremental cost advantage over another service provider when competing for a specific subscriber. In other words, the recovery mechanism should not have a disparate effect on the incremental costs of competing carriers seeking to serve the same customer. FCC Order at Par. 132.

(2) the second criteria for a competitively neutral cost recovery mechanism is that it should not have a disparate effect on the ability of competing service providers to earn normal returns on their investment. FCC Order at par. 135.

Tr. 33, 74-75, 192, 355.

FCTA's primary recommendation meets the above requirements of federal law and FCC criteria. FCC Order at par. 136. Incumbent LECs and new entrants alike would absorb the

incremental costs associated with providing RCF as the temporary solution. The per subscriber incremental costs are likely to be very small and identical between LECs and facilities-based local providers. Tr. 66, 216, 219. Therefore, under this proposal, one provider does not enjoy an appreciable cost advantage over another when competing for a specific customer. Moreover, the record reflects that this proposal does not effect the ability of competitors to earn a normal return. If the additional costs of providing RCF as the temporary number portability solution were to be spread out among the entire customer base, the per customer amount is almost impossible to calculate and would be very small. Tr. 219, 385.

B. FCTA's Proposal is consistent with Florida Law.

Section 364.16(4), Florida Statutes, provides the principles of law relevant to the temporary number portability solution. Section 364.16(4) states:

In order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local phone number, all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines. Each local exchange provider, except small local exchange telecommunications companies under rate of return regulation, shall provide a temporary means of achieving telephone number portability. . . . If the parties are unable to successfully negotiate the prices, terms and conditions of a temporary number portability solution, the commission shall establish a temporary number portability solution by no later than January 1, 1996. Each local exchange service provider shall make the necessary modifications to allow permanent portability of local telephone numbers between certificated providers of local exchange service as soon as reasonably possible after the development of national standards The prices and rates shall not be below cost. Number portability between certificated providers of local exchange service at the same location shall be provided temporarily no later than January 1, 1996. [Emphasis supplied.]

Under Florida law, LECs and ALECs are to provide temporary number portability, customers are not to be disadvantaged, deterred or inconvenienced by having to give up their phone numbers, all providers must have access to numbering resources on "equitable terms" that recognize the scarcity of numbering resources, local providers are to implement permanent number portability "as

soon as reasonably possible” after the development of national standards, and the prices and rates shall not be “below the cost.” The statute does not delineate any particular cost standard. Tr. 131. The appropriate cost standard is within the Commission’s discretion. Tr. 132. FCTA’s primary proposal is consistent with the requirements of Florida law, especially when read in conjunction with the new Federal Act.

First, Florida law and FCTA’s primary proposal recognize that number portability is a reciprocal legal obligation among local providers and an essential component of local exchange competition. Tr. 370. New entrants certainly would not port telephone numbers were it not for the fact that lack of number portability is a barrier to entry. Tr. 370. As such, temporary number portability should not be permitted to become a profit-maker for the LECs or treated as a retail service when provided as the temporary solution. Tr. 191. Rather, temporary number portability is a network function that routes calls between LEC and ALEC networks. Tr. 191. Any additional costs incurred in providing it should be treated simply as network routing costs. Tr. 358. Chapter 364 recognizes the essential nature of temporary number portability by expressly requiring it. Nothing in Chapter 364 precludes the treatment of the temporary solution as a “network function” rather than a “retail service.”

FCTA’s primary proposal also provides access to numbering resources on “equitable terms” that recognize the scarcity of numbering resources in accordance with Florida law. The proposal is first “equitable” in that the ALECs are not required to bear all the costs of temporary number portability. The costs will instead be shared, as previously mentioned, between the LECs and ALECs on a reciprocal basis. As a result, one local provider has no appreciable cost advantage over another when competing for the same customer.

The proposal is also “equitable” in the sense that it recognizes that the capability to provide number portability through methods such as RCF already exists in most of today’s networks. Tr. 132. No additional upgrades are necessary. FCC Order at par. 121; 95 FPSC 12:442. No additional

investment should be required to provide RCF as the temporary solution. Tr. 34, 46. In short, there is not likely to be enough additional cost, if any, to effect the LEC's bottom line. Tr. 65, 287. Therefore, no local provider is competitively disadvantaged by absorbing the incremental cost incurred.

FCTA's proposal recognizes the scarcity of numbering resources. RCF utilizes valuable numbering resources. Requiring all local providers to absorb the additional costs of proving RCF as the temporary number portability solution creates incentives to implement the permanent solution as soon as possible. Tr. 387.

Third, consistent with Florida law, FCTA's primary proposal recognizes that local providers will be implementing "national standards" for the permanent solution "as soon as reasonably possible" in Florida. The FCC's Order (which was not stayed) sets these standards and establishes a time line for implementing the permanent solution. Accordingly, a complex cost recovery mechanism is not justified.

The record fully supports this conclusion. Interim portability will become nearly obsolete in the next 12 to 18 months in Florida under the FCC Order. Tr. 34, 46. Indeed, as GTEFL's witness concedes, RCF is a "temporary stop-gap measure designed to implement permanent number portability as soon as possible." Tr. 157, 168. While the permanent solution may not be immediately available at all switches in the state in the next 24 months, it will be available at the most competitive areas within the state and at the switches where most ALECs have asked for number portability to be made available. Tr. 49. There may be a few offices where the interim solution continues after the deployment in the top 100 MSAs in 1998. However, even those offices must be upgraded for the permanent solution within six months of a bona fide request. Tr. 70, 361. It is highly unlikely that the interim solution will be chosen after the permanent solution is established. Tr. 71. The ALECs will prefer the permanent method if it is up and running because it is more efficient than the interim method. Tr. 71.

Because of the FCC's time line for the permanent solution, an insignificant amount of revenue will be effected over the next eighteen months if the incremental costs of RCF are absorbed by LECs and ALECs on a reciprocal basis. Tr. 86. Interim portability has been available since January 1, 1996, and no customers have ported to date. Tr. 34, 52, 179. It is likely that demand will grow slowly as new entrants struggle to find ways to enter the incumbent LECs' territories. Tr. 34. Demand will no doubt continue to be low relative to the total number of lines of service provided in the State of Florida. Tr. 46. In sum, the marketplace realities simply do not justify the creation of a complex recovery mechanism, Tr. 34, or one that is administratively burdensome or costly to implement for such a short period of time. Tr. 215. FCTA's proposal is the simplest, most straightforward way of meeting the requirements of the Federal Act.

BellSouth argues that the status quo should be maintained because the FCC has no jurisdiction over the interim mechanism. Tr. 109-110. BellSouth asserts that the FCC only has jurisdiction over the permanent mechanism. Tr. 103. Even assuming arguendo that BellSouth is correct, BellSouth asks the Commission ignore the impact of the FCC's guidelines for the permanent mechanism. These guidelines represent a significant changed circumstance since the 1995 Order that will likely make the temporary solution nearly obsolete within the next eighteen months given the requirement of Florida law that national standards be implemented "as soon as reasonably possible." The Commission should recognize the temporary nature of the solution when deciding on the appropriate cost recovery mechanism.

Finally, FCTA's primary proposal meets the statutory requirement that the "prices and rates shall not be below cost". The record evidence demonstrates that the Commission has full discretion over the appropriate cost standard. Tr. 132. The capability to provide temporary number portability already exists in today's networks. Tr. 132. No additional investment is required to provide RCF as a temporary solution. 95 FPSC 12:442; FCC Order at par. 121; Tr. 34, 46. Under FCTA's primary proposal, both would share costs by each covering its own costs of routing calls through

the network. Tr. 360. It may well be that the billing and collection costs are greater than the additional cost, if any, of providing RCF as a temporary solution. Tr. 385. In this instance, "in kind" payment is an appropriate method of cost recovery. (See also, FPSC Order Nos. PSC-96-0445-FOF-TP and PSC-96-0668-FOF-TP issued in Interconnection Docket No. 950985-TP establishing similar compensation methods based Section 364.162(4), Florida Statutes.)

The LECs have taken the position that the cost causer should pay for temporary number portability. But, they have failed to provide any evidence of the incremental costs incurred to provide RCF as a temporary number portability solution. See, i.e. LEC responses to FCTA's First Set of Interrogatories, Hearing Exhibits 2, 5, 10. They have failed to provide this information despite the Commission's clear preference for it. 95 FPSC 12: 432-3, 435, 439. They have failed to do so despite the Stipulation discussed below. The LECs should not be rewarded at this time for their failure to provide the correct data. Instead, no monetary compensation should be required at this time. If a LEC subsequently believes that it is not recovering its additional costs of providing temporary number portability, it may file a petition with the Commission stating the correct cost information.

The merit of FCTA's position is further illustrated by the many interconnection agreements BellSouth has entered into as approved by the Commission. See, i.e., 96 FPSC 9: 582. In the 1995 proceeding BellSouth's position was that temporary number portability charges should be based on its RCF non-recurring cost of \$24.84. It also stated a recurring cost of \$1.11 per line per month and a cost of less than \$.50 per additional path per month. 95 FPSC 12:431. In contrast, BellSouth's interconnection agreement with Time Warner, for example, contains no non-recurring charges. The recurring charges are as follows: residential - \$1.15 per line including 6 call paths; business - \$2.25 per line including 10 call paths; and each additional path - \$.50. 96 FPSC 9:582. These rates are also considerably lower than those of the 1995 Order. BellSouth and the other LECs should be

required to identify the incremental cost of providing RCF as a temporary solution once and for all. No monetary charges should be assessed until such time.

C. FCTA's Proposal is Consistent with the Parties' Stipulation.

In support of its position, BellSouth's testimony references a stipulation signed by the parties to this docket. The stipulation found at Attachment A to the 1995 Order. It states in relevant part:

The Parties further agree that a temporary service provider number portability mechanism that can be implemented in most LEC central offices at the present time is Remote Call Forwarding The recurring price for RCF will be on a per-line per-month basis and will be uniform throughout an individual LEC's existing service territory. The price charged by an individual LEC for RCF shall not be below the costs of that LEC to provide Remote Call Forwarding for purposes for providing temporary number portability. [Emphasis supplied.]

The plain language of the stipulation contemplates that most central offices are already equipped to handle RCF as the temporary solution and, thus, an incremental cost standard is appropriate. The stipulation also differs from Florida law by going one step further than the statute to clarify the relevant costs to be considered. The statute simply states that the "rates and prices shall not be below cost." The stipulation requires that the price shall not be below the costs "to provide Remote Call Forwarding for purposes of providing temporary number portability." The stipulation does not lock the ALECs into paying the costs of RCF service as a whole. It contemplates that the additional costs of providing RCF as a temporary solution will be determined since RCF is already available in most central offices. The LECs should not be rewarded for failing to provide this information, especially in light of the new requirement of competitive neutrality under the Federal Act.

D. FCTA's Proposal Promotes Local Exchange Competition.

The Commission should adopt changes to the 1995 Order that would promote competition most favorably, since effective competition is the best protection to Florida's consumers. Tr. 385. In so doing, the Commission should recognize that terminating access charges will be shared by both local providers providing facilities to terminate a call through RCF arrangements. Tr. 386.

Therefore, if FCTA's primary proposal is adopted, the LEC will not necessarily be placed at a competitive disadvantage if a customer leaves and transfers his number to an ALEC. Tr. Id.

FCTA's primary proposal is the most straightforward way of meeting the standards in the FCC's Order, Tr. 74, especially in light of the fact that the temporary solution is not going to last forever. It is the simplest and most direct of the recommend mechanisms. Tr. 194-5, Tr. 214. It mitigates against inflated cost information as previously discussed. It provides incentives for the LECs to implement the permanent solution as soon as possible. Tr. 387. It would prevent one provider from having an appreciable cost advantage over another. Tr. 74. It would require no calculations or auditing. Tr. 75. It does not require special reporting between carriers of revenues, minutes of use, number of customer telephone numbers, etc. Tr. 195. It does not require carriers to produce, or the PSC to review cost studies. Id. In sum, development and monitoring of the accounting and reporting systems necessary to implement another, more complicated, competitively neutral cost recovery mechanism would be extremely inefficient given the short time that the temporary solution will be in place. Id. Therefore, FCTA's primary proposal should be adopted.

II. FCTA's Alternative Proposal

There are several methods suggested by the FCC that would meet the competitively neutral requirement of the Federal Act. Tr. 385. One of these methods is to assess the incremental costs to all local providers based on their pro rata share on active telephone numbers. FCC Order at par. 136. If monetary charges are adopted, FCTA's proposal would be for the LECs to identify the incremental costs of providing RCF as a temporary solution. The incremental costs should then be allocated among local providers based on active access lines, Tr. 387, and should be reciprocal. Tr. 359.

The Commission has discretion under Florida Law to access charges based upon this incremental cost standard. Tr. 132. That is the appropriate standard given (1) the new requirement

of competitive neutrality under the Federal Law, (2) the need to mitigate against inflated cost estimates in order to promote competition, and (3) the FCC's time line for implementing a permanent solution that makes the temporary solution nearly obsolete in 18 months.

The LECs should not be rewarded for refusing or failing to provide such information despite repeated opportunities to do so. FCTA's proposal simply requires the LECs to provide what the Commission has already recognized as the appropriate cost information: the incremental cost of providing RCF as a temporary solution, not the cost of RCF service as a whole.

For the above reasons, FCTA urges the Commission to adopt its alternative proposal in the event that its primary proposal is rejected.

ISSUE THREE: Should there be any retroactive applications of the Commission's decision in this proceeding, if so what should be the effective date?

POSITION: No.

CONCLUSION

For the foregoing reasons, the Commission should adopt FCTA's primary proposal. Alternatively, if monetary charges are required, they should reflect the LECs' incremental cost to provide RCF as the temporary number portability solution. The incremental costs should be allocated among all local providers based on the number of active access lines.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Laura L. Wilson", is written over a solid horizontal line.

Laura L. Wilson
Florida Cable Telecommunications Association
310 North Monroe Street
Tallahassee, Florida 32301
(904) 681-1990

CERTIFICATE OF SERVICE
DOCKET NO. 950737-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

Hand Delivery(*) and/or U.S. Mail on this 6th day of January, 1997 to the following parties of record:

Monica M. Barone*
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Floyd R. Self
Messer, Vickers, et al.
215 S. Monroe St., Suite 701
Tallahassee, FL 32302

Earl Poucher
Office of Public Counsel
111 W. Madison Street
Suite 812
Tallahassee, FL 32399-1400

William H. Higgins
McCaw Cellular Comm.
c/o Cellular One
250 S. Australian Avenue
West Palm Beach, FL 33401

Clay Phillips
Utilities & Telecommunications
410 House Office Building
Tallahassee, FL 32399

Greg Krasovsky
Commerce & Economic
Opportunities
Senate Office Bldg., Room 426
Tallahassee, FL 32399

Lee L. Willis
J. Jeffry Wahlen
MacFarlane, Ausley et al.,
227 S. Calhoun Street
Tallahassee, FL 32301

Peter M. Dunbar
Robert S. Cohen
Pennington, Culpepper et al.
P.O. Box 10095
215 S. Monroe St., 2nd Floor
Tallahassee, FL 32302-2095

F. B. Poag
Sprint/United Telephone
Company of Florida
555 Lake Border Drive
Apopka, FL 32703

Jill Butler
Florida Regulatory Director
Time Warner Communications
2773 Red Maple Ridge
Tallahassee, FL 32301

Anthony P. Gillman
Kimberly Caswell
GTE Florida, Inc.
P.O. Box 110, FLTC0007
201 N. Franklin Street
Tampa, FL 33601-0110

C. Everett Boyd, Jr.,
Ervin, Varn, Jacobs et al.
305 S. Gadsden Street
P.O. Drawer 1170
Tallahassee, FL 32302

**CERTIFICATE OF SERVICE
DOCKET NO 950737-TP**

Tony H. Key
State Regulatory-South
Sprint
3100 Cumberland Circle
Atlanta, GA 30339

Chan Bryant Abney
Sprint
3100 Cumberland Circle
N0802
Atlanta, Ga 30339

Robert G. Beatty
J. Phillip Carver
c/o Nancy H. Sims
Southern Bell
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

Richard D. Melson
Hopping Green Sams & Smith
123 S. Calhoun Street
P.O. Box 6526
Tallahassee, FL 32314

Michael W. Tye
AT&T
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

Robin D. Dunson
1200 Peachtree Street, N.E.
Promenade I, Room 4038
Atlanta, GA 30309

Angela B. Green
Florida Public Telecommunications
Association
125 South Gadsden Street, Suite 200
Tallahassee, FL 32301

Timothy Devine
MFS Communications Co., Inc.
Six Concourse Parkway, Suite 2100
Atlanta, GA 30328

Richard M. Rindler
James C. Falvey
Swidler & Berlin, Chartered
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, FL 32302

Marsha E. Rule
Wiggins & Villacorta, P.A.
BellSouth Mobility, Inc.
Post Office Drawer 1657
Tallahassee, FL 32302

Sue E. Weiske
Senior Counsel
Time Warner Communications
160 Inverness Drive West
Englewood, CO 80112

Martha McMillin
MCI Telecommunications Corp.
780 Johnson Ferry Road, Suite 700
Atlanta, GA 30346

By:  _____