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**BELLSOUTH TELECOMMUNICATIONS, INC.**  
**DIRECT TESTIMONY OF ALPHONSO J. VARNER**  
**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
**DOCKET NO. 960786**  
**July 7, 1997**

Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH  
BELLSOUTH TELECOMMUNICATIONS, INC.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior  
Director for Regulatory for the nine state BellSouth region. My business  
address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND  
EXPERIENCE.

A. I graduated from Florida State University in 1972 with a Bachelor of  
Engineering Science degree in systems design engineering. I immediately  
joined Southern Bell in the division of revenues organization with the  
responsibility for preparation of all Florida investment separations studies  
for division of revenues and for reviewing interstate settlements.

Subsequently, I accepted an assignment in the rates and tariffs  
organization with responsibilities for administering selected rates and tariffs  
including preparation of tariff filings. In January 1994, I was appointed

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1 Senior Director of Pricing for the nine state region. I became a Senior  
2 Director of Regulatory in August 1994.

3

4 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

5

6 A. The purpose of my testimony is to provide information which will assist the  
7 Florida Public Service Commission (hereinafter referred to as "the  
8 Commission") in fulfilling its consultative role under Section 271 of the  
9 Telecommunications Act of 1996 (the "Act"). My testimony will : 1) provide  
10 an overview of the requirements BellSouth must fulfill to achieve in-region  
11 interLATA relief; 2) provide data to demonstrate BellSouth's compliance  
12 with Section 271(c)(1)(A) and/or Section 271(c)(1)(B); 3) explain why this  
13 Commission's proceeding for interLATA entry is timely; 4) discuss the  
14 basis for the BellSouth Statement of Generally Available Terms  
15 ("Statement") pursuant Section 252(f); and 5) define the obligations of  
16 BellSouth to comply with the 14-point checklist as required under Section  
17 271(c)(2)(B).

18

19 Q. WHAT IS THE GOAL OF THE TELECOMMUNICATIONS ACT OF 1996  
20 AND SECTION 271 IN PARTICULAR?

21

22 A. The goal of the Act is to promote the development of competition across all  
23 telecommunications markets. BellSouth is aggressively moving forward to  
24 open the local exchange to competition on both a facilities-based and  
25 resale basis through negotiated and/or arbitrated agreements with

1 competitors. In furtherance of this goal, Section 271 of the Act establishes  
2 the criteria that the Bell Operating Companies (BOCs) must meet in order  
3 to enter the in-region interLATA services market as defined in the Act.  
4 Section 271 also outlines the roles the Federal Communications  
5 Commission ("FCC"), the state commissions and the Department of  
6 Justice ("DOJ") play in the process created by Congress by which BOCs  
7 gain authority to enter the interLATA long distance market.

8

9 Q. WHAT DO YOU VIEW AS THE GOALS OF THIS PROCEEDING?

10

11 A. First, BellSouth is filing with this Commission a draft Statement and will file  
12 an actual Statement in the near future pursuant to Section 252 of the Act.  
13 Under Section 252(f)(3), this Commission will then have 60 days to review  
14 the Statement after BellSouth's submission. BellSouth is asking that this  
15 Commission find that the Statement complies with the competitive  
16 checklist found in Section 271(c)(2)(B). BellSouth also believes that this  
17 Commission's Orders in the AT&T and MCI arbitrations include provisions  
18 that have resulted in agreements that comply with the checklist. In  
19 addition, BellSouth has entered into over 55 local interconnection  
20 agreements in Florida and over 150 local interconnection agreements  
21 region-wide that provide items required by the checklist.

22

23 It is also important for the Commission to assess the current market  
24 conditions existing in Florida. This assessment will assist this Commission  
25 in consulting with the FCC as to whether BellSouth has met the

1 requirements of Section 271(c)(1)(A) ("Track A") or Section 271(c)(1)(B)  
2 ("Track B").

3

4 Q. WILL BELLSOUTH AUTOMATICALLY RECEIVE IN-REGION INTERLATA  
5 RELIEF UPON THIS COMMISSION'S RULING THAT IT IS NOW IN  
6 COMPLIANCE WITH THE CHECKLIST?

7

8 A. No. The determination of whether BellSouth should be authorized in-  
9 region interLATA relief will be made by the FCC. BellSouth must make its  
10 application to the FCC for authorization to provide in-region interLATA  
11 services. The FCC must grant this permission once it determines that the  
12 requirements of Section 271(d) of the Act have been met.

13

14 Q. SHOULD THE COMMISSION CONTINUE WITH THIS PROCEEDING IN  
15 LIGHT OF THE FCC'S RULING ON THE SOUTHWESTERN BELL (SBC)  
16 OKLAHOMA APPLICATION? [ISSUES 1A and 1B]

17

18 A. Yes. First, BellSouth does not agree that the FCC has properly interpreted  
19 the Act in its SBC decision. The FCC's decision establishes a "Black Hole"  
20 between the Track A and Track B provisions of the Act. BellSouth does  
21 not believe that Congress ever intended for the FCC to create a situation  
22 where our competitors could effectively decide when customers can enjoy  
23 the benefits of competition in the long distance market through in-region  
24 BOC entry.

25

1       Regardless of the FCC's actions on the SBC petition, this proceeding is  
2       still important for the following reasons. First, approval of the Statement,  
3       independent of Section 271 concerns, will allow any new Alternative Local  
4       Exchange Company ("ALEC"), particularly smaller ALECs who have found  
5       the negotiation/arbitration process too costly to pursue, to compete without  
6       negotiating/arbitrating separate agreements. Second, the Statement may  
7       be used to demonstrate checklist compliance under either Track A or  
8       Track B. This proceeding is necessary to allow this Commission to  
9       respond to the FCC within the 20 days as specified in the FCC's  
10       procedural requirements. Further, under Track A, if an agreement with a  
11       competitor does not address a particular checklist item, a Statement may  
12       be used to supplement the agreement and show checklist compliance.  
13       Finally, under Track B, the Statement itself supplies all the elements of the  
14       checklist and is required by statute.

15  
16       Additionally, Track A/Track B is a federal, not a state issue. The Act  
17       requires the FCC to consult with this Commission concerning compliance  
18       with Track A/Track B provisions and the competitive checklist. This  
19       Commission's role is consultative -- the approval decision is the FCC's.  
20       The Act makes it clear that the BOC has the ability to file under either  
21       Track A or Track B depending upon the facts in existence. BellSouth's  
22       position from the outset has been that it is ultimately the role of the FCC to  
23       make a determination as to whether the requirements of Section 271 have  
24       been met. Since the FCC's decision is limited to an evaluation of Track A  
25       versus Track B based on conditions in Oklahoma at the time of SBC's

1 filing, nothing in that FCC decision changes the need to go forward with  
2 this proceeding.

3

4 Q. WHY SHOULD THE COMMISSION ACT NOW IN MAKING ITS  
5 DETERMINATION THAT BELLSOUTH IS IN COMPLIANCE WITH THE  
6 14-POINT CHECKLIST? [ISSUES 1A and 1B]

7

8 A. There are several reasons why it is important for this Commission to act  
9 now. First of all, a positive response from this Commission will hasten the  
10 day when consumers in Florida will see the benefits of increased long  
11 distance competition. Also, positive action on BellSouth's requests will  
12 likely accelerate the development of local competition in Florida.

13

14 Once BellSouth files for interLATA entry with the FCC, this Commission  
15 will have 20 days to tell the FCC whether BellSouth has complied with the  
16 checklist. To meet this 20 day deadline, Chairman Hundt of the FCC, in a  
17 speech on February 25, 1997 before the National Association of  
18 Regulatory Utility Commissioners (NARUC), stressed "the importance of  
19 states completing their analysis of Bell Operating Company's compliance  
20 with the Section 271 requirements prior to the date that the company files  
21 its application with the FCC." One result of this docket will be to position  
22 this Commission to provide the FCC with a record to support the  
23 Commission's recommendations concurrent with BellSouth's filing with the  
24 FCC. Acting promptly will greatly enhance this Commission's ability to  
25 fulfill its pivotal role in the interLATA entry process. BellSouth firmly

1 believes that it will meet the checklist requirements upon approval of its  
2 Statement. The Statement can be used alone or in conjunction with  
3 approved negotiated or arbitrated agreements.

4  
5 In the unlikely event this Commission does not agree, it is still important for  
6 the Commission to act now. Advising BellSouth of this Commission's  
7 views and the reasons for them at the earliest possible time will advance  
8 the day when any perceived deficiencies can be remedied. If BellSouth is  
9 not made aware of the views of this Commission, whatever they are, until  
10 after its application is filed with the FCC, consumers in Florida will be  
11 disadvantaged. They will be deprived for a longer period of the benefits  
12 from increased interLATA competition that BellSouth can offer. It is vitally  
13 important to the consumers in Florida for this Commission to act  
14 expeditiously and with specificity.

15  
16 Q. WHY SHOULD BELLSOUTH BE PERMITTED TO OFFER INTERLATA  
17 SERVICE? [ISSUES 1A and 1B]

18  
19 A. Congress has specified the requirements necessary to open local markets.  
20 In compliance with these requirements, BellSouth offers all local  
21 competitors interconnection on non-discriminatory terms which include the  
22 opportunity to exchange traffic with BellSouth, to purchase unbundled  
23 elements of BellSouth's local network and to buy retail services at  
24 wholesale rates. BellSouth has lived up to its duties under the Act and has  
25 satisfied the core preconditions for entry into the interLATA market in

1 Florida -- meeting the 14-point checklist. Specifically, with regard to the  
2 checklist, BellSouth asks this Commission to confirm that it has  
3 responsibly carried out its duties. Given that BellSouth has met the Act's  
4 requirements, there is no doubt that customers will benefit from interLATA  
5 entry by BellSouth. There is no sound policy reason to continue to delay  
6 customer benefits from such entry.

7

8 I. GENERAL OVERVIEW OF SECTION 271 OF THE ACT

9

10 Q. WHAT IS THE ROLE OF THE FCC WITH REGARD TO OPENING THE  
11 INTERLATA MARKET TO ALLOW BOC COMPETITION? [ISSUE 1]

12

13 A. BellSouth must file an application for interLATA relief with the FCC. Under  
14 Section 271(d), the FCC shall issue written documentation either  
15 approving or denying BellSouth's application within 90 days after receiving  
16 the application. Further, the requested authority must meet the separate  
17 affiliate requirements of Section 272. Finally, the FCC must determine  
18 that the requested authorization is consistent with the public interest.

19

20 Q. WHAT IS REQUIRED OF BELL SOUTH UNDER SECTION 271 FOR  
21 INTERLATA ENTRY? [ISSUES 1A, 1B, 2-15, and 17]

22

23 A. In order for the FCC to approve BellSouth's application for in-region  
24 interLATA relief, BellSouth must meet certain conditions specified by the  
25 Act. Those conditions, defined in Section 271(d)(3), are as follows:

1

2       “(A) the petitioning Bell operating company has met the requirements of  
3       subsection (c)(1) and (i) with respect to access and interconnection  
4       provided pursuant to subsection (c)(1)(A), has fully implemented the  
5       competitive checklist in subsection (c)(2)(B); or (ii) with respect to access  
6       and interconnection generally offered pursuant to a statement under  
7       subsection (c)(1)(B), such statement offers all of the items included in the  
8       competitive checklist in subsection (c)(2)(B);

9

10       (B) the requested authorization will be carried out in accordance with the  
11       requirements of Section 272; and

12

13       (C) the requested authorization is consistent with the public interest,  
14       convenience and necessity.”

15

16       Finally, Section 271(d) requires a BOC to file an application with the FCC  
17       for authorization to provide interLATA services on a state-by-state basis.

18       There are no other requirements that BellSouth must meet to receive  
19       interLATA entry.

20

21   Q. WHAT IS REQUIRED UNDER SECTION 271(c)(1)(A) AND SECTION  
22   271(c)(1)(B)? [ISSUES 1A and 1B]

23

24   A. These subsections provide two alternative means by which BellSouth can  
25   fulfill one of the requirements of Section 271(d)(3). Under both of these

1 provisions, BellSouth must also comply with the requirements of the  
2 competitive checklist in Section 271(c)(2).

3

4 In order to satisfy Section 271(c)(1)(A), BellSouth must show that it “has  
5 entered into one or more binding agreements that have been approved  
6 under Section 252 specifying the terms and conditions under which the  
7 Bell operating company is providing access and interconnection to its  
8 network facilities for the network facilities of one or more unaffiliated  
9 competing providers of telephone exchange service to residential and  
10 business subscribers. Such telephone exchange service may be offered  
11 by such competing providers either exclusively over their own telephone  
12 exchange service facilities or predominantly over their own telephone  
13 exchange service facilities in combination with the resale of the  
14 telecommunications services of another carrier.” (Track A).

15

16 Section 271(c)(1)(B) allows BellSouth to file an application with the FCC  
17 requesting interLATA authority even if no facilities-based competition  
18 exists that allows BellSouth to meet the requirements of Section  
19 271(c)(1)(A). In this case, a Statement pursuant to Section 252(f) of the  
20 Act must be effective. This Statement must be available for competitors to  
21 use to compete in the local exchange market. These terms and conditions  
22 must encompass the 14-point checklist and be available to anyone wishing  
23 to compete in this marketplace. Track B is available to BellSouth whether  
24 or not BellSouth has entered into any local interconnection agreements

25

1 with a competitor or if no competitor that meets the requirements of Track  
2 A is operational.

3  
4 Section 271(c)(1)(A) allows BellSouth to meet the requirements for  
5 providing interLATA service in less than 10 months after enactment of the  
6 Act if an unaffiliated facilities-based competitor providing service to  
7 residential and business customers predominantly over its own facilities is  
8 present. In contrast, relief can be granted under Section 271(c)(1)(B) even  
9 if no such facilities-based competitor is present within 10 months after  
10 enactment. Under subsection (c)(1)(B), BellSouth can provide interLATA  
11 services as long as it has opened its local market to competition, even if no  
12 actual facilities-based local competition is in place. Clearly, Congress  
13 intended to permit interLATA relief once the markets were open to  
14 competition and did not require some actual level of competition.

15

16 Q. DOES THE ACT PRECLUDE BELLSOUTH FROM APPLYING FOR  
17 INTERLATA RELIEF UNDER EITHER TRACK A OR TRACK B? [ISSUES  
18 1A and 1B]

19

20 A. No. BellSouth may file under either track for which the qualifying criteria  
21 are met. Under Track A, actual facilities-based competition must be  
22 present in the local market. The Joint Explanatory Statement of the  
23 Committee of Conference, S. Conf. Rep. No. 104 - 230, at 149 (1996)  
24 ("Conference Report") makes clear that Track A requires an operational  
25 facilities-based competitor, noting that "the requirement that the BOC 'is

1 providing access and interconnection' means that the competitor has  
2 implemented the agreement and the competitor is operational."  
3 (Conference Report on S. 652 at 148.) That the access and  
4 interconnection agreement be implemented "is important because it will  
5 assist the appropriate State commission in providing its consultation."  
6 (Conference Report on S. 652 at 148.) Track A arose from Congress'  
7 belief that cable companies would emerge quickly as facilities-based  
8 competitors to telephone companies, justifying quicker BOC entry into the  
9 long distance market. In addition, some states, such as Florida, had  
10 already authorized local competition before the Act became effective.

11  
12 Under Section 271(c)(1)(B) "[a] Bell operating company meets the  
13 requirements of this subparagraph if, after 10 months after the date of  
14 enactment of the Telecommunications Act of 1996, no such provider has  
15 requested the access and interconnection described in subparagraph  
16 (A)...." The provider described in subparagraph A must be a "competing  
17 provider of telephone exchange service...to residential and business  
18 subscribers exclusively or predominantly over its own facilities". Thus, the  
19 "no such provider" phrase in Subparagraph (B) plainly states that Track B  
20 remains open until a facilities-based competitor meeting the definition in  
21 Subparagraph 271(c)(1)(A) requests access and interconnection. Unless  
22 a facilities-based competitor that meets the requirements of Track A has  
23 sought access and interconnection under the Act, Track B is the only route  
24 available to BellSouth. BellSouth may file with the FCC under Track B up  
25 to three months after it receives a request for access and interconnection

1 from a competitor that meets the requirements of Track A. This provision  
2 ensures that competitors cannot block an application for long distance  
3 authority by seeking interconnection after BellSouth has started down the  
4 Track B route.

5

6 Q. IS THERE ANY LEGISLATIVE SUPPORT FOR BELL SOUTH'S  
7 INTERPRETATION OF TRACK A VERSUS TRACK B? [ISSUES 1A and  
8 1B]

9

10 A. Yes. Congress's goal was to open the long distance market to competition  
11 by keeping one of the routes, Track A or Track B, open for BOCs to seek  
12 long distance authority. The Conference Report makes the point that  
13 Section 271(c)(1)(B) "is intended to ensure that a BOC is not effectively  
14 prevented from seeking entry into the interLATA services market simply  
15 because no facilities-based competitor that meets the criteria set out in  
16 new section 271(c)(1)(A) has sought to enter the market." Conference  
17 Report on S. 652 at 148 (emphasis added). This interpretation is  
18 supported by a statement by Representative Tauzin (141 Cong. Rec.  
19 H8457, H8458, August 4, 1995) which is attached as Varner Exhibit No. 1.  
20 This statement contains seven examples of the application of Track A  
21 versus Track B. The statement was made during the debate on House Bill  
22 1555 which established the Track A and Track B dichotomy. Sections  
23 245(a)(2)(A) and 245(a)(2)(B) of House Bill 1555 became Sections  
24 271(c)(1)(A) and 271(c)(1)(B) of the Act respectively. Some excerpts from  
25 Representative Tauzin's statement on H8458 are as follows:

1 "Example No. 2: If no competing provider of  
2 telephone exchange services, has requested access  
3 or interconnection-the criteria in section  
4 245(a)(2)(B) has been met."

5  
6 "Example No. 3: If no competing provider of  
7 telephone exchange service with its own  
8 facilities or predominantly its own has requested  
9 access and interconnection-the criteria in  
10 section 245(a)(2)(B) has been met."

11  
12 "Example No. 4: If a competing provider of  
13 telephone exchange with some facilities which  
14 are not predominant has either requested access  
15 and interconnection or the RBOC is providing  
16 such competitor with access and interconnection-  
17 the criteria in section 245(a)(2)(B) has been  
18 met because no request has been received from an  
19 exclusively or predominantly facilities-based  
20 competing provider of telephone exchange service.  
21 Subparagraph (b) uses the words "such provider"  
22 to refer back to the exclusively or predominantly  
23 facilities-based provider described in subparagraph  
24 (A)."

25

1           “Example No. 6: If a competing provider of  
2           telephone exchange service requests access to serve  
3           only business customers-the criteria in section  
4           245(a)(2)(B) has been met because no request has  
5           come from a competing provider to both residences  
6           and businesses.”

7  
8           In addition to Representative Tauzin's explanation, a statement made by  
9           Congressman Hastert provides further support. (142 Cong Rec. H1152,  
10          February 1, 1996). Congressman Hastert's statement is as follows:  
11          “As a member of the Commerce Committee, I worked on several  
12          provisions of this bill, and was the author of section 245(a)(2)(B) of H.R.  
13          1555 which deals with the issue of BOC entry into in-region inter-LATA  
14          telecommunications service. This provision has become section  
15          271(c)(1)(B) in the conference report. Section 271(c)(1)(B) provides that a  
16          BOC may petition the FCC for this in-region authority if it has, after 10  
17          months from enactment, not received any request for access and  
18          interconnection or any request for access and interconnection from a  
19          facilities-based competitor that meets the criteria in section 271(c)(1)(A).  
20          Section 271(c)(1)(A) calls for an agreement with a carrier to provide this  
21          carrier with access and interconnection so that the carrier can provide  
22          telephone exchange service to both business and residential subscribers.  
23          This carrier must also be facilities based; not affiliated with a BOC; and  
24          must be actually providing the telephone exchange service through its own  
25          facilities or predominantly its own facilities.” (emphasis added)

1

2 Clearly, Congress intended to keep a route open for BOCs to seek  
3 interLATA authority if no competitor is meeting the requirements of Track  
4 A.

5

6 The ability to proceed under Track A or Track B is determined by the  
7 existence of a qualifying facilities-based competitor. The actual track will  
8 have to be determined at the time of the filing of BellSouth's application  
9 with the FCC. If a provider meeting the requirements of Track A requests  
10 access three months or more before BellSouth files its application,  
11 BellSouth must file under Track A. If not, Track B must be followed. Also,  
12 if a competitor would otherwise qualify under Track A but does not  
13 negotiate in good faith or delays implementation of its agreement, Track B  
14 must be followed.

15

16 Q. WHICH TRACK CAN BELLSOUTH FOLLOW AT THIS TIME?

17

18 A. BellSouth meets the requirements of Track A based on the information  
19 BellSouth has at this time.

20

21 Q. HAS BELLSOUTH ENTERED INTO ONE OR MORE BINDING  
22 AGREEMENTS APPROVED UNDER SECTION 252 WITH  
23 UNAFFILIATED COMPETING PROVIDERS OF TELEPHONE  
24 EXCHANGE SERVICE? [ISSUE 1A(a)]

25

1 A. Yes. As of May 30, 1997, BellSouth had entered into interconnection  
2 agreements with over 55 competitors in the state of Florida. Additionally,  
3 several forms of wireless telecommunications service offerings, including  
4 those provided over PCS spectrum licenses, also may be considered by  
5 the FCC as "competing telephone exchange service" pursuant to Section  
6 271. These wireless communications services are currently being  
7 provided to both residence and business customers in a number of  
8 markets in Florida. BellSouth has signed interconnection agreements with  
9 a number of these wireless providers, several of which have been  
10 approved by this Commission.

11

12 Q. IS BELLSOUTH PROVIDING ACCESS AND INTERCONNECTION TO  
13 ITS NETWORK FACILITIES FOR THE NETWORK FACILITIES OF SUCH  
14 COMPETING PROVIDERS WITHIN THE MEANING OF SECTIONS  
15 271(c)(1)(A) and 271(c)(1)(B)? [ISSUE 1A(b) and 1B(a)]

16

17 A. Yes. BellSouth is provisioning network elements and network functions to  
18 facility-based competitors in Florida. The network elements being provided  
19 to such competitors in Florida include 7,612 interconnection trunks, 7  
20 switch ports, and 1,085 loops. In addition, there are 7 physical collocation  
21 arrangements in progress, 34 virtual collocation arrangements completed  
22 and 24 more in progress. BellSouth has 9 poles, ducts and conduits/rights  
23 of way license agreements. There are 277 ALEC trunks terminating to  
24 BellSouth Directory Assistance, 911 and intercept and operator services,  
25 11 verification and inward trunks and 31 ALEC trunks to BellSouth for

1 Operator services. See the testimony of BellSouth's witness Keith Milner  
2 for the list of all checklist items BellSouth is currently providing in Florida.

3

4 The Statement provides an additional vehicle to provide those items of the  
5 checklist that have not been requested by competing providers thus far.

6 Upon effecting its Statement, BellSouth will have generally offered every  
7 item on the 14-point competitive checklist.

8

9 Q. ARE SUCH COMPETING PROVIDERS PROVIDING TELEPHONE  
10 EXCHANGE SERVICE TO RESIDENTIAL AND BUSINESS CUSTOMERS  
11 EITHER EXCLUSIVELY OVER THEIR OWN TELEPHONE EXCHANGE  
12 SERVICE FACILITIES OR PREDOMINANTLY OVER THEIR OWN  
13 TELEPHONE EXCHANGE SERVICE FACILITIES? [ISSUE 1A(c) and  
14 1B(a)]

15

16 A. Yes. The phrase "exclusively over their own telephone exchange service  
17 facilities", means that the competitor is not reselling retail  
18 telecommunications services of another carrier to provide local service to  
19 its customers. Under Section 271(c)(1)(A) of the Act, a facilities-based  
20 competitor may build 100% of its own network or the competitor may  
21 purchase certain unbundled network elements from BellSouth and  
22 combine them with facilities they have built to provide service to the end  
23 user. When a competitor builds its network, the competitor can build  
24 every component, lease components from another alternative local  
25 exchange company, or lease components from BellSouth. Each of these

1 methods for acquiring facilities would make the competitor facilities-based.  
2 A facilities-based competitor does not have to provide service exclusively  
3 over its own facilities but can also resell BellSouth's services. The  
4 competitor must, however, offer services exclusively or predominantly over  
5 its own facilities to meet the requirement of Section 271(c)(1)(A). A pure  
6 reseller or competitor providing service largely through resale of  
7 BellSouth's exchange service would not qualify as a facilities-based  
8 competitor.

9  
10 The term "predominantly over their own telephone exchange service  
11 facilities", means that a substantial portion of the telephone exchange  
12 service that otherwise satisfies Section 271(c)(1)(A) is being provided over  
13 the facilities of the competitor. Also, the Conference Board Report  
14 accompanying S. 652 (Report 104-458) provides that the "predominance"  
15 requirement is to "ensure that a competitor offering service exclusively  
16 through the resale of the BOC's telephone exchange service does not  
17 qualify, and that an unaffiliated competing provider is present in the  
18 market." (Committee Report, p. 148).

19  
20 Q. DOES AN UNAFFILIATED COMPETING PROVIDER QUALIFY UNDER  
21 THE REQUIREMENTS OF TRACK A IF THE COMPETITOR IS  
22 PROVIDING FACILITIES BASED SERVICE TO ONE CATEGORY OF  
23 CUSTOMERS AND RESELLING TO THE OTHER CATEGORY? [ISSUE  
24 1A(c)]

25

1 A. Yes, if the competing provider is providing facilities-based services to one  
2 group of customers and resale to the other group, the provider still  
3 qualifies under Track A. The Act requires a competing provider to serve  
4 both business and residential customers. That provider must be  
5 exclusively or predominantly facilities-based. However, the Act does not  
6 require that provider to serve both customer classes over their own  
7 facilities. In fact, the Act states that the competitor may be providing  
8 service predominantly over its own facilities in combination with resale of  
9 BOC services. Thus, the competitor can reach one class of customer  
10 wholly through resale provided that the competitor's service as a whole is  
11 predominantly facilities-based.

12

13 This view is consistent with Congress' dual objective of increasing the level  
14 of competition in both the local and long distance markets. It ensures that  
15 at least one facilities-based competitor is offering service to both  
16 residential and business customers. Once that condition is met, there is  
17 no reason to delay BellSouth's entry simply because that competitor opts  
18 to serve one class of customer on a resale basis.

19

20 Q. DOES AN ALEC HAVE TO OFFER SERVICE THROUGHOUT THE  
21 EXCHANGE FOR BELL SOUTH TO QUALIFY UNDER TRACK A?  
22 [ISSUE 1A(b) & (c)]

23

24 A. No. ALECs must merely be offering service in competition with BellSouth.  
25 There are several ALECs providing facilities-based service to business

1 customers in particular buildings in competition with BellSouth's business  
2 offerings. Based on our information, at least one ALEC offers service in  
3 the Multi-Family Dwelling Unit (MDU) sector of the marketplace. In this  
4 case, both the ALEC and BellSouth offer service to customers in this MDU.  
5 The ALEC appears to be providing residential service to all of its  
6 customers over its own network facilities in competition with BellSouth.

7

8 Q. MUST A SINGLE PROVIDER HAVE TO MEET ALL OF THE CRITERIA  
9 UNDER SECTION 271(c)(1)(A) OR CAN A COMBINATION OF  
10 PROVIDERS MEET THE REQUIREMENTS IN ORDER TO SATISFY  
11 TRACK A? [ISSUE 1A(c)]

12

13 A. A combination of facilities-based providers satisfies the requirements of  
14 Track A. The Act does not state it must be a single provider to both  
15 residential and business customers. One competitor with a binding  
16 agreement may provide facilities-based service to residential customers  
17 and another may provide facilities-based service to business customers.  
18 The combined offerings of these two ALECs would allow the requirements  
19 of Track A to be met.

20

21 Q. ARE ANY OF THE UNAFFILIATED COMPETING PROVIDERS THAT  
22 HAVE QUALIFYING AGREEMENTS PROVIDING TELEPHONE  
23 EXCHANGE SERVICE TO BUSINESS AND RESIDENCE CUSTOMERS  
24 PREDOMINANTLY OVER THEIR OWN TELEPHONE EXCHANGE

25

1 SERVICE FACILITIES OR IN COMBINATION WITH THE RESALE OF  
2 TELECOMMUNICATIONS SERVICES? [ISSUE 1A(c)]

3  
4 A. Yes. BellSouth believes there are unaffiliated competing providers  
5 providing telephone exchange service to residential and business  
6 customers predominantly over their own facilities or in combination with  
7 resale. From the information currently available to BellSouth,  
8 interconnection, network elements and network functions which may be  
9 utilized by facility-based providers to service residential and business  
10 customers have been provisioned by BellSouth in Florida.

11  
12 Eight facility-based ALECs have established between 100 and over 1000  
13 local interconnection trunks between their networks and BellSouth's  
14 network in Florida as of May 15, 1997. One of these ALECs has received  
15 ported numbers for substantial numbers of both residential and business  
16 customers and does not resell any BellSouth services. Purchasing  
17 interconnection trunks indicates the competitor is at least planning to  
18 provide services to both residential and business customers over its own  
19 facilities. Another ALEC has ported hundreds of numbers for business  
20 customers and a few residence customers. The low number of residence  
21 ported numbers could possibly be representative of a test situation for  
22 residence customers. The information available to BellSouth is  
23 inconclusive as to whom this competitor is providing these residential  
24 ported numbers. In addition to this ALEC, there are three other ALECs

25

1     who have ported a substantial quantity of numbers for business customers  
2     and are reselling significant quantities to residential customers.

3

4     Given this set of conditions, BellSouth qualifies for Track A. First, at least  
5     one and possibly two ALECs are providing facilities-based service over  
6     their own network to both residential and business subscribers. The  
7     second qualifying circumstance is that three or four other competitors  
8     appear to be providing service to business customers over their own  
9     network and reselling to residential customers. Third, the competitors who  
10    provided facilities-based service to residence customers can be combined  
11    with the ALECs providing facilities-based business service to qualify  
12    BellSouth under Track A. BellSouth meets the requirements of Track A  
13    since BellSouth has at least one facilities-based provider of residential  
14    service in combination with several facilities-based providers serving  
15    business customers.

16

17    In addition, PCS providers may also be qualifying carriers under Track A.  
18    These providers could provide a fourth means for BellSouth to qualify for  
19    interLATA relief under Track A.

20

21    **Q, SHOULD PROVIDERS COMPETING WITH BELLSOUTH BE REQUIRED**  
22    **TO PROVIDE TELEPHONE EXCHANGE SERVICE TO MORE THAN**  
23    **ONE RESIDENTIAL SUBSCRIBER AND ONE BUSINESS**  
24    **SUBSCRIBER?**

25

1 A. No. Nowhere in the Track A criteria does the Act require that service be  
2 provided to more than one residential and one business customer in order  
3 to satisfy the Track A requirement.

4  
5 Q. IF, BASED ON FURTHER INFORMATION, THIS COMMISSION  
6 DETERMINES BELLSOUTH DOES NOT QUALIFY UNDER TRACK A,  
7 CAN BELLSOUTH QUALIFY UNDER TRACK B? [ISSUE 1B]

8  
9 A. Yes. If BellSouth does not qualify under Track A, then Track B becomes  
10 open to BellSouth. Congress intended after 10 months that one of the two  
11 tracks be available to BellSouth upon compliance with the checklist.

12  
13 Q. DOES SECTION 271 ALLOW ADDITIONS TO THE CHECKLIST PRIOR  
14 TO GRANTING IN-REGION INTERLATA RELIEF? [ISSUES 2-15]

15  
16 A. No. Section 271(d)(4) states that the FCC may not limit or expand the  
17 terms set forth in the competitive checklist. The 14-point checklist is the  
18 mechanism by which Congress ensured that Bell companies will have  
19 opened their local market to competitors by the time they provide in-region  
20 interLATA services.

21  
22 Q. WHAT IS THIS COMMISSION'S ROLE WITH REGARD TO  
23 BELLSOUTH'S ENTRY INTO THE IN-REGION INTERLATA MARKET?

24  
25

1 A. The Commission has played an active role in arbitration proceedings, has  
2 the best view of the issues associated with promoting telecommunications  
3 competition in this state, and plays a critical role in implementing the Act.  
4 When BellSouth files its application for in-region interLATA relief, the FCC  
5 must consult this Commission to verify that BellSouth has complied with  
6 Section 271(c). This verification must be made before the FCC can make  
7 any determination on BellSouth's application. In this proceeding, this  
8 Commission is examining all of the issues necessary to make this  
9 verification. BellSouth is filing its draft Statement and will be filing its actual  
10 Statement soon. This Commission will determine whether that Statement  
11 meets the checklist. Further, BellSouth also believes interconnection  
12 agreements already approved by this Commission meet the requirements  
13 of the checklist. Once BellSouth has proven its compliance with the  
14 checklist, the local exchange is irreversibly open to competitors wishing to  
15 enter this market.

16  
17 Q. WHAT INFORMATION SHOULD THIS COMMISSION PROVIDE TO  
18 ENABLE THE FCC TO DETERMINE IF BELL SOUTH SHOULD BE  
19 ALLOWED ENTRY INTO THE IN-REGION INTERLATA MARKET?  
20 [ISSUES 1A and 1B]

21  
22 A. Although the Commission does not need any specific data on local  
23 competition to determine if BellSouth is compliant with the checklist, this  
24 Commission will need to provide factual input to enable the FCC to make  
25 the decision of whether BellSouth has met the criteria of Track A or Track

1 B. The Commission will be in the best position to advise the FCC of the  
2 relevant facts on this question because it involves the state of competition  
3 in Florida. This type of factual input would likely include answers to  
4 questions such as:

5

6 1. When BellSouth filed its application for in-region interLATA  
7 authority, was one or more unaffiliated competing providers offering  
8 telephone exchange service as defined in Section 3 (47) of the Act, but  
9 excluding exchange access, operating in BellSouth's territory in  
10 Florida?

11

12 2. Was this unaffiliated provider(s) providing such telephone exchange  
13 service to residential and/or business customers in Florida?

14

15 3. Was this unaffiliated provider(s) providing such telephone exchange  
16 service exclusively over its own facilities in Florida?

17

18 4. Was this unaffiliated provider(s) providing such telephone exchange  
19 service in Florida predominantly over its own facilities in combination  
20 with the resale of telecommunications from another carrier?

21

22 5. When BellSouth filed its application, was it providing access and  
23 interconnection to its facilities in Florida for the network facilities of a  
24 provider who meets all of the criteria listed in Questions 1 - 4?

25

1           6. At least 3 months prior to the date that BellSouth filed its application,  
2           had an unaffiliated provider who meets all of the criteria of Questions 1  
3           through 4 requested BellSouth to provide access and interconnection  
4           to its facilities in Florida?

5  
6           7. Has the provider or providers identified in response to question 6  
7           been negotiating in good faith?

8  
9           8. Has the provider or providers identified in response to question 6  
10          delayed implementation of its agreement approved pursuant to Section  
11          252?

12  
13          In addition, the Commission may also want to develop a record concerning  
14          whether requests from facilities-based competitors are qualifying requests  
15          under the FCC's recent order concerning SBC's 271 application. To fulfill  
16          its role in the process required for BellSouth to gain interLATA authority,  
17          this Commission has already begun to gather information through surveys,  
18          data requests and other reasonable means to answer the types of  
19          questions listed above. With respect to the market as it exists currently,  
20          the Commission should continue to gather this information from  
21          competitors and potential competitors that are certificated to provide local  
22          service in Florida. Additionally, the Commission should establish a  
23          process to ensure that carriers inform the Commission of any relevant  
24          changes that occur.

25

1 To carry out its consultative role on Track B, this Commission will also  
2 need information concerning ALECs' efforts to implement their  
3 agreements. If ALECs are delaying implementation of agreements,  
4 BellSouth may qualify under Track B even if market conditions would  
5 otherwise dictate an application under Track A. This Commission will be in  
6 the best position to assess this situation.

7  
8 This data gathering process is imperative because most of the information  
9 that the Commission needs on this subject is possessed by the  
10 competitors and not by BellSouth. For example, BellSouth cannot fully  
11 answer questions about the type of customers served by competitors or  
12 the manner in which their customers are served. Also, it will be critical for  
13 this Commission to require factual documentation to enable it to verify the  
14 new entrant's answers to the Commission's questions. This  
15 documentation will be necessary to ensure that questions were interpreted  
16 correctly.

17  
18 Q. ARE THERE ANY OTHER EVENTS THAT OCCUR UNDER SECTION  
19 271 UPON BELL SOUTH'S ENTRY INTO THE INTERLATA BUSINESS?  
20 [ISSUE 16]

21  
22 A. Yes. As required under Section 271(e)(1), until BellSouth is authorized to  
23 provide in-region interLATA service within a state or until 36 months after  
24 enactment of the Act, whichever comes first, certain telecommunications  
25 carriers may not jointly market resold exchange service obtained from

1 BellSouth with interLATA services. Once BellSouth receives in-region  
2 interLATA authority, this joint marketing restriction on large interexchange  
3 carriers is eliminated. In addition, after BellSouth receives a grant of in-  
4 region interLATA authority, Section 271(e)(2) requires BellSouth to provide  
5 intraLATA toll dialing parity throughout the BellSouth territory coincident  
6 with its exercise of interLATA authority. On February 13, 1995 in Docket  
7 No. 930330-TP, the Florida Commission ordered BellSouth to provide 1+  
8 intraLATA presubscription by the end of 1997. BellSouth has been  
9 providing 1+ intraLATA toll presubscription in all of its end offices since the  
10 end of March 1997.

11

12

13 **II. LOCAL MARKETS ARE OPEN AND BELLSOUTH'S REQUEST FOR**  
14 **INTERLATA ENTRY IS TIMELY**

15

16 **Q. DOES SECTION 271 REQUIRE A CERTAIN LEVEL OF COMPETITION**  
17 **WITHIN THE LOCAL EXCHANGE PRIOR TO BOC ENTRY INTO THE**  
18 **INTERLATA MARKET? [ISSUE 1A]**

19

20 **A. No.** Section 271(c) requires that a BOC open its local markets to  
21 competition. This opening can be achieved by entering into an approved  
22 agreement with an operational facilities-based competitor as defined in  
23 Section 271(c)(1)(A). In addition, the market can be opened by generally  
24 offering a statement of terms and conditions for access and  
25 interconnection that has been approved or permitted to take effect by the

1 relevant state commission. Both approaches reject the notion that  
2 anything other than the creation of a market that is open to competition is  
3 the appropriate measure of whether a BOC should be allowed to enter the  
4 interLATA services market. By adopting Section 271(c)(1)(B), Congress  
5 judged that BOC entry into interLATA service should be permitted even if  
6 no competitor was present in a particular state, as long as that state's  
7 market was open to competition.

8  
9 As pointed out by Representative Bryant, "the Bell companies could enter  
10 long distance without facing real local competition." (Cong. Rec. H8452,  
11 August 4, 1995). In making this statement, Representative Bryant was  
12 objecting to the changes made to the bill to remove threshold requirements  
13 for local competition prior to the Bell companies' entry into the long  
14 distance market. It is very clear from his objections that no competitive  
15 threshold was included in the Act.

16  
17 Section 271 does not require any quantification of competition in the local  
18 market and provides no invitation to import any other additional measure of  
19 competition into Section 271 in order for a BOC to enter the interLATA  
20 services market. Importing any such measurement into Section 271 would  
21 clearly be contrary to the intent of Congress and its judgment that open  
22 markets be the appropriate gauge of competition as evidenced by the two  
23 approaches created in Section 271(c)(1). This view is further supported by  
24 Congress' explicit prohibition against adding to "the terms used in the  
25 competitive checklist set forth in subsection (c)(2)(B)" in Section 271(d)(4).

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This view is also supported by Section 271's legislative history. For example, Congressman Bunn attempted to introduce an amendment that would require a ten percent threshold level of competition before in-region entry could be achieved. This minimum threshold level was defeated. Senator Kerrey also introduced an amendment to the Act that would have changed Section 271(c)(1) to say that "a Bell operating company may provide interLATA services in accordance with this Section only if that company has reached interconnection agreements under Section 251 with ... telecommunications carriers capable of providing a substantial number of business and residential customers with service". 141 Cong. Rec. S8310, S8319 (June 14, 1995)(emphasis added). A copy of the pertinent pages are attached to this testimony as Varner Exhibit No. 2. Although Senator Kerrey's proposed amendment only required the capability to serve a substantial number of customers, and did not attempt to create a requirement that any particular number or percentage of customers be served, the amendment was rejected. In the ensuing debate, Senators on both sides of this issue were explicit about their understanding that the Act would, absent Senator Kerrey's amendment, allow interLATA entry even if the qualifying local interconnection agreement was with a small company initially capturing only a few subscribers. Id. at S8319-8321. As the successful opponents of that amendment made clear, the Act "does not look at [a competitor's] size as being determinative of whether or not the Bell company could... provide service in the interLATA area." Id. at S8321. Thus, it is clear that Congress debated and explicitly decided to exclude a

1 specific level of local competition as being a requirement for interLATA  
2 entry. Congress believed the requirements to comply with the 14-point  
3 competitive checklist to prove the local market is open to competition and  
4 Section 271(d)(3) of the Act struck an appropriate balance between  
5 opening local markets and the BOCs being granted interLATA relief.

6

7 Q. WHY DOES BELLSOUTH BELIEVE IT WAS NOT THE INTENT OF  
8 CONGRESS THAT LOCAL COMPETITION BE FULLY DEVELOPED  
9 PRIOR TO BOC ENTRY INTO LONG DISTANCE? [ISSUE 1B]

10

11 A. Congress wanted competition in all telecommunications markets in order  
12 to bring consumers the benefits of full competition. Section 271 ensures  
13 that opening the BOCs' local markets will not only allow competition in  
14 local services, but will also enhance competition in the long distance  
15 business through BOC entry. Sections 271 and 272 establish stringent  
16 safeguards evidencing Congress' desire to open the long distance market  
17 without full local competition. This section was not established to give  
18 incumbent interexchange carriers (IXCs) ways of postponing competition  
19 from BOCs, but to allow a BOC to secure interLATA authority as soon as it  
20 opened the local exchange to competition.

21

22 In addition, Congress recognized that competitive providers could attempt  
23 to thwart BellSouth's entry into the long distance market. Congress  
24 expressly did not want the ALECs to impede BellSouth's ability to obtain  
25 interLATA authority beyond the 10 months stated in Section 271(c)(1)(B)

1 of the Act. Congress did not allow a competitor to prevent a BOC from  
2 filing under Track B because the competitor requested access and  
3 interconnection without making the pro-competitive investment in local  
4 facilities that Congress thought necessary under Track A. If this was  
5 permitted, a competitor could foreclose the BOC's entry into the interLATA  
6 market by simply requesting access and interconnection and then limiting  
7 or delaying facilities investments to only residential or business customers.

8

9 Q. DOES BELLSOUTH BELIEVE A THRESHOLD LEVEL OF LOCAL  
10 COMPETITION SHOULD BE ESTABLISHED PRIOR TO BEING  
11 ALLOWED ENTRY INTO THE INTERLATA MARKET? [ISSUES 1A and  
12 1B]

13

14 A. No. As discussed above, BellSouth does not believe the level of local  
15 competition should be a consideration. The Act clearly outlines the  
16 guidelines required for a BOC to be allowed entry into the long distance  
17 market. The Act only requires BellSouth to allow competitors access to  
18 and interconnection with the local exchange by entering into  
19 interconnection agreements and meeting the 14-point checklist. Nowhere  
20 in Section 271 does the Act require a certain level of competition be met  
21 prior to interLATA relief.

22

23 Congress realized that it takes time to build up competition once a market  
24 is open to competitors. That is one reason Congress included a provision  
25 in the Act that BellSouth could apply for in-region interLATA relief under

1 Section 271(c)(1)(B) even if it has no competitors at all. Clearly, the level  
2 of local competition is not an issue that should impact BellSouth's entry  
3 into the long distance market.

4  
5 The intent of the Act is for all markets to be open to competition. Public  
6 policy would best be served by having full competition in all markets. Once  
7 local markets are open to competition, the necessary conditions for all  
8 parties to compete are available. New entrants must determine how  
9 quickly they will enter the local market. Delaying BellSouth's entry into the  
10 long distance market does not enhance the level of competition in the local  
11 market; instead, it only lessens the benefits yet to be fully realized by  
12 consumers in the long distance market in Florida.

13

14 Q. DOES BELLSOUTH AGREE THAT COMPETITION IN THE LOCAL  
15 TELECOMMUNICATIONS MARKET IS BENEFICIAL FOR FLORIDA  
16 CUSTOMERS? [ISSUES 1A and 1B]

17

18 A. Yes. BellSouth believes that competition for local exchange services is  
19 beneficial if implemented in a competitively neutral manner, devoid of  
20 artificial incentives and/or regulatory rules that advantage or disadvantage  
21 a particular provider or a group of providers. Competition properly  
22 implemented can provide business and residence customers with real  
23 choices from numerous telecommunications providers. Properly  
24 implemented, competition will allow efficient competitors to attract  
25 customers and be successful in a competitive marketplace where

1 regulatory oversight is minimized. BellSouth believes that this is the  
2 environment that the Act intended to create. It is this view of competition  
3 that BellSouth has used as the basis of negotiations with prospective  
4 providers of local exchange service, and it is this view that BellSouth  
5 believes Congress embraced with its emphasis on negotiated agreements.

6  
7 BellSouth has strong financial incentives to comply with all provisions of  
8 the Act. Congress has mandated that incumbent local exchange  
9 companies must open their markets to competition, unless specifically  
10 exempted. BellSouth is complying with the directives of the Act by  
11 entering into numerous interconnection agreements with other providers.  
12 In addition, Congress tied the ability of BellSouth and the other BOCs to  
13 enter and continue to participate in the interLATA services market to  
14 compliance with the "competitive checklist" contained in the Act. Congress  
15 also restricted the ability of competitors to thwart that entry by defining  
16 entry requirements in detail and prohibiting expansions of those  
17 requirements. BellSouth has every intention of meeting the checklist in  
18 order to provide a full array of telecommunications services to its  
19 customers.

20

21 Q. HAVE BARRIERS TO ENTRY INTO THE LOCAL MARKET BEEN  
22 REMOVED? [ISSUES 1A and 1B]

23

24 A. Yes. Congress has removed legal barriers to the local market. The core  
25 rationale often cited for prohibiting Bell companies from providing

1 interLATA services is that so long as the local exchange market was  
2 legally closed to competitive entry, the BOC could give affiliated  
3 interexchange providers an advantage by raising the cost or lowering the  
4 quality of the local services provided to its competitors. The Act ensures  
5 that BellSouth cannot apply for in-region interLATA relief until facilities-  
6 based competition is possible within the local exchange. The first step  
7 was eliminating all legal barriers to local competition by compliance with  
8 Section 253(a), which preempts any state or local statute or regulation that  
9 "prohibit[s] ...the ability of an entity to provide an interstate or intrastate  
10 telecommunications service."

11

12 Having addressed legal barriers to entry, Congress then took steps to  
13 eliminate economic and operational barriers through the requirements of  
14 Sections 251, 252, and 271(c)(2)(B) which specify, for example, criteria for  
15 interconnection, unbundling and resale. Competitors can enter the local  
16 market of BellSouth as pure resellers of BellSouth's services without  
17 making network investments to provide local services. Or, to take  
18 advantage of new technologies, specialized expertise or other efficiencies,  
19 competitors can self-provide some network elements or services and use  
20 BellSouth's facilities or services as they need. Various opportunities to  
21 provide local competition are available; it is up to competitive  
22 telecommunications providers to seize these opportunities.

23

24 In any event, BellSouth has opened the local exchange market in Florida.  
25 BellSouth has successfully negotiated agreements with competing local

1 exchange providers. The Commission has participated in arbitrations with  
2 AT&T, MCI, Sprint and MFS and has issued its orders regarding these  
3 arbitrations. In addition to the negotiated and arbitrated agreements,  
4 BellSouth is also planning to formally file its Statement with this  
5 Commission in the near future. An informal or draft Statement is included  
6 with Mr. Scheye's testimony.

7

8 III. STATEMENT OF GENERALLY AVAILABLE TERMS [ISSUE 1B(b)]

9

10 Q. WHAT EXACTLY IS THE STATEMENT OF GENERALLY AVAILABLE  
11 TERMS?

12

13 A. Section 252(f) of the Act permits a Bell operating company to file with the  
14 Commission a Statement of Terms and Conditions that the company  
15 generally offers within the state to comply with the requirements of Section  
16 251. After the Statement is filed, the Commission will have 60 days to  
17 review and approve the Statement or permit the Statement to take effect.  
18 The Statement that BellSouth plans to file with this Commission will be  
19 checklist compliant as required in Section 271(c)(2)(B). Once the  
20 Statement is approved, any competitor that wishes to enter the local  
21 market can do so without negotiating a specific contract.

22

23 Q. WILL BELLSOUTH GENERALLY OFFER ALL ITEMS IN THE  
24 COMPETITIVE CHECKLIST? [ISSUE 1B(b)]

25

1 A. Yes. Upon approval of the Statement, BellSouth will be generally offering  
2 all of the items in the competitive checklist through that Statement that will  
3 be pending approval before this Commission.

4  
5 Q. WHY IS BELLSOUTH FILING THIS STATEMENT? [ISSUE 1B(b)]

6  
7 A. The Statement is one method of generally offering all of the items on the  
8 checklist. BellSouth is making this filing to provide a set of terms and  
9 conditions from which any competitor wishing to provide local exchange  
10 service in the state of Florida can order.

11  
12 Once approved by this Commission, the Statement provides the proper  
13 vehicle for other carriers to use, if they so desire, to enter the local market  
14 quickly without having to negotiate an agreement. The Statement provides  
15 a vehicle that ensures fair and equal interconnection to all competitors  
16 within the same guidelines. Based on BellSouth's recent experiences with  
17 negotiating contracts and participating in the arbitrations in Florida,  
18 BellSouth has developed this Statement to provide the interconnection  
19 features and options that ALECs appear to need to provide service in the  
20 local market. The Statement may be particularly useful for smaller carriers  
21 who wish to do business with BellSouth without becoming involved in  
22 formal negotiations.

23  
24 Of course, BellSouth will continue to negotiate agreements with any  
25 competitor who chooses to enter an interconnection agreement with

1 BellSouth. The Statement in no way supplants any previously negotiated  
2 agreements or restricts a carrier's right to negotiate. The Statement also  
3 does not duplicate any particular negotiated or arbitrated agreement. If a  
4 competitor desires, it can also still accept the contract of another carrier  
5 rather than terms in the Statement in order to provide service.

6

7 IV. COMPLIANCE WITH 14-POINT CHECKLIST [ISSUES 1B(b), 2-15]

8

9 Q. CAN BELLSOUTH COMPLY WITH THE 14-POINT CHECKLIST?

10 [ISSUES 1C, 2-15]

11

12 A. Yes. BellSouth can comply with the requirements of the checklist through  
13 its agreements and/or Statement. As covered in my overview, BellSouth  
14 will or has satisfied the checklist through its negotiated and arbitrated  
15 agreements approved by this Commission. In addition, BellSouth will,  
16 upon Commission approval, offer its Statement in compliance with all 14  
17 points. This Statement will be available to any competitor desiring to enter  
18 the local exchange market.

19

20 Q. WILL THE AGREEMENTS RESULTING FROM THE RECENT  
21 ARBITRATIONS COMPLY WITH THE 14-POINT CHECKLIST? [ISSUES  
22 1C & 17]

23

24 A. Yes. BellSouth believes that the agreements resulting from the AT&T and  
25 MCI arbitrations comply with the 14-point checklist. The arbitrated issues

1 must comply with the provisions of Sections 251 and 252 of the Act.

2 Under the arbitrations, BellSouth addressed the checklist items and the

3 Commission issued its orders accordingly. The agreements that resulted

4 from these decisions are checklist compliant.

5

6 Q. CAN BELLSOUTH MEET THE CHECKLIST USING ITS AGREEMENTS

7 AND THE STATEMENT? [ISSUE 17]

8

9 A. Yes. There are several ways that BellSouth can be in compliance with the

10 requirements of the checklist. BellSouth can enter into a single agreement

11 with a new entrant who offers local exchange service to both residential

12 and business customers. Alternatively, BellSouth can enter into multiple

13 agreements which collectively cover the 14-point checklist. Upon

14 Commission approval, BellSouth's Statement, which is also checklist

15 compliant, will offer another alternative to competitors. Finally, Section

16 271(d)(3) provides that a combination of the agreements and the

17 Statement could be used to meet the checklist requirements for a filing

18 under Section 271(c)(1)(A).

19

20 Q. WHY IS IT APPROPRIATE TO USE THE STATEMENT TO

21 SUPPLEMENT THE AGREEMENTS WHEN INTERLATA ENTRY IS

22 SOUGHT UNDER TRACK A? [ISSUES 1C & 17]

23

24 A. Qualifying agreements used under Track A may not contain all items on

25 the checklist. The combination of the agreements with the Statement does

1 provide a way for BellSouth to meet the checklist if the qualifying  
2 competitor under Track A does not elect to have all of the checklist items  
3 included in its agreement. For capabilities that new entrants are not using,  
4 BellSouth must offer the item in its Statement and demonstrate readiness  
5 to provide the item. This combination prevents the ALECs from requesting  
6 some, but not all, of the items on the checklist, therefore, controlling the  
7 timing of BellSouth's entry into the in-region interLATA market. As I  
8 previously stated, Section 271(d)(3) of the Act permits these combinations  
9 of statement and agreements.

10

11 Q. HAS BELL SOUTH FULLY IMPLEMENTED THE ITEMS IN THE  
12 CHECKLIST UNDER THE AGREEMENTS? [ISSUES 2-15]

13

14 A. Yes. As discussed previously, BellSouth has fully implemented the items  
15 in the checklist under the agreements. The term "fully implemented"  
16 means that either the items are actually in service or are in fact functionally  
17 available. For items that have actually been requested, BellSouth has  
18 provided those items and they are in use. Clearly, those items are fully  
19 implemented. For items not yet requested, BellSouth is making them  
20 available through its Statement. BellSouth will provide every item on the  
21 checklist when requested in a reasonable period of time in accordance  
22 with applicable rules and regulations. Upon effecting the Statement,  
23 BellSouth will have fully implemented each checklist item.

24

25

1 Q. TO WHAT EXTENT MUST EACH OF THE ITEMS IN THE CHECKLIST  
2 BE IN USE TO PERMIT A GRANT OF INTERLATA RELIEF UNDER  
3 TRACK B? [ISSUE 1B(b)]

4

5 A. The checklist items do not have to be in use at all to permit BellSouth  
6 interLATA entry under Track B. BellSouth must generally offer each of the  
7 items through its Statement. To meet this requirement, BellSouth will offer  
8 each item in its Statement. When a competitor requests a checklist item,  
9 BellSouth will provide it in accordance with applicable rules and  
10 regulations.

11

12 Q. GENERALLY, WHAT ARE THE 14 POINTS ON THE CHECKLIST THAT  
13 MUST BE MET BY BELL SOUTH? [ISSUES 2-15]

14

15 A. The 14-point checklist is located in Section 271(c)(2)(B) of the Act. The  
16 Commission's role as stated in the Act is to verify BellSouth's compliance  
17 with these requirements. Basically, the 14 points are as follows:

18

19 (1) Equal and Non-discriminatory Interconnection

20 (2) Unbundled Network Elements

21 (3) Access to Poles, Ducts, Conduits and Rights of Way

22 (4) Unbundled Local Loops

23 (5) Unbundled Local Transport

24 (6) Unbundled Local Switching

25 (7) a. Access to 911/E911 services

- 1           b. Access to Directory Assistance
- 2           c. Access to Operator Call Completion
- 3       (8) Access to White Page Listings
- 4       (9) Access to Telephone Numbers
- 5       (10) Access to Databases and Network Functionality
- 6       (11) Number Portability
- 7       (12) Dialing Parity
- 8       (13) Reciprocal Compensation Arrangements
- 9       (14) Full Resale of Telecommunications Services

10

11 Q. WHAT ARE THE REQUIREMENTS BELLSOUTH MUST MEET WITH  
12 REGARD TO EACH ITEM ON THIS CHECKLIST? [ISSUES 2-15]

13

14 A. Varner Exhibit No. 3 provides details of the requirements that BellSouth  
15 must meet to satisfy the checklist items. Section 251(d) of the Act gave  
16 the FCC authority to set regulations to implement Section 271(d)(3). The  
17 FCC's First and Second Orders in CC Docket No. 96-98 and the FCC's  
18 Orders in CC Docket Nos. 95-116 (Order No. 96-286) and 97-74 have set  
19 regulations to implement and fulfill the requirements of the Act. This  
20 exhibit includes the requirements stated in the Act, the FCC rules and  
21 related Florida dockets.

22

23 Q. WHAT ARE THE REQUIREMENTS OF THE FCC'S FIRST ORDER IN CC  
24 DOCKET NO. 96-98 WITH REGARD TO EQUAL AND NON-  
25 DISCRIMINATORY INTERCONNECTION? [ISSUE 2]

1

2 A. Rule 51.305 requires that an incumbent local exchange carrier ("ILEC"),  
3 such as BellSouth, must provide interconnection with its network for the  
4 facilities and equipment of any requesting telecommunications carrier.  
5 This interconnection is for the transmission and routing of telephone  
6 exchange and exchange access at any technically feasible point within the  
7 ILEC's network. The points of interconnection within the ILEC's network  
8 will include, at a minimum, the line-side of a local switch, the trunk-side of  
9 a local switch, the trunk interconnection points for a tandem switch, central  
10 office cross-connect points, out-of-band signaling transfer points and  
11 access to call-related databases, and the points of access to unbundled  
12 network elements. The interconnection to the ILEC's network will be at a  
13 level of quality that is equal to that which the ILEC provides itself, a  
14 subsidiary, an affiliate or any other party on terms and conditions that are  
15 nondiscriminatory in accordance with agreements, requirements of  
16 Sections 251 and 252, and the FCC's rules.

17

18 Q. WHAT ARE THE REQUIREMENTS OF THE FCC'S FIRST REPORT AND  
19 ORDER IN CC DOCKET NO. 96-98 WITH REGARD TO UNBUNDLED  
20 NETWORK ELEMENTS? [ISSUE 3]

21

22 A. Rule 51.311 in the FCC's First Report and Order states that the quality of  
23 an unbundled access element, as well as the quality of access to the  
24 unbundled element, must be the same for all telecommunications carriers  
25 and at least equal, and to the extent that it is technically feasible, superior

1 to the quality an ILEC provides itself. Previous successful access to an  
2 unbundled element at a particular point and level of quality is evidence that  
3 access is technically feasible at that point and level of quality.

4  
5 Q. WHAT REGULATIONS ARE INCLUDED IN THE FCC'S FIRST REPORT  
6 AND ORDER IN CC DOCKET NO. 96-98 PERTAINING TO CHECKLIST  
7 ITEM NO. 3, ACCESS TO POLES, DUCT, CONDUITS AND RIGHTS OF  
8 WAY? [ISSUE 4]

9  
10 A. Under rule 1.1403, a utility shall provide any carrier with nondiscriminatory  
11 access to any pole, duct, conduit, or right-of-way owned or controlled by it.  
12 Notwithstanding this obligation, a utility may deny any telecommunications  
13 carrier access to its poles, ducts, conduits, or rights-of-way, where there is  
14 insufficient capacity or for reasons of safety, reliability and generally  
15 applicable engineering purposes.

16  
17 Q. WHAT ARE AN ILEC'S OBLIGATIONS UNDER THE FIRST REPORT  
18 AND ORDER WITH REGARD TO CHECKLIST ITEM NO. 4 -  
19 UNBUNDLED LOOPS, CHECKLIST ITEM NO. 5 - UNBUNDLED LOCAL  
20 TRANSPORT, CHECKLIST ITEM NO. 6 - UNBUNDLED LOCAL  
21 SWITCHING, CHECKLIST ITEM NO. 7 - ACCESS TO 911/E911  
22 SERVICES, DIRECTORY ASSISTANCE, AND OPERATOR CALL  
23 COMPLETION, CHECKLIST ITEM NO. 8 - WHITE PAGE LISTINGS AND  
24 CHECKLIST ITEM NO. 10 - ACCESS TO DATABASES AND NETWORK  
25 FUNCTIONALITY? [ISSUES 5, 6, 7, 8, 9, 11]

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A. With regard to Checklist Item No. 4, Rule 51.319 requires an ILEC to provide nondiscriminatory access to the following network elements on an unbundled basis: local loop, interoffice facilities and switching capability. The local loop network element is defined as a transmission facility between the distribution frame in an ILEC central office and an end user premises.

Interoffice facilities, Checklist Item No. 5, are defined as ILEC facilities dedicated to a particular customer or carrier, or shared by more than one customer or carrier that provide communications between wire centers or between switches. The ILEC must provide exclusive use of facilities dedicated to a particular customer or carrier, or use of the features, functions and capabilities of facilities shared by more than one customer. In addition, the ILEC must provide all technically feasible facilities, features, functions and capabilities that the telecommunications carrier could use to provide service. Further, the ILEC must permit a carrier to connect such facilities to the requesting carrier's collocation equipment and obtain the functionality provided by the ILEC's digital cross-connect systems in the same manner that the ILEC provides the connection to IXCs.

The local switching network element in Checklist Item No. 6 is defined as either line-side facilities or trunk-side facilities. Pursuant to the FCC's rules, local switching capability includes all features and functions of the

1 switch including basic switching, telephone number, white page listings  
2 and dial tone. All other features, including custom calling, local area  
3 signaling service, Centrex, and customized routing functions are also  
4 included in local switching.

5

6 For Checklist Item No. 7, access to 911/E911 emergency services, access  
7 to directory assistance, and access to operator call completion, the ILEC  
8 shall provide nondiscriminatory access to switching capability including  
9 customized routing functions. Paragraph 412 of the FCC's Order in CC  
10 Docket 96-98 states that "it also includes the same capabilities that are  
11 available to the incumbent LEC's customers, such as access to 911,  
12 operator services and directory assistance." Footnote 914 in the Order  
13 further states "we also note that E911 and operator services are further  
14 unbundled from local switching."

15

16 Rule 51.319, as applicable to Item No. 8 - white page listings, states that  
17 an ILEC shall provide nondiscriminatory access to the switching capability.  
18 The local switching capability network element is defined as the same  
19 basic capabilities made available to ILEC's customers, including white  
20 page listings.

21

22 With regard to Checklist Item No. 10, access to databases and network  
23 functionality, Rule 51.319 requires an ILEC to provide nondiscriminatory  
24 access to signaling networks and call-related databases. When a  
25 requesting carrier purchases unbundled switching, the ILEC must provide

1 access to its signaling network from that switch in the same manner in  
2 which it obtains such access itself. The ILEC will provide a carrier with its  
3 own switching facilities access to the ILEC's signaling network for each of  
4 the carrier's switches in the same manner that an ILEC connects one of its  
5 own switches. For query and database response, an ILEC will provide  
6 access to its call-related databases by means of physical access.

7

8 Q. WHICH FCC RULE APPLIES TO CHECKLIST ITEMS NO. 7, ACCESS TO  
9 911/E911 SERVICES, DIRECTORY ASSISTANCE, AND OPERATOR  
10 CALL COMPLETION AND NO. 9, ACCESS TO TELEPHONE NUMBERS?  
11 [ISSUES 8 & 10]

12

13 A. In the FCC's Second Order, Rule 51.217 applies to these checklist items.  
14 This rule states that a LEC that provides operator services, directory  
15 assistance services or directory listings to its customers or provides  
16 telephone numbers, shall permit competing providers to have  
17 nondiscriminatory access to that service or feature with no unreasonable  
18 dialing delays. In addition, this rule requires a LEC to permit competing  
19 providers to have access to telephone numbers that is identical to the  
20 access that the LEC provides itself.

21

22 Q. HAS THE FCC ISSUED ANY RULES REGARDING ITEM NO. 11,  
23 NUMBER PORTABILITY? [ISSUE 12]

24

25

1 A. Yes. In the First Report and Order and Further Notice of Proposed  
2 Rulemaking released July 2, 1996 and the First Memorandum Opinion and  
3 Order on Reconsideration released March 11, 1997 in CC Docket No. 95-  
4 116, the FCC issued rules related to number portability. Rule 52.7  
5 provides for the deployment of transitional measures for number portability.  
6 On an interim basis, LECs may use Remote Call Forwarding (RCF) or  
7 Flexible Direct Inward Dialing (DID). Rule 52.3 provides for the  
8 deployment of long-term database methods for number portability by  
9 LECs. Long term number portability must support network services,  
10 features and capabilities existing at the time number portability is  
11 implemented. It must efficiently use number resources and must not  
12 require end users to change their phone numbers. In addition, the service  
13 quality and network reliability should be maintained when implemented  
14 and when customers switch carriers.

15

16 Q. WHAT ARE THE REQUIREMENTS IN THE FCC'S SECOND ORDER  
17 WITH REGARD TO CHECKLIST ITEM NO. 12, DIALING PARITY?  
18 [ISSUE 13]

19

20 A. Under Rule 51.205 in the FCC's Second Order, a LEC shall provide local  
21 and toll dialing parity to competing providers with no unreasonable dialing  
22 delays. Dialing parity shall be provided for all services that require dialing  
23 to route a call. Rule 51.207 states that a LEC shall permit telephone  
24 exchange service customers within a local calling area to dial the same  
25 number of digits to make a local call notwithstanding the identity of the

1 customer's or the called party's telecommunications service provider. As  
2 stated previously, Rule 51.217 requires a LEC to permit competing  
3 providers to have access to telephone numbers that is identical to the  
4 access that the LEC provides itself.

5

6 Q. WHAT ARE THE FCC'S RULES RELATED TO CHECKLIST ITEM NO. 13,  
7 RECIPROCAL COMPENSATION ARRANGEMENTS? [ISSUE 14]

8

9 A. In the FCC's First Report and Order, Rule 51.703 applies to reciprocal  
10 compensation arrangements. Each LEC shall establish reciprocal  
11 compensation arrangements for transport and termination of local traffic  
12 with any requesting telecommunications carrier.

13

14 Q. WHAT ARE THE FCC'S RULES RELATED TO CHECKLIST ITEM NO. 14,  
15 RESALE OF TELECOMMUNICATIONS SERVICE? [ISSUE 15]

16

17 A. The majority of the rules related to resale have been stayed by the Eighth  
18 Circuit Court of Appeals. The rules that have not been stayed include  
19 Rules 51.613, 51.615 and 51.617. Rule 51.613 provides for restrictions on  
20 resale; Rule 51.615 provides for withdrawal of services; and Rule 51.617  
21 provides for the assessment of the end user common line charge on  
22 resellers.

23

24 Q. WITH REGARD TO THESE CHECKLIST ITEMS, WHAT IS THE PRICING  
25 STANDARD THAT APPLIES? [ISSUES 2-15]

1  
2 A. Section 252(d) establishes the pricing standards to be used for  
3 interconnection and unbundled elements. Section 252(d)(1) states that  
4 “interconnection and network element charges... shall be based on the  
5 cost (determined without reference to a rate-of-return or other rate-based  
6 proceeding) of providing the interconnection or network element  
7 (whichever is applicable), and [be] nondiscriminatory, and may include a  
8 reasonable profit.” The Act is clear that the rates for these elements  
9 should be based on cost and not set equal to cost. The Act does not  
10 define the cost standard that should apply; however, the appropriate cost  
11 standard should provide for full recovery of BellSouth’s costs and may  
12 include a reasonable profit.

13

14 Q. DO THE RATES ORDERED BY THE COMMISSION IN ARBITRATIONS  
15 MEET THE CRITERIA OF SECTION 252(d)? [ISSUES 2-15]

16

17 A. Yes. According to Section 252(c)(2), “in resolving by arbitration...any open  
18 issues and imposing conditions upon the parties to the agreement, a State  
19 commission shall--establish any rates for interconnection, services or  
20 network element according to subsection (d)...” Subsection (d), as  
21 defined above, is the pricing standard which requires rates for  
22 interconnection and unbundled network elements to be cost-based.

23

24 In the AT&T and MCI arbitrations, for each unbundled network element  
25 that AT&T and MCI requested, the Commission ordered permanent prices

1 to be based on BellSouth's TSLRIC cost studies. Where no TSLRIC was  
2 provided, interim rates were based on the Hatfield model or BellSouth's  
3 tariffs. While BellSouth does not necessarily agree that the proper cost  
4 standard has been applied in all cases, the Commission approved rates  
5 that are based on costs consistent with Sections 252(c)(2) and (d)(1).

6

7 Q. WHAT IS THE TRUE-UP MECHANISM ORDERED BY THIS  
8 COMMISSION?

9

10 A. BellSouth has filed verifiable cost studies in support of the prices for those  
11 unbundled network elements lacking a filed study on March 18, 1997. The  
12 differences between the ordered rates and the prices developed pursuant  
13 to the cost studies will be trued-up or down retroactively. When the cost  
14 studies are approved and permanent rates are established, these rates will  
15 also be cost-based.

16

17 Q. DOES THE FACT THAT THE COMMISSION ORDERED THE INTERIM  
18 RATES TO BE SUBJECT TO TRUE-UP CHANGE THE FACT THAT THE  
19 INTERIM RATES ARE COST-BASED? [ISSUES 2-15]

20

21 A. No. The fact that the Commission has ordered the interim rates to be  
22 subject to a true-up to reflect new cost studies does not change the  
23 Commission's decision approving the interim rates. Section 252(d)  
24 requires the rates for interconnection and unbundled network elements to  
25 be cost-based but does not specify what methodology this Commission

1 must use. The Commission is certainly free to allow one methodology to  
2 establish interim cost-based rates, while ordering a different cost-based  
3 methodology to true-up these costs and establish permanent prices.

4

5 Q. OTHER THAN THE REQUIREMENTS OF THE ACT AND THE FCC'S  
6 RULES ARE THERE ANY ADDITIONAL REQUIREMENTS THAT  
7 BELLSOUTH MUST MEET IN ORDER TO COMPLY WITH THE  
8 CHECKLIST?

9

10 A. No. BellSouth does not believe that there are any additional requirements  
11 BellSouth must meet to comply with the checklist.

12

13 Q. DOES BELLSOUTH INTEND TO CONTINUE FULFILLING THE  
14 REQUIREMENTS OF THE CHECKLIST AFTER BELLSOUTH IS  
15 GRANTED INTERLATA AUTHORITY? [ISSUES 2-15]

16

17 A. Yes. BellSouth has every intention of continuing to fulfill the checklist  
18 requirements once BellSouth has entered the interLATA market. The  
19 approved agreements and the Statement will be under the authority of this  
20 Commission. BellSouth is legally bound by the terms and conditions of  
21 these agreements. BellSouth has a long history of complying with federal  
22 and state laws and regulatory commissions' orders and regulations.  
23 BellSouth will continue to comply with the laws established under the Act  
24 and the regulations of its federal and state regulators. In addition to legal  
25 compliance, if BellSouth discontinued open access to the local market, it

1 could in turn lose its authority to be in the interLATA market. That would  
2 be a "no win" situation for all telecommunications providers and  
3 consumers.

4  
5 To comply with the Act, BellSouth has negotiated and will continue  
6 negotiating interconnection agreements. The Commission will have the  
7 continued responsibility to arbitrate and approve these agreements. This  
8 responsibility gives the Commission continued oversight of BellSouth's  
9 interconnection agreements and BellSouth's activities to satisfy the terms  
10 of these agreements.

11

12 When the terms of the existing agreements expire, BellSouth will be in the  
13 position to renegotiate the terms and conditions under the same  
14 negotiation and arbitration processes it has just accomplished. This  
15 Commission has a continuing responsibility to oversee these negotiations  
16 and settle issues through arbitration. Renegotiations will go much  
17 smoother if the competitors are satisfied with the service and level of  
18 interconnection they have received from BellSouth.

19

20 Furthermore, BellSouth is offering a general Statement that future  
21 competitors may choose for interconnection purposes if they do not wish to  
22 negotiate. This Statement will continue to be under Commission oversight  
23 and any changes in this Statement must be approved by this Commission.

24

25

1 Q. ARE THERE SAFEGUARDS IN PLACE UNDER SECTION 271 OF THE  
2 ACT? [ISSUES 2-15]

3

4 A. Yes, Section 271(d)(6) of the Act provides the FCC with the authority to  
5 enforce the conditions of the Act. If the FCC determines that BellSouth is  
6 not meeting the conditions required for entry into the long distance market,  
7 the FCC may "1) issue an order to such company to correct the deficiency;  
8 2) impose a penalty on such company... or 3) suspend or revoke such  
9 approval."

10

11 Q. DOES THE ACT INCLUDE STRUCTURAL REQUIREMENTS AND NON-  
12 DISCRIMINATION SAFEGUARDS FOR THE BOCS ENTERING THE  
13 INTERLATA ARENA? [ISSUES 2-15]

14

15 A. Yes. To receive interLATA relief under Section 271 it requires such relief  
16 to be exercised in accordance with requirements of Section 272. Section  
17 272 of the Act imposes numerous safeguards with regard to BOC entry  
18 into long distance for a minimum of three years. Under Section 271, the  
19 checklist essentially requires any BOC seeking to provide in-region long  
20 distance service to open its local network at many levels at non-  
21 discriminatory prices and terms supervised by the state commissions. The  
22 FCC must find that BOC entry is in accordance with the safeguards  
23 required in Section 272 and is in the public interest. The first obligation  
24 under Section 272 is that for at least three years the long distance  
25 business is to be conducted by a separate subsidiary that operates

1 independently of the local company. Further, Section 272 deals explicitly  
2 with potential cost misallocation and price discrimination.

3

4 Q. ARE THERE OTHER SAFEGUARDS REQUIRED UNDER SECTION 272  
5 OF THE ACT? [ISSUES 2-15]

6

7 A. Subsections 272(c) and (e) contain detailed non-discrimination  
8 requirements that prevent BellSouth from favoring its affiliate. BellSouth  
9 “may not discriminate between the company or affiliate and any other  
10 entity in the provision or procurement of goods, services, facilities and  
11 information, or in the establishment of standards” and shall account for all  
12 affiliate transactions in accordance with regulations established by the  
13 FCC. Section 272(e) mandates that services offered by BellSouth to its  
14 affiliate be at parity with the services offered to unaffiliated entities. That is  
15 BellSouth: (1) is to respond to requests of an unaffiliated entity for  
16 exchange or exchange access service within the same time period in  
17 which it would provide such services to its own affiliate; (2) shall provide  
18 the same facilities, services or information concerning exchange access to  
19 the affiliate as are available to other providers of interLATA services on the  
20 same terms and conditions; (3) shall charge the affiliate or impute to itself  
21 (if using the access for its provision of its own services) an amount for  
22 access to its telephone exchange service and exchange access service  
23 that is no less than the amount charged to any unaffiliated interexchange  
24 carriers for such services and; (4) may provide any interLATA or intraLATA  
25 facilities or services to its interLATA subsidiary if such facilities or services

1 are made available to all carriers at the same rates, terms and conditions  
2 and so long as the costs are appropriately allocated.

3

4 Further, Section 272(d) provides for biennial audits. Every two years,  
5 BellSouth must initiate an independent federal/state audit to prove its  
6 compliance with the separate subsidiary requirements of the Act. The  
7 auditor, the FCC and state commissions have access to the financial  
8 accounts and records of BellSouth and of its affiliates to the extent  
9 necessary to verify that transactions have been made in compliance with  
10 the Act.

11

12 Q. HAS THE FCC ESTABLISHED ANY SAFEGUARDS TO ENSURE BOC  
13 COMPLIANCE UNDER THE ACT?

14

15 A. The FCC already has available many regulatory mechanisms in place to  
16 oversee BellSouth's participation in the long distance market to ensure that  
17 no harm results to the public or competition. These mechanisms include  
18 cost accounting requirements, nondiscrimination provisions, access charge  
19 guidelines and equal access requirements.

20

21 In addition, the FCC's Orders in Docket No. 96-98 discuss several options  
22 that parties have for seeking relief if they believe that a carrier has violated  
23 the standards under Section 251 or 252. These include bringing an action  
24 in federal district court, using the Section 208 complaint process, and  
25 seeking relief under the antitrust laws, other statutes, or common law.

1       Therefore, there are ample avenues to pursue if a party believes it has not  
2       been dealt with justly under the Act.

3

4   Q. WHAT SAFEGUARDS, IF ANY, EXIST UNDER THIS COMMISSION'S  
5       SUPERVISION? [ISSUES 2-15]

6

7   A. Rates, terms and conditions for local interconnection must be set so as not  
8       to discriminate between providers. In addition, negotiations are to be  
9       conducted in good faith between the providers. Negotiated agreements  
10       must be filed with the Commission for approval. If the terms and  
11       conditions cannot be adequately negotiated, the Commission has authority  
12       to determine the rates, terms and conditions for interconnection services  
13       through arbitration. The Commission must also determine reasonable  
14       discounts and terms for the resale of local exchange services. It is the  
15       Commission's responsibility to ensure that no local exchange company or  
16       telecommunications provider gains an unfair market position. Of course,  
17       competitors have the option of filing a complaint with this Commission in  
18       the event they believe they have been treated unfairly.

19

20   Q. ARE THERE ANY OTHER EXAMPLES OF FEDERAL OR STATE  
21       REGULATORY SAFEGUARDS WITH WHICH BELL SOUTH MUST  
22       COMPLY? [ISSUES 2-15]

23

24   A. Yes. In addition to the many legal requirements established in the Act,  
25       BellSouth Telecommunications, Inc. (BST) must still operate under all of

1 the existing regulatory requirements as well. BST is still subject to far  
2 more regulation than its competitors. For example, at both the federal and  
3 state levels, price regulation provides protection for concerns regarding  
4 cross-subsidization of BST's interexchange operations. Under price  
5 regulation, BST does not benefit by cross-subsidizing any of its regulated  
6 services with other services. The essential feature of this form of price  
7 regulation is that the linkage between cost and price is broken. BST would  
8 therefore not have an incentive to improperly allocate costs of its services.

9  
10 In addition to price regulation, BST must file tariffs with the FCC and state  
11 commissions prior to offering new services or changing existing ones.  
12 BellSouth is subject to regulatory audits, structural separation  
13 requirements, accounting requirements, separation processes, interstate  
14 depreciation prescription, and cost allocation rules, among other regulatory  
15 requirements. BellSouth has a strong incentive to comply with the rules  
16 and regulations in both the interstate and intrastate jurisdictions.

17

18 Q. DOES BELLSOUTH BELIEVE THE VARIOUS SAFEGUARDS  
19 DISCUSSED WILL ENSURE OPEN COMPETITION ONCE INTERLATA  
20 RELIEF IS GRANTED? [ISSUES 2-15]

21

22 A. Yes, with the opening of local markets pursuant to the checklist, the  
23 Section 272 safeguards, and the oversight of federal and state regulators,  
24 there should be no doubt that BOCs will not have the ability to impede  
25 competition through their entry into the long distance market. In addition

1 to complying with the law, BellSouth will continue to have a strong  
2 business incentive to cooperate in the development of local competition  
3 after interLATA authority is granted. BellSouth will still be heavily  
4 regulated and its competitors will not. This inequality increases  
5 BellSouth's costs and constrains its ability to compete. As markets  
6 become more competitive, regulation of BellSouth must be relaxed for it to  
7 have any possibility of competing effectively. Regulators are not likely to  
8 relax regulation until they are confident that the marketplace will discipline  
9 the behavior of BellSouth. An uncooperative BellSouth cannot hope to  
10 achieve the equality of regulation that it needs. Although interLATA relief  
11 is important, it is by no means the ultimate relief that BellSouth needs from  
12 regulators. As the local market becomes more competitive, any ability that  
13 BellSouth may have to impede competition will be quickly eroded.  
14 Contrary to impeding competition, BellSouth's entry into the interLATA  
15 market will bring substantial benefits of increased competition.

16

17 Q. HOW WILL CUSTOMERS BENEFIT FROM BELLSOUTH'S ENTRY INTO  
18 THE INTERLATA MARKET? [ISSUES 1A & 1B]

19

20 A. Customers will benefit from BellSouth's entry into the interexchange  
21 market in Florida immediately. Allowing BellSouth to enter the in-region  
22 interLATA market in Florida will promote interLATA competition in a way  
23 that will more effectively deliver the benefits of long distance competition to  
24 all consumers than is currently provided. Although competition in the  
25 interexchange business has grown substantially since divestiture in 1984,

1 it is still not all that it could be. AT&T, MCI, Sprint and WorldCom carry the  
2 majority of the interLATA traffic but maintain a classic oligopoly. Prices  
3 move up in lock-step without regard to decreasing costs; profit margins are  
4 high and rising; and carriers target discounts at high-volume, price-  
5 sensitive customers while charging the majority of callers inflated basic  
6 rates.

7  
8 BellSouth is uniquely positioned to compete in Florida by reducing the  
9 ability of interexchange carriers to engage in the pricing behavior  
10 mentioned above. This will occur because entry by BellSouth will increase  
11 the: (1) number of effective facilities-based competitors; (2) diversity of  
12 cost characteristics; (3) diversity of product mix among the industry  
13 members; and (4) rate of technological change. By dismantling the  
14 artificial barriers that have separated telecommunications markets between  
15 local, intraLATA and interLATA services, benefits will flow to consumers as  
16 companies are able to use existing facilities to supply additional services.  
17 BellSouth will also be able to resell its retail interexchange service to small  
18 carriers on non-discriminatory terms so that they have a new alternative to  
19 purchasing the wholesale services of AT&T, MCI and Sprint.

20  
21 Another benefit to consumers in Florida is that they will begin to regain  
22 some of the benefits of vertical integration that were given up at  
23 divestiture. Such vertical integration would improve efficiency within  
24 telecommunications networks.

25

1 Q. HOW WILL BELLSOUTH'S ENTRY INTO LONG DISTANCE BENEFIT  
2 LOCAL COMPETITION IN FLORIDA? [ISSUES 1A & 1B]

3

4 A. Granting BellSouth entry into the interLATA business will likely hasten the  
5 development of local competition rather than hinder it. When BellSouth is  
6 able to offer a full service package to its customers, Section 271(e) of the  
7 Act allows other companies to match this capability. Providing BellSouth  
8 the ability to offer a full range of services to customers will be a powerful  
9 stimulus for the interexchange carriers (IXCs) to do the same. This means  
10 that IXCs who are not currently planning to provide local service will almost  
11 certainly enter the local market to compete effectively for their long  
12 distance customers. IXCs who were either planning to enter or have  
13 entered the local market, will do so faster and with greater intensity.

14

15 The presence of a major company which can provide one-stop shopping  
16 will make providing local service dramatically more attractive to IXCs. The  
17 major thrust of their local market interest to date has been associated with  
18 long distance access because of its relationship to long distance margins.  
19 If BellSouth can provide one-stop shopping, IXCs will certainly want to do  
20 the same. To offer one-stop shopping, they must offer local service, not  
21 just find alternatives for long distance access. This event will dramatically  
22 increase the attractiveness of providing local service for the IXCs.

23

24 BellSouth, too, can offer, along with its existing quality telecommunications  
25 services, the ability for consumers to purchase local, intraLATA and

1 interLATA telecommunications services from a single provider- - one-stop  
2 shopping. As a full service provider, BellSouth will be able to offer  
3 packages of local, wireless and long distance services. Having BellSouth  
4 in this market would ensure that customers receive services at lower prices  
5 than if BellSouth were not a participant. Customers have been requesting  
6 one-stop shopping since divestiture, and BellSouth will be added to the list  
7 of carriers who are able to respond to their requests.

8

9 Of course, BellSouth will start with zero market share in an in-region  
10 interLATA business dominated by IXCs with vast resources. Through  
11 strong marketing, BellSouth will have to convince consumers that  
12 BellSouth offers higher quality, lower priced services or both in order to  
13 obtain their business. BellSouth plans to compete vigorously for  
14 customers' business and believes that customers would like to be able to  
15 choose BellSouth as an interLATA carrier.

16

17 In summary, BellSouth's entry into in-region interLATA services will only  
18 increase competition in telecommunications markets by prompting IXCs to  
19 enter the local exchange business more quickly and ending restrictions on  
20 joint marketing of resold Bell company local services. Together with  
21 BellSouth's comparable offerings, there will be a whole new dimension to  
22 local competition. This provides more choices and better prices for  
23 consumers in all telecommunications markets.

24

25

1 Q. WHAT WOULD BE THE CONSEQUENCES FOR FLORIDA  
2 CONSUMERS IF THE FCC DENIES BELLSOUTH'S REQUEST FOR  
3 INTERLATA RELIEF? [ISSUES 1A & 1B]

4  
5 A. BellSouth strongly believes that all competitors should have an opportunity  
6 to compete fairly in all markets. BellSouth has met the requirements of the  
7 Act and opened its markets to local exchange competition. In the event  
8 BellSouth is excluded from the in-region interLATA market as our  
9 competitors expand into the local market, consumers in Florida will not  
10 enjoy the true benefit of totally open markets and fair competition.

11  
12 If in-region interLATA relief is delayed over a period of time, customer's  
13 prices will be higher overall than would otherwise be the case if BellSouth  
14 were allowed to compete. As competitors come into the local market, they  
15 will target BellSouth's most lucrative, high volume customers by pricing  
16 slightly lower than BellSouth. Competitors can even use the fact that  
17 BellSouth is providing the underlying service to enhance their marketing  
18 efforts. Contribution that BellSouth currently receives will then go to the  
19 ALECs in the competitive environment. If BellSouth is unable to respond  
20 effectively by offering competitive bundled service offerings and lower  
21 prices, it will lose substantial retail revenue which could lead to rate  
22 increases on less competitive customers to cover total costs. If  
23 competitors are allowed to "cherry pick" the high volume local market prior  
24 to BellSouth's interLATA relief, these competitors will have an unfair  
25 advantage in offering bundled services - one stop shopping - to the most

1     lucrative customers currently on BellSouth's network once the joint  
2     marketing restriction is lifted. BellSouth's ability to market, price and  
3     provide services would be inhibited.

4

5     SUMMARY

6

7     Q. PLEASE SUMMARIZE YOUR TESTIMONY.

8

9     A. Throughout my testimony I have described the requirements in the Act  
10     with regard to BellSouth's entry into the long distance market. The Act  
11     was written for two purposes - to open the local market to competition and  
12     to allow the BOC, in turn, to offer long distance service. I have described  
13     the conditions of the Act, including the requirement to meet the 14-point  
14     checklist, and have identified what BellSouth has done to comply with  
15     each of these requirements. BellSouth is now seeking this Commission's  
16     verification of that compliance.

17

18     BellSouth has clearly satisfied the requirement to open local exchange  
19     markets to competition. BellSouth has negotiated agreements in good  
20     faith with its competitors to offer equitable local interconnection. In  
21     addition, BellSouth will officially file with this Commission a Section 252(f)  
22     Statement of General Terms and Conditions which will be available to any  
23     competitor who wishes to enter this market.

24

25

1   Once BellSouth has demonstrated compliance with the provisions in  
2   Section 271, the Act entitles BellSouth to receive in-region interLATA  
3   relief. Within my testimony, I have sought to provide this Commission  
4   assurance that BellSouth will compete fairly within the constraints of the  
5   law and will maintain open local markets to all interconnectors. BellSouth  
6   has played by the rules in the past, and there is no reason to believe it will  
7   behave any differently in the future.

8

9   Finally, I have shown that it will be beneficial to the consumers in the state  
10   of Florida to allow BellSouth into the in-region interLATA market. As a new  
11   long distance competitor, BellSouth will offer many competitive  
12   opportunities for consumers in Florida and has the potential to break up  
13   the long distance oligopoly that has existed in Florida since 1984.

14   BellSouth's entry into this market will benefit consumers because long  
15   distance rates should decline and cost efficiencies gained by IXCs should  
16   now be passed to consumers. In addition, BellSouth along with the IXCs  
17   will be able to offer one-stop shopping by the joint marketing of local,  
18   intraLATA and interLATA services in bundled packages. The time is right  
19   for all competitors to be free to compete in an open market. Consumers  
20   will benefit if BellSouth is one of the carriers they can choose to provide all  
21   of their telecommunications services.

22

23   Q. DOES THIS CONCLUDE YOUR TESTIMONY?

24

25   A. Yes.

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Mr. DINGELL. Mr. Chairman, if I anything which offends the gentleman, I apologize.

The CHAIRMAN. The gentleman from Texas?

Mr. BRYANT of Texas. Further reserving the right to object, Mr. Chairman, I will not go along with the unanimous-consent request after the words that were spoken were so evasive as that. The fact of the matter is the gentleman made a factual allegation with regard to my role in this bill which was totally inaccurate. I want him to apologize, and I want him to state that it was not correct what he said because he knows it was not correct. Otherwise I would insist that the gentleman's words be taken down.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] insists that the words of the gentleman from Michigan [Mr. DINGELL] be taken down.

Mr. DINGELL. Mr. Chairman, I would ask unanimous consent to withdraw the word "sulk."

The CHAIRMAN. Without objection, that word is withdrawn.

Mr. BRYANT of Texas. Further reserving the right to object, Mr. Chairman, I have made it very clear that the gentleman from Michigan [Mr. DINGELL] made an allegation about me that was incorrect, and I want him to state that it was not correct, and he knows it was not correct, and then I want him to apologize for it. Otherwise it is not going to be any withdrawal by objection.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] continues to reserve the right to object.

Mr. BRYANT of Texas. I would just point out once again I have had no dealings with the gentleman on this matter. He has no basis on which to make that statement whatsoever, nor have I had any dealings in any fashion interpretable in the way that the gentleman spoke to the other side, and, if he is going to persist in that allegation, then I am going to insist that his words be taken down.

The CHAIRMAN. Does the gentleman from Michigan care to respond?

Mr. DINGELL. Mr. Chairman, I am not quiet sure to what I am supposed to respond.

The CHAIRMAN. A unanimous-consent request has been made to withdraw the words. The gentleman from Texas has reserved the right to object to that unanimous-consent request stating, as he has stated, that he desires an apology and an understanding that it was factually incorrect.

Mr. DINGELL. Mr. Chairman, I have asked unanimous consent to withdraw the words. I have said that if I have said something to which the gentleman is offended, then I apologize. I am not quite sure how much further I can go in this matter.

Mr. BRYANT of Texas. Reserving the right to object, Mr. Chairman, I will tell the gentleman how much further he can go in this matter.

Mr. Chairman, I have had no visits with the gentleman about this man-

ager's amendment except to express my general opposition to the whole process. The gentleman stated that I behaved in a particular way when in fact I have had no opportunity to behave either this way or any other way with the gentleman, and, if what the gentleman said is simply an outburst of temper, I think, I have been guilty of the same thing, and I want the gentleman to make it plain to the House that there has been no opportunity for there to have been any type of behavior whatsoever.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I will be pleased to make the observation that the gentleman chose not to be a participant in moving the bill forward. If I said that he has sulked, that was in error. I apologize to the gentleman.

The CHAIRMAN. Without objection, the words are withdrawn.

There was no objection.

Mr. BRYANT of Texas. Mr. Chairman, I withdraw my reservation of objection.

Mr. FIELDS of Texas. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas has 30 seconds remaining.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Michigan has made it clear to Democrat Members this is a fair process, it is a good process. I want to say to Republican Members we have worked for 2½ years on opening the local loop to competition. If my colleagues want fair competition, if they want the loop open with a level playing field, vote for this manager's amendment. It is time to move this process forward, time to move the telecommunication industry into the 21st century.

Mr. TAUZIN. Mr. Chairman to enforce the long-distance restriction on the seven Bell companies, the district court approved the establishment of the so-called local access transport area or LATA system. The drawing of the LATA system is extraordinarily complex and confusing. There are 202 LATA's nationwide; four of them are in Louisiana and they bear no relationship to markets or customers. Yet it is the LATA system that is used to regulate markets and limit customer choices. LATA boundaries routinely split counties and communities of interest. LATA boundaries can even extend across State lines to incorporate small areas of a neighboring State into a given LATA. Louisiana does not have any of these so-called bastard LATA's but our neighboring State to the east, Mississippi, does. Towns and communities in the northwest corner of Mississippi, such as Hernando, are actually part of the Memphis LATA. That's Memphis, TN, not Mississippi.

The enforcement of the long-distance restriction on the seven Bell companies and the establishment of the LATA system effectively preempted State jurisdiction over entry and pricing of telecommunications service. In the process, State authority over intrastate inter-LATA telecommunications have been im-

peded. For example, in Louisiana the Public Service Commission instituted a rate plan that provided K-12 schools with specially discounted rates for high speed data transmission services. With the availability of the education discount, it was contemplated that school districts could upgrade their educational systems, establish computer hook-ups, and tie into their central school board locations to improve and facilitate administrative services. The public school system in Louisiana is aggressively implementing communications technology to improve access to educational resources and streamline administrative processes.

There are 64 parishes in Louisiana. Each parish has its own school district. Thirteen of the sixty-four parishes are traversed by a LATA boundary, meaning the school district locations in each parish are divided by the LATA system. Consequently, K-12 schools in the Allen, Assumption, Evangeline, Iberia, Iberville, Livingston, Sabine, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Tangipahoa, Vernon, and West Feliciana Parishes are unable to take advantage of the education discount program as intended by the Louisiana Public Service Commission. The LATA boundary effectively prevents the schools in these 13 parishes from linking to the Louisiana Education Network and the Internet as well. These failures are attributable to the fact that the inter-LATA restriction dictates alternative, circuitous routing requirements to link the schools—making the service unaffordable. The chart to my right depicting the scenario of the Vernon Parish School District is just one example of this routing problem. The inability of these 13 school districts to network K-12 schools is denying the students, teachers, and administrators throughout these parishes the opportunity to utilize new tools for learning and teaching.

The LATA system arbitrarily segments the telecommunications market. Many business, public, and institutional customers, such as the 13 parish school districts in Louisiana, have locations in different LATA's which makes serving them difficult, costly, and inefficient. In Louisiana, BellSouth has filed tariffs with the Public Service Commission, is authorized to provide the high-speed data transmission services, and would be in a position to offer the services to the 13 school districts at specially discounted rates were it not for the inter-LATA long-distance restriction. In the alternative to BellSouth, to receive the desired service any one of the 13 school districts must resort to the arrangement by which the service is provisioned over the facilities of a long-distance carrier. Typically, this would involve routing the service from one customer location in one LATA to the long-distance carrier's point of presence in that LATA then across the LATA boundary to the carrier's point of presence in the other LATA and then finally to the other customer location to complete the circuit. As the explanation sounds, this alternative route utilizing the long-distance carrier's facilities is less direct, more circuitous, and more costly to the customer than a direct connection between the two customer locations. Of the 13 affected school districts in Louisiana, I have chosen the example of the Vernon Parish schools to show the cost penalizing effect of the inter-LATA restriction.

Most of the schools in Vernon Parish are in the Lafayette LATA and are connected by a

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network based in Leesville. Unfortunately, two schools in the Hornbeck area are across a LATA boundary and linking them to Leesville is so expensive that Vernon parish has not been able to include them in the network.

Hornbeck is only 16 miles from Leesville but it is in a different LATA. BellSouth could provide a direct and economical connection between the Hornbeck schools and Leesville but it is prevented from doing so because of the inter-LATA restriction.

Instead, the connection between Hornbeck and Leesville would have to be made through an indirect routing arrangement involving a long-distance carrier, AT&T. In this scenario, the route would run from Hornbeck to Shreveport, then 185 miles across the LATA boundary to Lafayette, before finally reaching Leesville, a total distance of 367 miles.

The inter-LATA restriction forces Vernon Parish to use a longer and more expensive route to connect all the schools within its district. If BellSouth was allowed to provide the direct connection between Hornbeck and Leesville, the cost to connect the Hornbeck schools would be almost \$48,000 less each year, a savings that could enable the parish to include them in the network.

The inter-LATA restriction is imposing a tremendous cost penalty on users of telecommunications and is preventing telecommunications from being used in cost effective and efficient ways. The manager's amendment would make it possible for customers like the Vernon Parish School District to take advantage of the benefits of telecommunications technology by giving them greater choices in service providers. For this reason, the manager's amendment is worthy of your support.

The relationship between section 245(a)(2)(A) and 245(a)(2)(B) is extremely important because they are, along with the competitive checklist in section 245(d), the keys to determine whether or not a Bell operating company is authorized to provide interLATA telecommunications services, that are not incidental or grandfathered services. As such, several examples will illustrate how these sections function together.

Example No. 1: If an unaffiliated competing provider of telephone exchange service with its own facilities or predominantly its own facilities has requested and the RBOC is providing this carrier with access and interconnection—section 245(a)(2)(A) is complied with.

Example No. 2: If no competing provider of telephone exchange services, has requested access or interconnection—the criteria in section 245(a)(2)(B) has been met.

Example No. 3: If no competing provider of telephone exchange service with its own facilities or predominately its own has requested access and interconnection—the criteria in section 245(a)(2)(B) has been met.

Example No. 4: If a competing provider of telephone exchange with some facilities which are not predominant has either requested access and interconnection or the RBOC is providing such competitor with access and interconnection—the criteria in section 245(a)(2)(B) has been met because no request has been received from an exclusively or predominantly facilities based competing provider of telephone exchange service. Subparagraph (b) uses the words "such provider" to refer back to the exclusively or predominately facilities based provider described in subparagraph (A).

Example No. 5: If a competing provider of telephone exchange with exclusively or predominantly its own facilities, for example, cable operator, requests access and interconnection, but either has an implementation schedule that albeit reasonable is very long or does not offer the competing service either because of bad faith or a violation of the implementation schedule. Under the circumstances, the criteria 245(a)(2)(B) has been met because the interconnection and access described in subparagraph (B) must be similar to the contemporaneous access and interconnection described in subparagraph (A)—if it is not, (B) applies. If the competing provider has negotiated in bad faith or violated its implementation schedule, a State must certify that this bad faith or violation has occurred before 245(a)(2)(B) is available. The bill does not require the State to complete this certification within a specified period of time because this was believed to be unnecessary, because the agreement, about which the certification is required, has been negotiated under State supervision—the State commission will be totally familiar with all aspects of the agreement. Thus, the State will be able to provide the required certifications promptly.

Example No. 6: If a competing provider of telephone exchange service requests access to serve only business customers—the criteria in section 245(a)(2)(B) has been met because no request has come from a competing provider to both residences and businesses.

Example No. 7: If a competing provider has none of its own facilities and uses the facilities of a cable company exclusively—the criteria in section 245(a)(2)(B) has been met because there has been no request from a competing provider with its own facilities.

Mr. BUNNING. Mr. Chairman, I rise today in strong opposition to H.R. 1555, the Communications Act of 1995 and the manager's amendment.

My primary objection to this bill is process. We have waited 60 years to reform our communications laws. It needs to be done. We need deregulation.

But, I believe that if we waited 60 years to do it, we could wait another month, do it right, and work out some of the problems in this bill instead of ramming it through during the middle of the night.

If we would have gone a little more slowly, I believe that we could have come to an agreement that the regional Bells and the long distance companies could agree with. Instead we are passing a bill that I believe favors the regional Bells a little too much.

This bill makes it too easy for the regional Bells to get into long distance service and too difficult for cable and long distance companies to get into local service.

We should not allow the regional Bells into the long distance market until there is real competition in the local business and residential markets.

It is not AT&T, MCI, or Sprint that I am worried about. They are big enough to take care of themselves. I am concerned about the affect this bill will have on the small long distance companies who have carved themselves out a nice little niche in the long distance market.

This bill will put a lot of the over 400 small long distance companies out of business.

I agree that the bill that was originally reported out of committee probably did give an

unfair edge to the long distance companies, but the pendulum has swung way too far in favor of the regional Bells. If we wait instead of passing this bill tonight we may be able to find a solution that is fair to everyone.

My second reason for opposing this bill is the fact that the little guys—many of the independent phone companies—got lost in the shuffle. This bill has been a battle of the titans. The baby Bells against AT&T and MCI.

But the big boys aren't the only players in telecommunications. There are plenty of smaller companies like Cincinnati Bell which service the center of my district in northern Kentucky.

This bill is not a deregulatory bill for Cincinnati Bell. It is a regulations bill. Although Cincinnati Bell has never been considered a major monopolistic threat to commerce, this bill throws it in with the big boys and requires them to live with the same regulations as the RBOC's—one size fits all.

For Cincinnati Bell and over 1,200 independent phone companies around the country this bill is a step in the wrong direction. It's more regulation rather than deregulation.

I also believe that this bill deregulates the cable industry much too quickly. We should not lift the regulations until there is a viable competitor to the cable companies.

The underlying principles in this bill are right on target. We need to deregulate telecommunications and increase competition. That will benefit everyone.

For that reason, I dislike having to vote against H.R. 1555.

But I firmly believe that even though this bill is on the right track, it is just running at the wrong speed. Let's slow down the train and do it right.

Mr. OXLEY. Mr. Chairman, I rise to express my firm support for the Communications Act of 1995 and the floor manager's amendment to it. The amendment improves the bill in a variety of areas, including some important refinements regarding foreign ownership.

The amendment clarifies section 303 of the bill giving the Federal Communications Commission authority to review licenses with 25 percent or greater foreign ownership, after the initial grant of a license, due to changed circumstances pertaining to national security or law enforcement. The Commission is to defer to the recommendations of the President in such instances.

In addition, I wish to clarify the committee report language on section 303 concerning how the Commission should determine the home market of an applicant. It is the committee's intention that in determining the home market of any applicant, the Commission should use the citizenship of the applicant—if the applicant is an individual or partnership—or the country under whose laws a corporate applicant is organized. Furthermore, it is our intent that in order to prevent abuse, if a corporation is controlled by entities—including individuals, other corporations or governments—in another country, the Commission may look beyond where it is organized to such other country.

These clarifications are intended to protect U.S. interests, enhance the global competitiveness of American telecommunications firms, promote free trade, and benefit consumer everywhere. They have the support of the administration and the ranking members of the Committee on Commerce, and I ask all members for their support.



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chance to do. Imagine: 1.5 million to 3.5 million new families earning money instead of being dependent upon somebody else. That is what this bill promises for us, a little promise that we ought to keep on this House floor.

Mr. Speaker, I want to commend the gentleman from Michigan [Mr. DINGELL], the former chairman, the gentleman from Virginia [Mr. BLILEY], our chairman, and particularly the gentleman from Texas [Mr. FIELDS] for the extraordinary work he has done. Let us celebrate their hard work, and let us celebrate the spirit of America, a free-market system and competition. Let us vote this good bill out today.

Mr. BELENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], the distinguished ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I would like to begin by congratulating the gentleman from California [Mr. BELENSON] for supporting my discussion last night in the Committee on Rules, when the Congress had finished its work, when we found out that this conference report would be brought forward today in less than 24 hours, violating the most time-honored rule in the procedures of bringing legislation to this House.

The same rule that Speaker GINGRICH has spoken with great passion about; the same rule that the gentleman from New York, Mr. SOLOMON, chairman of the Committee on Rules, has preached to me about across the years, this rule is now being violated for reasons that I cannot fathom.

Let me make it clear that this is the most important 111 pages in a conference report in terms of economic consideration that my colleagues will ever in their careers deal with. The fact of the matter is that there are very few, if any, persons that have read, not to mention understand, what is in the report. That is why we have a 3-day rule layover.

Now, in all fairness, I want to commend the gentleman from Virginia [Mr. BLILEY] because he has cooperated with me throughout this process as a conferee. In all fairness, I want to commend the dean of the House, the gentleman from Michigan [Mr. DINGELL], who has not only afforded me every courtesy but has allowed me to have 20 minutes in the debate that will shortly follow.

But ask this question, as I urge my colleagues to return this rule to the committee: Who knew that that noxious abortion portion was in the conference report? Nobody, until it was found out about last night. Who knows many of the other provisions, I have a whole list of them here, that could not possibly be known about, much less understood in terms of their implications?

The reason that we honor the 3-day rule is simply because there are no amendments possible on a conference report. We can only vote it up or down.

We should have a 3-week delay on this measure, since we are going out this afternoon. So 3 days would be a very modest consideration. That is why I am asking that this measure be returned to the Committee on Rules for the observation of the 3-day rule.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT], another member of the Committee on Commerce.

(Mr. HASTERT asked and was given permission to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, I really want to congratulate the gentleman from Texas [Mr. FIELDS], the gentleman from Virginia [Mr. BLILEY], the gentleman from Ohio [Mr. OXLEY], the former chairman on the other side of the aisle—folks who have been working on this issue for a long, long time and have put together a very, very good piece of legislation.

I might add that the piece of legislation that came out of here in the last Congress, also worked on by a group of folks, but it came out on suspension. It never got out of the Senate, back to the House in a conference. The gentleman from Michigan was talking about this bill, when my Democrat colleagues passed a bill on the suspension calendar with no amendments, 40 minutes of debate, and that was it. So take the difference in what is happening here.

Mr. Speaker, I rise in support of the conference report on the Communications Act of 1996. I have worked on this legislation for several years, and I am proud to come to the floor to support a bill that will unleash \$63 billion in economic activity.

Reform of the 1934 Communications Act is long overdue. The road map for our communications future, outlined in the 1934 Act and the courts, still anticipates two-lane back roads rather than the fast paced super-highways we have today. The U.S. District Court began the trip toward competition when it issued the modified final judgment [MFJ] that required the breakup of "Ma Bell" 10 years ago and brought competition to the long-distance industry. Back then, I served as chairman of the Illinois Joint Committee on Public Utility Reform. We were charged with the task of revamping Illinois law to bring more competition. At that time, it was assumed that competition was not a good thing for local telephone service; the local telephone loop was viewed as a natural monopoly. Now, because of advances in technology, we see that it is possible—and preferable—to bring competition to the local loop.

But the MFJ has not brought about the full fledged competition consumers needed in every part of the communications industry. Thus, Congress has risen to the task of planning the road-trip so that American consumers will have more choices and innovative services, and will pay lower prices for communications products.

The map shows that there are pitstops along the road to competition. Everyone is in

favor of "fair" competition as industries begin to contend in each others businesses. Fair competition means local telephone companies will not be able to provide long-distance service in the region where they have held a monopoly until several conditions have been met to break that monopoly.

First, the local Bell operating company [BOC] must open its local loop to competitors and verify it is open by meeting an extensive competitive checklist. Second, there must be a facilities-based competitor, or a competitor with its own equipment, in place. Third, the Federal communications Commissions [FCC] must determine that the BOC's entry into the long-distance market is in the public interest. And fourth, the FCC must give substantial weight to comments from the Department of Justice about possible competitive concerns when BOC's provide long-distance services.

Consumers can be sure BOC's won't get the prize before crossing the finish line.

As a member of the Commerce Committee, I worked on several provisions of this bill, and was the author of section 245(a)(2)(B) of H.R. 1555 which deals with the issue of BOC entry into in-region inter-LATA telecommunications service. This provision has become section 271(c)(1)(B) in the conference report. Section 271(c)(1)(B) provides that a BOC may petition the FCC for this in-region authority if it has, after 10 months from enactment, not received any request for access and interconnection or any request for access and interconnection from a facilities-based competitor that meets the criteria in section 271(c)(1)(A). Section 271(c)(1)(A) calls for an agreement with a carrier to provide this carrier with access and interconnection so that the carrier can provide telephone exchange service to both business and residential subscribers. This carrier must also be facilities based; not be affiliated with BOC; and must be actually providing the telephone exchange service through its own facilities or predominantly its own facilities.

Section 271(c)(1)(B) also provides that a BOC shall not be deemed to have received a request for access and interconnection if a carrier meeting the criteria in section 271(c)(1)(A) has requested such access and interconnection; has reached agreement with the BOC to provide the access and interconnection; and the State has approved the agreement under section 252, but this requesting carrier fails to comply with the State approved agreement by failing to implement, within a reasonable period of time, the implementation schedule that all section 252 agreements must contain. Under these circumstances, no request shall be deemed to have been made.

Mr. Speaker, we have given serious debate and consideration to this bill. Now is the time for Congress to set reasonable guidelines for our communications future. All signs point to competition ahead, so I urge my colleagues to give the Telecommunications Act of 1996 a green light.

Mr. BELENSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas [Ms. JACKSON-LEE].

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Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding time to me.

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created it. If the Senator is willing to justify a problem, I am perfectly willing to modify the amendment to make language clear.

but my intent is to create a situation where we say to a local company, as I think we should by the way. OK, meet the competitive alternative. Go ahead and price your service and meet that competitive alternative. I just want to make certain in a noncompetitive environment the revenue stream does not end up being higher as a consequence of liberating, allowing that competitor to be met.

Mr. PRESSLER. I would say before we go into a quorum call that we will come other amendments and speeches by Senators. The Senate is open for business, and we will conceivably lay this aside if somebody else comes with an amendment. And with that I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. The remarks of Mr. HELMS pertaining to the submission of S. Res. 133 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions."

Mr. HOLLINGS. Mr. President, while it appears we do not have an immediate amendment, we are reconciling differences, including one on universal services and otherwise.

While we are engaged in that negotiation, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Kerrey amendment No. 1310.

Mr. KERREY. I ask unanimous consent to withdraw amendment No. 1310.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1310) was withdrawn.

AMENDMENT NO. 1307  
Purpose: To require more than "an" interconnection agreement prior to long distance entry by a Bell operating company.

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:  
The Senator from Nebraska (Mr. KERREY) proposes an amendment numbered 1307.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, strike out line 12 and all that follows through line 30 and insert in lieu thereof the following:

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS—

"(1) IN GENERAL.—A Bell operating company may provide InterLATA services in accordance with this section only if that company has reached interconnection agreements under section 251 with telecommunications carriers that have requested interconnection for the purpose of providing telephone exchange service or exchange access service, including telecommunications carriers capable of providing a substantial number of business and residential customers with telephone exchange or exchange access service. Those agreements shall provide, as a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

Mr. KERREY. Mr. President, this is an amendment to section 255 of the Communications Act of 1934. I discussed it with the managers of the bill. I will briefly describe it.

The requirement of the current provision is an attempt to deal with actually section 251 as well by saying that my concern with 255 is that it might allow a local telephone company to get into InterLATA after having satisfied in a very minimal fashion the interconnection requirement either of the competitive checklist or of 251. The requirement of the current provision should be satisfied as a local telephone company reached an interconnection agreement with only a single telecommunications carrier, although in many markets a substantial number of carriers will request interconnection. Under the current provision, a Bell company needs only a single entity requesting interconnection without regard to whether the requesting company is weak, undercapitalized, or lacking in other expertise or business planning.

This amendment would ensure that a local telephone company which enters into more than one interconnection agreement, that the agreement includes telecommunications carriers capable of serving a substantial portion of the business in a residential local telephone market. Although it could not ensure that competition will develop, it ensures the interconnection agreements are reached before the long distance entry of the company capable of providing local services to both business and residential customers.

This amendment would remedy a provision in the bill which concerns me, a provision which I believe is very dangerous and susceptible to interpretation in a manner counter to the overall intentions of S. 652. Under the current

provision, a Bell operating company could gain entry into the long distance market on the basis of one interconnection agreement with a competitor. It would not matter whether that competitor was weak, undercapitalized, or lacking either expertise or a business plan—that one competitor could facilitate Bell entry into markets which at that time may, or may not, be competitive.

One of the goals of this bill is to open the door, to provide incentives to facilitate local competition. Unless amended, this provision may counter that intended goal, in fact removing incentives for the Bells to reach agreement quickly with their strongest potential competitors. If the Bells think that they can gain entry without having to complete more than one agreement, we are in fact inviting them to game the process. Instead of helping to facilitate local competition, they might gain entry at a time when they still monopolize their local markets, perhaps both stunting the development of local competition and endangering the gains that have been made over the past decade in the increasingly competitive long-distance industry.

This amendment would clarify the current provision and move it into line with the bill's overall intentions by ensuring that a BOC enters into more than one interconnection agreement and by ensuring that those agreements are reached with telecommunications carriers capable of serving a substantial portion of the business and residential loop telephone markets. This clarification strengthens the incentives and the conditions for competition to develop.

The requirement in the current provision could be satisfied after a BOC reached an interconnection agreement with only a single telecommunications carrier, although in many markets it is probable that a substantial number of carriers will request interconnection. Under the current provision, a BOC need reach agreement with only a single entity requesting interconnection, without regard to whether the requesting company is weak, undercapitalized, and lacking either expertise or a business plan.

The amendment would ensure that a BOC enters into more than one interconnection agreement and that the agreements include telecommunications carriers capable of serving a substantial portion of the business and residential local telephone markets. Although this does not ensure that competition will develop, it does ensure that interconnection agreements are reached before long distance entry with companies capable of providing local service to a substantial number of both business and residential customers.

Mr. President, it is a pretty straightforward, clarifying amendment. As I have said on a number of occasions, as the managers have as well, this piece of legislation is unprecedented. We are

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trying to manage a transition from a current regulated monopoly into a competitive arena. It is very difficult to do. What we have established is in section 251, be it a long distance company or other carrier, it can be anybody who wants to get into local business. They can either negotiate an agreement or satisfy, I believe, 10 things in section 251; that is to say, the Communications Act of 1934, section 251. Once they have satisfied those agreements—they have to satisfy those agreements in order to satisfy the law—251 describes what they have to do when somebody comes and says, "I want to get into local service. I want to approach your customers." Section 251 says what they have to do.

In addition, in 255, there is a 14-part competitive checklist before the local Bell company can get into interLATA to provide long distance service. This amendment provides language to make certain that we do not end up with an application occurring after having satisfied a minimal requirement. In other words, I have competition but it is a relatively small company. They really are not effective competition. This attempts to strengthen the competitive requirement prior to the FCC giving interLATA approval.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, may I request that the clerk read the current provision on line 12, most specifically the interLATA interconnection requirement, just the first paragraph as it appears in the bill as it appears now. I believe there is one change in it. I want to make sure that is the case.

Mr. KERREY. Mr. President, which page are you going to read?

Mr. STEVENS. This is page 83, which is the current specific requirement pertaining to section 251. I just want to see if the bill I have is the same as the one that is before the clerk. Are there any changes?

The PRESIDING OFFICER. There have been no changes to the bill on that page.

Mr. STEVENS. Mr. President, on that page is the requirement, specifically the interLATA interconnection requirement, which specifically states that a Bell operating company may provide interLATA services in accordance with the section only if that company has reached an interconnection agreement under section 251 and that agreement provides at a minimum for interconnection that meets the competitive checklist requirements of paragraph 2. Paragraph 2 is the competitive checklist. I am certain that the Senator from Nebraska and the Senators involved in this debate know what is in that checklist.

What the Senator attempts to do with his amendment is to expand that agreement in a way that, in effect, as I understand his intent, will preclude any small company not capable of pro-

viding substantial coverage for both business and residential customers in the exchange access areas.

Under the circumstances, what that would do is really prevent the transition from taking place as we envision it.

There is no question, as the Senator from Nebraska stated, we are going from a period of regulation both under the courts and under the FCC to a new type of regulation in which this checklist is one of the predominant features. Under the circumstances of the bill as it stands, size is not material but compliance is. And it will take some time in the transition period for that to happen.

This is one reason why we have opposed changes in the public interest section of the bill, because it may well be that in this transition period there is going to be several different entities trying to get through the gate at the same time, so to speak. And the question of public interest is going to weigh in terms of which of those entities should be approved under this section of having met with the requirement of the competitive checklist.

I think the Senator's amendment narrows that group that can be at the gate to be reviewed by the FCC and as such it would be restrictive of competition in the very essence, in the beginning, and therefore we would oppose the Senator's amendment as changing the concept which is, again I read, compliance under the bill is that the agreement provides at a minimum for interconnection, it meets the requirements of the checklist, the competitive checklist. This adds to the minimum, saying, in effect, that you have to have size, a large enough carrier that is capable of providing a substantial number of business and residential customers within the telephone exchange or exchange access service. Under the circumstances, the Senator from Nebraska limits those who can get to the gate first. It says the only ones that can get to the gate first are the large carriers.

Mr. KERREY. No.

Mr. STEVENS. That is my contention. Until the Senator disabuses me of that, I intend to move to table his amendment.

Mr. KERREY. Mr. President, let me read the language. Certainly I believe the language is clear on that point. I am not trying to preclude at all. You can still have a small carrier, a very small company come in and be given the interconnection requirement at the local level. It would be less likely to happen. This amendment does not say that that company is precluded. It does not use the language "preclude" at all. It says interconnection for the purpose of providing—only if that company reaches "interconnection agreements under section 251 with telecommunications carriers that have requested interconnection for the purpose of providing telephone exchange service or exchange access service, including tele-

communications carriers capable of providing a substantial number of business and residential customers."

What it is attempting to do—and I left the language relatively general, in fact, because what I am trying to do, I say to the Senator from Alaska, what I am trying to do is to make sure—we tried earlier unsuccessfully. In fact, I have a couple other amendments that I do not believe I am going to send to the desk refighting the battle over whether or not the Justice Department should be the arbiter of whether or not there is competition.

In S. 1822, last year's bill, what we said was that once the Department of Justice has determined there is local competition, the local company then can do long distance. That was the method by which we made certain that there was local competition prior to the company getting into long distance. That was the idea.

Well, now what we have done is replaced the Department of Justice determination with a checklist so that we have this checklist and we have language in 251 that allows for these interconnections.

Well, what this simply does is it tries to make sure we get a little more certainty of competition because the FCC does not make any judgment about competition other than the connection. The FCC takes the 14-point checklist. The FCC has to certify that the checklist has been satisfied and that the company has reached an interconnection agreement under section 251 that provides at a minimum for interconnection that meets the competitive checklist requirements.

I understand that it says at a minimum, and there needs to be more. What this attempts to do is bulk that up and describe something a bit more than what is required currently under 251.

Mr. STEVENS. Mr. President, if the Senator is finished, let me state that as it is, as I see it and my adviser, Earl Comstock, sees it, we agree that the impact of this could be that a Bell operating company could not enter the service area, interLATA, if there was a carrier seeking to provide service and had met the minimum requirements of the checklist, the competitive checklist but was a small carrier. As a matter of fact, as I said, I think there could well be several small carriers at the gate, plus there could be a larger carrier at the gate and the question would be in terms of the public interest who would be involved in getting approval under section 251. But as a practical matter the Bell company cannot come in until someone provides that service. The Senator's amendment raises the threshold on the level of that service and as such will say the Bell companies cannot come in until there is a substantial competitor there to provide the service.

Mr. KERREY. That is correct.

Mr. STEVENS. I tried to explain that before but I apparently did not get the

communication correctly as far as the  
"or from Nebraska is concerned.  
is precisely what we are trying to  
a... We want to make sure that the  
checklist is met at a minimum and the  
public interest provision comes in at  
that point. The FCC might delay a  
smaller company if there is another  
one coming through the process that  
would provide a greater service in the  
area involved. I think that the Senator  
would understand that. But as a practical  
matter we do not look at size as  
being determinative of whether or not  
the Bell company could enter the area  
and provide service in the interLATA  
area.

I will be happy to yield.  
Mr. KERREY. What the bill does not  
do, as I read it, is give me at least confidence  
in the 14-point checklist. What  
it says is—Mr. President, 255 is the new  
section. It is actually called section 221  
in the bill, but it creates a new section  
255 in the 1994 act, and it is called  
interexchange telecommunications  
services, but it is the point where we  
were removing the restrictions that are  
currently in place.

Currently, a local company cannot do  
long distance. What this does is says  
here are the terms and circumstances  
under which it can do long distance.

We fought the battle yesterday saying  
that I thought that the test that  
was in last year's legislation, S. 1822,  
I think it was H.R. 3626, the House

that the test there was the right  
it had the Department of Justice  
determine the competition, and when  
there is no substantial possibility that  
the monopoly could use their power to  
impede competition, have at it. Go to  
it. Let the Department of Justice make  
that determination.

We lost that battle. Now what I am  
attempting to do is to say that the language,  
as I read the current language  
in the bill it sets specific interLATA  
interconnection requirements under,  
whatever it is, (b) of section 255, specific  
interLATA interconnection requirements.  
There are two sections,  
two paragraphs in there that are important.  
The first one is the general  
paragraph which this amendment replaces,  
and the second one is the competitive  
checklist.

The current general paragraph says a  
Bell operating company may provide  
interLATA, do long-distance service, in  
accordance with this section only if  
that company has reached an interconnection  
agreement under section  
251 and that agreement provides at a  
minimum for interconnection that  
meets the competitive checklist requirements  
of paragraph 2.

As I read this, what I can do, if I am  
a Bell company, and let us say I have  
50 people applying to go into interconnection,  
all I have to do is get one  
them on line. I could have relatively  
le competition. I just do not get  
an agreement with them. I wish to  
get into long distance.

What I am trying to do is to make  
sure that I have that competitive

choice at the local level before permission  
is granted. And so I do not say in  
my substitute paragraph that any company  
is precluded from an interconnection  
agreement under section 251. It  
says instead that "a Bell operating  
company may provide interLATA service  
only if that company has reached"—  
which is in the language here—"only if  
that company has reached an interconnection  
agreement under section  
251"—all that is the same as the paragraph  
I am replacing—"with telecommunications  
carriers." And here is  
where it differs: "Telecommunications  
carriers that have requested interconnection  
for the purpose of providing  
telephone exchange service or  
exchange access service, including telecommunications  
carriers capable"—it  
does not say it is going to preclude  
anybody. It just has to include "carriers  
capable of providing a substantial  
number of business and residential customers  
with telephone exchange or exchange  
access service."

It says these agreements shall provide  
at a minimum the competitive  
checklist which is also in this other  
language. It does not say any company  
is precluded. It does not in fact say it  
has to be a percent of the market or  
anything like that.

It just says that it has to be more  
than a relatively small company that  
does not really provide that competitive  
alternative for that consumer,  
that customer, that household at the  
local level.

The Senator from Alaska may still  
move to table, I hope not, based upon  
the language precluding a small company  
from still coming—a small company  
could still come and be allowed  
under the interconnection agreements  
of 251 to interconnect at the local level.  
This means I need a little bit more  
than a small company before the  
interLATA approval is granted.

Mr. STEVENS. Mr. President, I understand  
the Senator's intent. I call his  
attention to the provision of sub-  
section (g) of 251 on page 25:

A local exchange carrier shall make available  
any service, facility, or function provided  
under an interconnection agreement to which  
it is a party to any other telecommunications  
carrier that requests such interconnection  
upon the same terms and conditions as those  
provided in the agreement.

We interpret that section to mean if  
there is a small carrier involved and it  
comes into the area, which means the  
Bell carrier can then enter long distance,  
that other carriers can come in easily,  
as a matter of fact, they would  
not have to comply with 251.

The problem is that as we see it in  
rural areas where only a small carrier  
may seek the interconnection to provide  
competing local service in the beginning,  
it means that that small carrier  
cannot enter this picture until  
there is a larger carrier that would be  
able to handle the substantial test of  
the Senator's amendment. The Sen-

ator's amendment would require that  
you have a carrier capable of providing  
service to a substantial number of businesses  
and residential customers. Obviously,  
the small carrier cannot do that.

One is looking at the test for the Bell  
companies; the other is looking at the  
test for entry. We believe the predominant  
issue in regard to 251 is that there  
be no requirement other than the minimum  
compliance with the competitive  
checklist, as provided in subparagraph  
(3) of subsection (b) that I read from  
section 251.

Mr. KERREY. Mr. President, I understand  
the concern, but the larger concern,  
I believe, still remains, which is  
expressed by the findings in the bill  
and the description of the bill of what  
it is attempting to do, which is: We  
want to make sure we have competition  
before we get into long distance.  
That is the idea.

Currently, if I am a consumer, a  
household in Omaha, NE, I have one  
choice. That is what I have. My telephone  
company wants to get into long  
distance. The intent here is before you  
get into long distance, you get some  
competitive choice at the local level. If  
all I have to do is sign an interconnection  
agreement with one small company  
before that occurs, that hardly  
provides the kind of competitive  
choice, as I understand the intent of  
the bill.

I understand the Senator's concern  
about rural carriers, but I do not believe,  
at least as I read it, that the  
amendment precludes the possibility of  
a rural carrier, a smaller carrier inter-  
connecting.

Mr. STEVENS addressed the Chair.  
The PRESIDING OFFICER. The Senator  
from Alaska.

Mr. STEVENS. Mr. President, it is  
in our judgment that the language of  
the bill, as it stands, provides an incentive  
to the long-distance companies,  
who are worried about Bell companies'  
entry into long distance, to come forward  
and use the provisions of section  
251 to negotiate the interconnection  
agreements.

If they do not do that and a small  
carrier does come forward, it still  
meets the requirements of this section  
and, therefore, it is sort of an incentive  
to the other long distance companies  
to come forward and get involved in  
the negotiations regarding section 251,  
in our judgment.

In any event, it adds a level to the  
threshold. It increases the minimum  
requirements that we have associated  
with compliance with the checklist  
and, as such, it adds another burden to  
future competition, which is something  
that we disagree with the Senator on.

Mr. KERREY. Mr. President, it unquestionably  
asks for a minimum requirement. That is  
unquestionably true. I believe if this amendment  
were adopted, it would be a reasonable  
substitute for the Department of Justice  
role. It makes sure you have competition.  
The concern ought not to be for  
most of these companies trying to figure  
out whether you have competition.

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the concern really ought to be is there a competitive choice: Do I have in my residence in Omaha, NE, or do I have in my residence in any other area a competitive choice?

It does not insert "no substantial possibility" language. It does not insert any specific language. It just says that it has to be more than a single, small interconnection.

Mr. STEVENS. Mr. President, it is not my desire to limit in any way the Senator's debate on this amendment.

Mr. KERREY. I conclude my debate. Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, again I say what the Senator from Nebraska is looking for is something to increase the effective competition tests that are in this bill. The section we have been debating, section 255(b)(1), sets a minimum requirement for the Bell operating companies to enter into interLATA services. We think that is sufficient, in view of the requirements of the checklist itself.

Unless the Senator wishes to make additional comments, I intend to move to table his amendment, but I will be happy to let him have the last word, if he wishes to do so.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, the last word merely is that the Senator from Alaska is right. I am not worried about the minimum requirement in 255. I think it needs to be strengthened. This amendment does precisely that, it attempts to strengthen the requirements of 255 prior to being given permission for interLATA service.

Mr. STEVENS. The Senators's definition is the difference between us.

I move to table Kerrey amendment No. 1307, and I ask unanimous consent that the vote on this motion to table occur at 2:30 p.m. today and that there be no second-degree amendments in order to the amendment prior to the vote on the motion to table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.  
The yeas and nays were ordered.

Mr. STEVENS. Mr. President, in view of the fact that there is approximately an hour left, I ask unanimous consent to lay this amendment aside until the time established for the vote on my motion to table, in the hope someone might come forward with another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, how long?

Mr. DORGAN. Ten minutes.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. STEVENS. The Senator from California has two amendments. One is an amendment to the other. We have no objection to the motion she is going to make to consolidate those amendments.

If she wishes to take it up at this time, we would be happy to do so on the basis of a time agreement, 30 minutes to be divided, 20 minutes on the side of the proponent, 10 minutes over here, with no second-degree or other amendments in order.

We will have a vote on or in relation to the amendment following the vote on the motion to table that has already been agreed to.

I ask unanimous consent that that be the agreement under which the Senator takes up this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I shall not object, the distinguished senior Senator from Nebraska and I, Mr. President, have a couple of amendments regarding the Internet that I think we can do in a relatively short period of time.

I wonder if it might be possible for these two Senators to then follow the amendment we just discussed.

Mr. STEVENS. Mr. President, I say to my friend that we have amendments already scheduled to come up for a vote at 2:30. It is our hope we will have this vote on Senator Boxer's amendment right after that, and we would be pleased to take up your amendments following that, if the Senator would like to do so.

Mr. LEAHY. Fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1309 AND AMENDMENT NO. 1304  
(Purpose: To preserve the basic tier of cable services)

Mrs. BOXER. Mr. President, I want to thank the Senator from Alaska for

his courtesy be extended to this Senator and to the Senator from Michigan Senator Levin.

We are anxious to put our amendment forward. It is very straightforward. I ask that my amendment numbered 1340 be modified by my second-degree amendment, which is also at the desk, amendment No. 1334.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent that I yield myself, out of the 20 minutes, 7 minutes.

Mr. President there has been a lot of debate on this bill, the Telecommunications Competition and Deregulation Act of 1995. A lot of it is quite technical. A lot of it is difficult to follow.

I do believe that the amendment that the Senator from Michigan, Senator Levin, and I are proposing is quite straightforward.

What we want to do with this amendment is to protect—protect—the people who currently have cable service from losing channels that they have grown used to that are in their basic service.

We are very fearful that because of the changes made in this bill, cable companies will move certain channels out of their basic tier of service, and the public that has grown used to this basic service will now be forced to pay for these channels on a second tier.

For example, there are many viewers that in their basic service get stations like CNN or TNT. What we are fearful of—if we do not pass the Boxer-Levin amendment—is that cable companies will jettison stations like CNN or TNT and tell the customers who have been receiving those programs in their basic service that they will have to pay extra. Now CNN and TNT will go into another tier, and the people who have been watching them will have to now pay more.

It is very straightforward. What we are saying is, if you want to reduce the level of service that you currently have as a cable operator, you first need to get approval from the local franchise authority, which is usually the board of supervisors or the county commissioners or the city council or the mayor.

So we are taking, I think, in this amendment, some commonsense steps. We are saying before the competition fully comes in, and we look forward to that day, before the competition really comes in, for a period of 3 years—we have sunsetted this at 3 years—we want to protect the people who rely on cable. We want to protect them so they do not suddenly find themselves without channels that they have grown to rely on and, in addition, they would have to spend more money to order these channels in another tier of service.

I am very hopeful we will get broad bipartisan support for this amendment. Because, whether Mrs. Smith or Mr. Smith lives in Washington or California or Michigan or South Dakota or Ohio, wherever they may live, they

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Mrs. BOXER. I thank my friend very much. I yield the floor at this time. I hope Senators will support Boxer-Levin.

VOTE ON AMENDMENT NO. 1307

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to lay on the table amendment No. 1307, offered by the Senator from Nebraska. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.  
The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 261 Leg.]  
YEAS—79

- |           |            |              |
|-----------|------------|--------------|
| Abraham   | Feinstein  | McCain       |
| Ashcroft  | Ford       | McConnell    |
| Baucus    | Frist      | Mikulski     |
| Bennett   | Gleason    | Murray       |
| Biden     | Gorton     | Murray-Brown |
| Bond      | Gramm      | Murkowski    |
| Brown     | Grassie    | Nickles      |
| Bryant    | Gregg      | Reagan       |
| Burr      | Harkin     | Reed         |
| Byrd      | Hatch      | Reich        |
| Campbell  | Hatfield   | Rockefeller  |
| Chafe     | Hoffman    | Roth         |
| Coburn    | Hollings   | Santorum     |
| Cook      | Hutchinson | Schmitt      |
| Coverdell | Imhofe     | Shelby       |
| Craig     | Jepson     | Strom        |
| D'Amato   | Johnson    | Smith        |
| Daschle   | Kassebaum  | Specter      |
| DeWine    | Kempthorne | Stevens      |
| Dole      | Kennedy    | Thomas       |
| Domenici  | Kohl       | Thompson     |
| Dorgan    | Leahy      | Thurmond     |
| East      | Lugar      | Warner       |
| Fallick   | Mack       |              |

NAYS—21

- |          |            |           |
|----------|------------|-----------|
| Abraham  | Gramm      | Lieberman |
| Bingaman | Leahy      | Murray    |
| Boxer    | Kerry      | Pell      |
| Bradley  | Kyl        | Reid      |
| Carew    | Lastenberg | Robb      |
| Dodd     | Leahy      | Schmitt   |
| Fallick  | Levin      | Wellstone |

So the motion to lay on the table the amendment (No. 1307) was agreed to.

AMENDMENT NO. 1340 AND AMENDMENT NO. 1341  
The PRESIDING OFFICER. The clerk will report amendments 1340 and 1341.

The legislative clerk read as follows:  
The Senator from California [Mrs. BOXER] and Mr. LEVIN proposes amendments numbered 1340 and 1341 thereto.

The amendments are as follows:  
AMENDMENT NO. 1340

On page 71, between lines 2 and 3, insert the following:

(d) PRESERVATION OF BASIC TIER SERVICE.—Section 623 (47 U.S.C. 543) is further amended by adding at the end the following:

“(b) PRESERVATION OF BASIC TIER SERVICE.—A cable operator may not cease to furnish as part of its basic service tier any programming that is part of such basic service tier on January 1, 1996, unless the franchising authority for the franchise area concerned approves the action.”

AMENDMENT NO. 1341

Strike all after “(d)” in the pending amendment and insert the following:

PRESERVATION OF BASIC TIER SERVICE.—Section 623 (47 U.S.C. 543) is further amended by adding at the end the following:

“(a) PRESERVATION OF BASIC TIER SERVICE.—A cable operator may not cease to furnish as part of its basic service tier any programming that is part of such basic service tier on January 1, 1996, unless the franchising authority for the franchise area concerned approves the action. This provision shall expire three (3) years after the date of enactment.”

AMENDMENT NO. 1340, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, amendment 1340 is modified by the language of amendment 1341.

The amendment (No. 1340), as modified, is as follows:

On page 71, between lines 2 and 3, insert the following:

(d) PRESERVATION OF BASIC TIER SERVICE.—Section 623 (47 U.S.C. 543) is further amended by adding at the end the following:

“(a) PRESERVATION OF BASIC TIER SERVICE.—A cable operator may not cease to furnish as part of its basic service tier any programming that is part of such basic service tier on January 1, 1996, unless the franchising authority for the franchise area concerned approves the action. This provision shall expire three (3) years after the date of enactment.”

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized to make a motion to table.

Mr. PRESSLER. Mr. President, I move to table the Boxer amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.  
The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 262 Leg.]  
YEAS—60

- |           |            |             |
|-----------|------------|-------------|
| Abraham   | Frist      | McCain      |
| Ashcroft  | Gleason    | McConnell   |
| Baucus    | Gorton     | Murkowski   |
| Bennett   | Gramm      | Nickles     |
| Bond      | Grassie    | Reagan      |
| Brown     | Gregg      | Reed        |
| Bryant    | Harkin     | Reich       |
| Burr      | Hatch      | Rockefeller |
| Campbell  | Hatfield   | Roth        |
| Chafe     | Hoffman    | Santorum    |
| Coburn    | Hollings   | Shelby      |
| Cochran   | Hutchinson | Strom       |
| Cook      | Imhofe     | Smith       |
| Coverdell | Jepson     | Specter     |
| Craig     | Johnson    | Stevens     |
| D'Amato   | Kassebaum  | Thomas      |
| Daschle   | Kempthorne | Thompson    |
| DeWine    | Kerry      | Thurmond    |
| Dole      | Kohl       | Warner      |
| Domenici  | Leahy      |             |
| Dorgan    | Lugar      |             |
| East      | Mack       |             |
| Fallick   | Murray     |             |

NAYS—38

- |          |         |         |
|----------|---------|---------|
| Abraham  | Boxer   | Bumpers |
| Biden    | Bradley | Byrd    |
| Bingaman | Bryant  | Coburn  |

- |           |              |           |
|-----------|--------------|-----------|
| Carroll   | Johnson      | Morahan   |
| Dodd      | Kennedy      | Murray    |
| Dorgan    | Kerry        | Pell      |
| East      | Kohl         | Pryor     |
| Fallick   | Lastenberg   | Robb      |
| Feinstein | Leahy        | Santorum  |
| Ford      | Levin        | Simon     |
| Gramm     | Lieberman    | Strom     |
| Harkin    | Mikulski     | Thompson  |
| Leahy     | Murray-Brown | Wellstone |

ANSWERED “PRESENT”—1

Mack

NOT VOTING—1

Jeffords

So the motion to lay on the table the amendment (No. 1340), as modified, was agreed to.

Mr. DOLE. Mr. President, I want to urge my colleagues on both sides—if there are any amendments on this side, too—we want to try to complete action on this bill today. The chairman has indicated his willingness to stay all night and keep the hours running. Thirty hours will expire tomorrow at 4 p.m. If we stay all night that would be 4 p.m. Or, if we can get an agreement to vote final passage by 12 noon tomorrow, otherwise, I think we may seriously consider the first option—staying all night.

I believe that most of the amendments will be tabled. I do not know of any serious amendments at all. Most of the amendments are on the other side. There are still some 50 amendments pending which is sort of par for the course, so far. But we hope that if people are serious about their amendments, they will offer them today so that we can dispose of this.

The managers have been on the floor now for almost a week. They have done an outstanding job on both sides. They are prepared to complete action on this bill late, late, late tonight. I urge my colleagues. Maybe some amendments will be accepted. I do not know what the status of many of these amendments are. But it would be our intention to table every amendment from now on unless the managers indicate otherwise.

We are having a Republican conference. I will make that clear to them that, if we are going to finish this bill, we have to have some discipline on this side to help table amendments for both managers of the bill, not just the manager on this side.

So I urge my colleagues to finish today. If you want to agree to an agreement, we will have final passage no later than noon tomorrow. Otherwise, I will leave it up to the managers. The chairman has indicated to me that he prefers to stay here all night and dispose of amendments between now and 4 o'clock tomorrow.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, while the distinguished majority leader is on the floor, I note that many of us have been trying to work out a time agreement. There is cooperation on both sides of the aisle. For example, I am about to call up an amendment which will by

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**SECTION 271 - BELL OPERATING COMPANY ENTRY INTO  
INTERLATA SERVICES**

**EXHIBIT 3  
OF  
BELLSOUTH TESTIMONY OF ALPHONSO J. VARNER**

**TELECOMMUNICATIONS ACT OF 1996**  
**SECTION 271 - BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES**

**Requirements of Section 271:**

1. "INTERCONNECTION IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 251(c)(2) AND 252(d)(1)."

**Requirements of Florida Commission's Order:**

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

October 1, 1996 Order on Motions For Reconsideration - Docket No. 950985-TP

March 29, 1996 Order - Docket No. 950985-TP

**Requirements of FCC's Order:**

First Order - Rule 51.305 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**51.305 Interconnection.**

(a) An incumbent LEC shall provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the incumbent LEC's network:

- (1) for the transmission and routing of telephone exchange traffic, exchange access traffic, or both;
- (2) at any technically feasible point within the incumbent LEC's network including, at a minimum:
  - (i) the line-side of a local switch;
  - (ii) the trunk-side of a local switch;
  - (iii) the trunk interconnection points for a tandem switch;
  - (iv) central office cross-connect points;
  - (v) out-of-band signaling transfer points necessary to exchange traffic at these points and access call-related databases; and

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(vi) the points of access to unbundled network elements as described in 51.319 of this part;

(3) that is at a level of quality that is equal to that which the incumbent LEC provides itself, a subsidiary, an affiliate, or any other party, except as provided in paragraph (4) of this section. At a minimum, this requires an incumbent LEC to design interconnection facilities to meet the same technical criteria and service standards that are used within the incumbent LEC's network. This obligation is not limited to a consideration of service quality as perceived by end users, and includes, but is not limited to, service quality as perceived by the Requesting telecommunications carrier;

(4) that, if so requested by a telecommunications carrier and to the extent technically feasible, is superior in quality to that provided by the incumbent LEC to itself or to any subsidiary, affiliate, or any other party to which the incumbent LEC provides interconnection. Nothing in this section prohibits an incumbent LEC from providing interconnection that is lesser in quality at the sole request of the requesting telecommunications carrier; and

(5) on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of any agreement, the requirements of sections 251 and 252 of the Act, and the Commission's rules including, but not limited to, offering such terms and conditions equally to all requesting telecommunications carriers, and offering such terms and conditions that are no less favorable than the terms and conditions the incumbent LEC provides such interconnection to itself. This includes, but is not limited to, the time within which the incumbent LEC provides such interconnection.

(b) A carrier that requests interconnection solely for the purpose of originating or terminating its interexchange traffic on an incumbent LEC's network and not for the purpose of providing to others telephone exchange service, exchange access service, or both, is not entitled to receive interconnection pursuant to section 251(c)(2) of the Act.

(c) Previous successful interconnection at a particular point in a network, using particular facilities, constitutes substantial evidence that interconnection is technically feasible at that point, or at substantially similar points, in networks employing substantially similar facilities. Adherence to the same interface or protocol standards shall constitute evidence of the substantial similarity of network facilities.

(d) Previous successful interconnection at a particular point in a network at a particular level of quality constitutes substantial evidence that interconnection is technically feasible at that point, or at substantially similar points, at that level of quality.

(e) An incumbent LEC that denies a request for interconnection at a particular point must prove to the state commission that interconnection at that point is not technically feasible.

(f) If technically feasible, an incumbent LEC shall provide two-way trunking upon request.

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**Requirements of Section 271:**

2. "NONDISCRIMINATORY ACCESS TO NETWORK ELEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 251(c)(3) AND 252(d)(1)."

**Requirements of Florida Commission's Orders:**

March 29, 1996 Order - Docket No. 950985-TP

December 16, 1996 MFS Arbitration Order - Docket No. 960757-TP

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

March 19, 1997 Final Order on Motions for Reconsideration in Docket Nos. 960833-TP, 960846-TP and 960916-TP and Amending Order

**Requirements of FCC's Orders:**

First Order - Rule 51.311 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**51.311 Nondiscriminatory access to unbundled network elements.**

(a) The quality of an unbundled network element, as well as the quality of the access to the unbundled network element, that an incumbent LEC provides to a requesting telecommunications carrier shall be the same for all telecommunications carriers requesting access to that network element, except as provided in paragraph (c) of this section.

(b) Except as provided in paragraph (c) of this section, to the extent technically feasible, the quality of an unbundled network element, as well as the quality of the access to such unbundled network element, that an incumbent LEC provides to a requesting telecommunications carrier shall be at least equal in quality to that which the incumbent LEC provides to itself. If an incumbent LEC fails to meet this requirement, the incumbent LEC must prove to the state commission that it is not technically feasible to provide the requested unbundled network element, or to provide access to the requested unbundled network element, at a level of quality that is equal to that which the incumbent LEC provides to itself.

(c) To the extent technically feasible, the quality of an unbundled network element, as well as the quality of the access to such unbundled network element, that an incumbent LEC provides to a requesting telecommunications carrier shall, upon request, be superior in quality to that which the incumbent LEC provides to itself. If an

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**SECTION 271 - BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES**

incumbent LEC fails to meet this requirement, the incumbent LEC must prove to the state commission that it is not technically feasible to provide the requested unbundled network element or access to such unbundled network element at the requested level of quality that is superior to that which the incumbent LEC provides to itself. Nothing in this section prohibits an incumbent LEC from providing interconnection that is lesser in quality at the sole request of the requesting telecommunications carrier.

(d) Previous successful access to an unbundled element at a particular point in a network, using particular facilities, is substantial evidence that access is technically feasible at that point, or at substantially similar points, in networks employing substantially similar facilities. Adherence to the same interface or protocol standards shall constitute evidence of the substantial similarity of network facilities.

(e) Previous successful provision of access to an unbundled element at a particular point in a network at a particular level of quality is substantial evidence that access is technically feasible at that point, or at substantially similar points, at that level of quality.

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**Requirements of Section 271:**

3. "NONDISCRIMINATORY ACCESS TO THE POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY OWNED OR CONTROLLED BY THE BELL OPERATING COMPANIES AT JUST AND REASONABLE RATES IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 224."

**Requirements of Florida Commission's Order:**

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

**Requirements of FCC's Orders:**

First Order - Rule 1.1403 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**1.1403 Duty to provide access; modifications; notice of removal, increase or modification; petition for temporary stay.**

(a) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it. Notwithstanding this obligation, a utility may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity or for reasons of safety, reliability and generally applicable engineering purposes.

(b) Requests for access to a utility's poles, ducts, conduits or rights-of-way by a telecommunications carrier or cable operator must be in writing. If access is not granted within 45 days of the request for access, the utility must confirm the denial in writing by the 45th day. The utility's denial of access shall be specific, shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability or engineering standards.

(c) A utility shall provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to:

(1) removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term or condition of the cable television system operator's of telecommunications carrier's pole attachment agreement, or

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**SECTION 271 - BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES**

(2) any increase in pole attachment rates; or

(3) any modification of facilities other than routine maintenance or modification in response to emergencies.

(d) A cable television system operator or telecommunications carrier may file a "Petition for Temporary Stay" of the action contained in a notice received pursuant to paragraph (c) of this section within 15 days of receipt of such notice. Such submission shall not be considered unless it includes, in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service or telecommunication service, a copy of the notice, and certification of service as required by 1.1404(b) of this subpart. The named respondent may file an answer within 7 days of the date the Petition for Temporary Stay was filed. No further filings under this section will be considered unless requested or authorized by the Commission and no extensions of time will be granted unless justified pursuant to 1.46.

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**Requirements of Section 271:**

4. "LOCAL LOOP TRANSMISSION FROM THE CENTRAL OFFICE TO THE CUSTOMER'S PREMISES, UNBUNDLED FROM LOCAL SWITCHING OR OTHER SERVICES."
5. "LOCAL TRANSPORT FROM THE TRUNK SIDE OF A WIRELINE LOCAL EXCHANGE CARRIER SWITCH UNBUNDLED FROM SWITCHING OR OTHER SERVICES."
6. "LOCAL SWITCHING UNBUNDLED FROM TRANSPORT, LOCAL LOOP TRANSMISSION, OR OTHER SERVICES."
8. "WHITE PAGES DIRECTORY LISTINGS FOR CUSTOMERS OF THE OTHER CARRIER'S TELEPHONE EXCHANGE SERVICE."
10. "NONDISCRIMINATORY ACCESS TO DATABASES AND ASSOCIATED SIGNALING NECESSARY FOR CALL ROUTING AND COMPLETION."

**Requirements of Florida Commission's Orders:**

March 29, 1996 Order - Docket No. 950985-TP

December 16, 1996 MFS Arbitration Order - Docket No. 960757-TP

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

March 19, 1997 Final Order on Motions for Reconsideration in Docket Nos. 960833-TP, 960846-TP and 960916-TP and Amending Order

**Requirements of FCC's Orders:**

First Order - Rule 51.319 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**51.319 Specific unbundling requirements.**

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An incumbent LEC shall provide nondiscriminatory access in accordance with 51.311 of this part and section 251(c)(3) of the Act to the following network elements on an unbundled basis to any requesting telecommunications carrier for the provision of a telecommunications service:

(a) *Local Loop*. The local loop network element is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and an end user customer premises;

(b) *Network Interface Device*.

(1) The network interface device network element is defined as a cross-connect device used to connect loop facilities to inside wiring.

(2) An incumbent LEC shall permit a requesting telecommunications carrier to connect its own local loops to the inside wiring of premises through the incumbent LEC's network interface device. The requesting telecommunications carrier shall establish this connection through an adjoining network interface device deployed by such telecommunications carrier;

(c) *Switching Capability*.

(1) Local Switching Capability.

(i) The local switching capability network element is defined as:

(A) line-side facilities, which include, but are not limited to, the connection between a loop termination at a main distribution frame and a switch line card;

(B) trunk-side facilities, which include, but are not limited to, the connection between trunk termination at a trunk-side cross-connect panel and a switch trunk card; and

(C) all features, functions, and capabilities of the switch, which include, but are not limited to:

(1) the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks, as well as the same basic capabilities made available to the incumbent LEC's customers, such as a telephone number, white page listing, and dial tone; and

(2) all other features that the switch is capable of providing, including but not limited to custom calling, custom local area signaling service features, and Centrex, as well as any technically feasible customized routing functions provided by the switch.

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(ii) An incumbent LEC shall transfer a customer's local service to a competing carrier within a time period no greater than the interval within which the incumbent LEC currently transfers end users between interexchange carriers, if such transfer requires only a change in the incumbent LEC's software;

(2) Tandem Switching Capability. The tandem switching capability network element is defined as:

(i) trunk-connect facilities, including but not limited to the connection between trunk termination at a cross-connect panel and a switch trunk card;

(ii) the basic switching function of connecting trunks to trunks; and

(iii) the functions that are centralized in tandem switches (as distinguished from separate end-office switches), including but not limited to call recording, the routing of calls to operator services, and signaling conversion features;

(d) *Interoffice Transmission Facilities.*

(1) Interoffice transmission facilities are defined as incumbent LEC transmission facilities dedicated to a particular customer or carrier, or shared by more than one customer or carrier, that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting telecommunications carriers.

(2) The incumbent LEC shall:

(i) provide a requesting telecommunications carrier exclusive use of interoffice transmission facilities dedicated to a particular customer or carrier, or use of the features, functions, and capabilities of interoffice transmission facilities shared by more than one customer or carrier;

(ii) provide all technically feasible transmission facilities, features, functions, and capabilities that the requesting telecommunications carrier could use to provide telecommunications services;

(iii) permit, to the extent technically feasible, a requesting telecommunications carrier to connect such interoffice facilities to equipment designated by the requesting telecommunications carrier, including, but not limited to, the requesting telecommunications carrier's collocated facilities;  
and

(iv) permit, to the extent technically feasible, a requesting telecommunications carrier to obtain the functionality provided by the incumbent LEC's digital cross-connect systems in the same manner that the incumbent LEC provides such functionality to interexchange carriers;

(e) *Signaling Networks and Call-Related Databases.*

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**(1) Signaling Networks.**

- (i) Signaling networks include, but are not limited to, signaling links and signaling transfer points.
- (ii) When a requesting telecommunications carrier purchases unbundled switching capability from an incumbent LEC, the incumbent LEC shall provide access to its signaling network from that switch in the same manner in which it obtains such access itself.
- (iii) An incumbent LEC shall provide a requesting telecommunications carrier with its own switching facilities access to the incumbent LEC's signaling network for each of the requesting telecommunications carrier's switches. This connection shall be made in the same manner as an incumbent LEC connects one of its own switches to a signal transfer point.
- (iv) Under this paragraph, an incumbent LEC is not required to unbundle those signaling links that connect service control points to switching transfer points or to permit a requesting telecommunications carrier to link its own signal transfer points directly to the incumbent LEC's switch or call-related databases;

**(2) Call-Related Databases.**

- (i) Call-related databases are defined as databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of a telecommunications service.
- (ii) For purposes of switch query and database response through a signaling network, an incumbent LEC shall provide access to its call-related databases, including, but not limited to, the Line Information Database, Toll Free Calling database, downstream number portability databases, and Advanced Intelligent Network databases, by means of physical access at the signaling transfer point linked to the unbundled database.
- (iii) An incumbent LEC shall allow a requesting telecommunications carrier that has purchased an incumbent LEC's local switching capability to use the incumbent LEC's service control point element in the same manner, and via the same signaling links, as the incumbent LEC itself.
- (iv) An incumbent LEC shall allow a requesting telecommunications carrier that has deployed its own switch, and has linked that switch to an incumbent LEC's signaling system, to gain access to the incumbent LEC's service control point in a manner that allows the requesting carrier to provide any call-related, database-supported services to customers served by the requesting telecommunications carrier's switch.

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(v) A state commission shall consider whether mechanisms mediating access to an incumbent LEC's Advanced Intelligent Network service control points are necessary, and if so, whether they will adequately safeguard against intentional or unintentional misuse of the incumbent LEC's Advanced Intelligent Network facilities.

(vi) An incumbent LEC shall provide a requesting telecommunications carrier with access to call-related databases in a manner that complies with Section 222 of the Act;

**(3) Service Management Systems.**

(A) A service management system is defined as a computer database or system not part of the public switched network that, among other things:

(1) interconnects to the service control point and sends to that service control point the information and call processing instructions needed for a network switch to process and complete a telephone call; and

(2) provides telecommunications carriers with the capability of entering and storing data regarding the processing and completing of a telephone call.

(B) An incumbent LEC shall provide a requesting telecommunications carrier with the information necessary to enter correctly, or format for entry, the information relevant for input into the particular incumbent LEC service management system.

(C) An incumbent LEC shall provide a requesting telecommunications carrier the same access to design, create, test, and deploy Advanced Intelligent Network-based services at the service management system, through a service creation environment, that the incumbent LEC provides to itself.

(D) A state commission shall consider whether mechanisms mediating access to Advanced Intelligent Network service management systems and service creation environments are necessary, and if so, whether they will adequately safeguard against intentional or unintentional misuse of the incumbent LEC's Advanced Intelligent Network facilities.

(E) An incumbent LEC shall provide a requesting telecommunications carrier access to service management systems in a manner that complies with Section 222 of the Act;

**(f) Operations Support Systems Functions.**

(1) Operations support systems functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by an incumbent LEC's databases and information.

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(2) An incumbent LEC that does not currently comply with this requirement shall do so as expeditiously as possible, but, in any event, no later than January 1, 1997; and

(g) *Operator Services and Directory Assistance.* An incumbent LEC shall provide access to operator service and directory assistance facilities where technically feasible.

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**Requirements of Section 271:**

7. "NONDISCRIMINATORY ACCESS TO: (I) 911 AND E911 SERVICES; (II) DIRECTORY ASSISTANCE SERVICES TO ALLOW THE OTHER CARRIER'S CUSTOMERS TO OBTAIN TELEPHONE NUMBERS; AND (III) OPERATOR CALL COMPLETION SERVICES."

9. "UNTIL THE DATE BY WHICH TELECOMMUNICATIONS NUMBERING ADMINISTRATION GUIDELINES, PLAN, OR RULES ARE ESTABLISHED, NONDISCRIMINATORY ACCESS TO TELEPHONE NUMBERS FOR ASSIGNMENT TO THE OTHER CARRIER'S TELEPHONE EXCHANGE SERVICE CUSTOMERS. AFTER THAT DATE, COMPLIANCE WITH SUCH GUIDELINES, PLAN, OR RULES."

**Requirements of Florida Commission's Orders:**

March 29, 1996 Order - Docket No. 950985-TP

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

**Requirements of FCC's Orders:**

First Order - Rule 51.319 (CC Docket No. 96-98)

Second Order - Rule 51.217 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**51.319 Specific unbundling requirements.** (Text provided previously )

**51.217 Nondiscriminatory access: telephone numbers, operator services, directory assistance services, and directory listings.**

(a) *Definitions.* As used in this section, the following definitions apply:

(1) *Competing provider.* A "competing provider" is a provider of telephone exchange or telephone toll services that seeks nondiscriminatory access from a local exchange carrier (LEC) in that LEC's service area.

(2) *Nondiscriminatory access.* "Nondiscriminatory access" refers to access to telephone numbers, operator services, directory assistance and directory listings that is at least equal to the access that the providing local exchange carrier (LEC) itself receives. Nondiscriminatory access includes, but is not limited to:

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(i) nondiscrimination between and among carriers in the rates, terms, and conditions of the access provided; and

(ii) the ability of the competing provider to obtain access that is at least equal in quality to that of the providing LEC.

(3) Providing local exchange carrier (LEC). A "providing local exchange carrier" is a local exchange carrier (LEC) that is required to permit nondiscriminatory access to a competing provider.

(b) *General rule.* A local exchange carrier (LEC) that provides operator services, directory assistance services or directory listings to its customers, or provides telephone numbers, shall permit competing providers of telephone exchange service or telephone toll service to have nondiscriminatory access to that service or feature, with no unreasonable dialing delays.

(c) *Specific requirements.* A LEC subject to paragraph (b) of this section must also comply with the following requirements:

(1) Telephone numbers. A LEC shall permit competing providers to have access to telephone numbers that is identical to the access that the LEC provides to itself.

(2) Operator services. A LEC must permit telephone service customers to connect to the operator services offered by that customer's chosen local service provider by dialing "0," or "0" plus the desired telephone number, regardless of the identity of the customer's local telephone service provider.

(3) Directory assistance services and directory listings.

(i) Access to directory assistance. A LEC shall permit competing providers to have access to its directory assistance services so that any customer of a competing provider can obtain directory listings, except as provided in paragraph (c)(3)(iii) of this section, on a nondiscriminatory basis, notwithstanding the identity of the customer's local service provider, or the identity of the provider for the customer whose listing is requested.

(ii) Access to directory listings. A LEC shall provide directory listings to competing providers in readily accessible magnetic tape or electronic formats in a timely fashion upon request. A LEC also must permit competing providers to have access to and read the information in the LEC's directory assistance databases.

(iii) Unlisted numbers. A LEC shall not provide access to unlisted telephone numbers, or other information that its customer has asked the LEC not to make available. The LEC shall ensure that access is permitted only to the same directory information that is available to its own directory assistance customers.

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(iv) *Adjuncts to services.* Operator services and directory assistance services must be made available to competing providers in their entirety, including access to any adjunct features (e.g., rating tables or customer information databases) necessary to allow competing providers full use of these services.

(d) *Branding of operator services and directory assistance services.* The refusal of a providing local exchange carrier (LEC) to comply with the reasonable request of a competing provider that the providing LEC rebrand its operator services and directory assistance, or remove its brand from such services, creates a presumption that the providing LEC is unlawfully restricting access to its operator services and directory assistance. The providing LEC can rebut this presumption by demonstrating that it lacks the capability to comply with the competing provider's request.

(e) *Disputes.*

(1) Disputes involving nondiscriminatory access. In disputes involving nondiscriminatory access to operator services, directory assistance services, or directory listings, a providing LEC shall bear the burden of demonstrating with specificity:

(i) that it is permitting nondiscriminatory access, and

(ii) that any disparity in access is not caused by factors within its control. "Factors within its control" include, but are not limited to, physical facilities, staffing, the ordering of supplies or equipment, and maintenance.

(2) Disputes involving unreasonable dialing delay. In disputes between providing local exchange carriers (LECs) and competing providers involving unreasonable dialing delay in the provision of access to operator services and directory assistance, the burden of proof is on the providing LEC to demonstrate with specificity that it is processing the calls of the competing provider's customers on terms equal to that of similar calls from the providing LEC's own customers.

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**Requirements of Section 271:**

**11. "UNTIL THE DATE BY WHICH THE COMMISSION ISSUES REGULATIONS PURSUANT TO SECTION 251 TO REQUIRE NUMBER PORTABILITY, INTERIM TELECOMMUNICATIONS NUMBER PORTABILITY THROUGH REMOTE CALL FORWARDING, DIRECT INWARD DIALING TRUNKS, OR OTHER COMPARABLE ARRANGEMENTS, WITH AS LITTLE IMPAIRMENT OF FUNCTIONING, QUALITY, RELIABILITY, AND CONVENIENCE AS POSSIBLE. AFTER THAT DATE, FULL COMPLIANCE WITH SUCH REGULATIONS."**

**Requirements of Florida Commission's Order:**

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

**Requirements of FCC's Orders:**

CC Docket Number 97-74 - Rule 52.23	
CC Docket Number 95-116 - Rule 52.3	(Order FCC 96-286)
CC Docket Number 95-116 - Rule 52.5	(Order FCC 96-286)
CC Docket Number 95-116 - Rule 52.7	(Order FCC 96-286)

**FCC Final Rules Text:**

**52.23 Deployment of long-term database methods for number portability by LECs.**

(a) \* \* \*

- (4) Does not result in unreasonable degradation in service quality or network reliability when implemented;
- (5) Does not result in any degradation in service quality or network reliability when customers switch carriers;
- (6) Does not result in a carrier having a proprietary interest;
- (7) Is able to migrate to location and service portability; and
- (8) Has no significant adverse impact outside the areas where number portability is deployed.

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- (b) (1) All LECs must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs) by December 31, 1998, in accordance with the deployment schedule set forth in the Appendix to this part, in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (b)(2) of this section.
- (b) (2) Any procedure to identify and request switches for deployment of number portability must comply with the following criteria:
- (i) Any wireline carrier that is certified (or has applied for certification) to provide local exchange service in a state, or any licensed CMRS provider, must be permitted to make a request for deployment of number portability in that state;
  - (ii) Carriers must submit requests for deployment at least nine months before the deployment deadline for the MSA;
  - (iii) A LEC must make available upon request to any interested parties a list of its switches for which number portability has been requested and a list of its switches for which number portability has not been requested; and
  - (iv) After the deadline for deployment of number portability in an MSA in the 100 largest MSAs, according to the deployment schedule set forth in the Appendix to this part, a LEC must deploy number portability in that MSA in additional switches upon request within the following time frames:
    - (A) For remote switches supported by a host switch equipped for portability ("Equipped Remote Switches"), within 30 days;
    - (B) For switches that require software but not hardware changes to provide portability ("Hardware Capable Switches"), within 60 days;
    - (C) For switches that require hardware changes to provide portability ("Capable Switches Requiring Hardware"), within 180 days; and
    - (D) For switches not capable of portability that must be replaced ("Non-Capable Switches"), within 180 days.

\* \* \* \* \*

- (g) Carriers that are members of the Illinois Local Number Portability Workshop must conduct a field test of any technically feasible long-term database method for number portability in the Chicago, Illinois, area. The carriers participating in the test must jointly file with the Common Carrier Bureau a report of their findings

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within 30 days following completion of the test. The Chief, Common Carrier Bureau, shall monitor developments during the field test, and may adjust the field test completion deadline as necessary.

**52.3 Deployment of Long-Term Database Methods for Number Portability by LECs.**

(a) Subject to subsections (b) and (c), all local exchange carriers (LECs) must provide number portability in compliance with the following performance criteria:

- (1) supports network services, features, and capabilities existing at the time number portability is implemented, including but not limited to emergency services, CLASS features, operator and directory assistance services, and intercept capabilities;
- (2) efficiently uses numbering resources;
- (3) does not require end users to change their telecommunications numbers;
- (4) does not require telecommunications carriers to rely on databases, other network facilities, or services provided by other telecommunications carriers in order to route calls to the proper termination point;
- (5) does not result in unreasonable degradation in service quality or network reliability when implemented;
- (6) does not result in any degradation in service quality or network reliability when customers switch carriers;
- (7) does not result in a carrier having a proprietary interest;
- (8) is able to migrate to location and service portability; and
- (9) has no significant adverse impact outside the areas where number portability is deployed.

(b) All LECs must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs) by December 31, 1998, in accordance with the deployment schedule set forth in Appendix A to Part 52 of this chapter.

(c) Beginning January 1, 1999, all LECs must make a long-term database method for number portability available within six months after a specific request by another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate.

(d) The Chief, Common Carrier Bureau, may waive or stay any of the dates in the implementation schedule, as the Chief determines is necessary to ensure the efficient development of number portability, for a period not to exceed 9 months (i.e., no later than September 30, 1999).

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(e) In the event a LEC is unable to meet the Commission's deadlines for implementing a long-term database method for number portability, it may file with the Commission at least 60 days in advance of the deadline a petition to extend the time by which implementation in its network will be completed. ALEC seeking such relief must demonstrate through substantial, credible evidence the basis for its contention that it is unable to comply with the deployment schedule set forth in Appendix A to Part 52 of this chapter. Such requests must set forth:

- (1) the facts that demonstrate why the carrier is unable to meet the Commission's deployment schedule;
- (2) a detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time;
- (3) an identification of the particular switches for which the extension is requested;
- (4) the time within which the carrier will complete deployment in the affected switches; and
- (5) a proposed schedule with milestones for meeting the deployment date.

(f) The Chief, Common Carrier Bureau, shall monitor the progress of local exchange carriers implementing number portability, and may direct such carriers to take any actions necessary to ensure compliance with the deployment schedule set forth in Appendix A to Part 52 of this chapter.

(g) Carriers that are members of the Illinois Local Number Portability Workshop must conduct a field test of any technically feasible long-term database method for number portability in the Chicago, Illinois, area concluding no later than August 31, 1997. The carriers participating in the test must jointly file with the Common Carrier Bureau a report of their findings within 30 days following completion of the test. The Chief, Common Carrier Bureau, shall monitor developments during the field test

**52.5 Database Architecture and Administration.**

(a) The North American Numbering Council (NANC) shall direct establishment of a nationwide system of regional SMS databases for the provision of long-term database methods for number portability.

(b) All telecommunications carriers shall have equal and open access to the regional databases.

(c) The NANC shall select a local number portability administrator(s) (LNPA(s)) to administer the regional databases within seven months of the initial meeting of the NANC.

(d) The NANC shall determine whether one or multiple administrator(s) should be selected, whether the LNPA(s) can be the same entity selected to be the North American Numbering Plan Administrator, how the LNPA(s) should be selected, the specific duties of the LNPA(s), the geographic coverage of the regional databases, the technical interoperability and operational standards, the user interface between telecommunications carriers and the LNPA(s), the network interface between the SMS and the downstream databases, and the technical specifications for the regional databases.

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- (e) Once the NANC has selected the LNPA(s) and determined the locations of the regional databases, it must report its decisions to the Commission.
- (f) The information contained in the regional databases shall be limited to the information necessary to route telephone calls to the appropriate telecommunications carriers. The NANC shall determine what specific information is necessary.
- (g) Any state may opt out of its designated regional database and implement a state-specific database. A state must notify the Common Carrier Bureau and NANC that it plans to implement a state-specific database within 60 days from the release date of the Public Notice issued by the Chief, Common Carrier Bureau, identifying the administrator selected by the NANC and the proposed locations of the regional databases. Carriers may challenge a state's decision to opt out of the regional database system by filing a petition with the Commission.
- (h) Individual state databases must meet the national requirements and operational standards recommended by the NANC and adopted by the Commission. In addition, such state databases must be technically compatible with the regional system of databases and must not interfere with the scheduled implementation of the regional databases.
- (i) Individual carriers may download information necessary to provide number portability from the regional databases into their own downstream databases. Individual carriers may mix information needed to provide other services or functions with the information downloaded from the regional databases at their own downstream databases. Carriers may not withhold any information necessary to provide number portability from the regional databases on the grounds that such data has been combined with other information in its downstream database.

**52.7 Deployment of Transitional Measures for Number Portability.**

- (a) All LECs shall provide transitional measures, which may consist of Remote Call Forwarding (RCF), Flexible Direct Inward Dialing (DID), or any other comparable and technically feasible method, as soon as reasonably possible upon receipt of a specific request from another telecommunications carrier, until such time as the LEC implements a long-term database method for number portability in that area.

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**Requirements of Section 271:**

12. "NONDISCRIMINATORY ACCESS TO SUCH SERVICES OR INFORMATION AS ARE NECESSARY TO ALLOW THE REQUESTING CARRIER TO IMPLEMENT LOCAL DIALING PARITY IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 251(B)(3)."

**Requirements of Florida Commission's Order:**

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

**Requirements of FCC's Orders:**

Second Order - Rule 51.205 (CC Docket No. 96-98)  
Second Order - Rule 51.207 (CC Docket No. 96-98)  
Second Order - Rule 51.305 (CC Docket No. 96-98)  
Second Order - Rule 51.307 (CC Docket No. 96-98)  
Second Order - Rule 51.325 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**51.205 Dialing parity: general.**

A local exchange carrier (LEC) shall provide local and toll dialing parity to competing providers of telephone exchange service or telephone toll service, with no unreasonable dialing delays. Dialing parity shall be provided for all originating telecommunications services that require dialing to route a call.

**51.207 Local dialing parity.**

A LEC shall permit telephone exchange service customers within a local calling area to dial the same number of digits to make a local telephone call notwithstanding the identity of the customer's or the called party's telecommunications service provider.

**51.305 Interconnection.**

\*\*\*\*\*

(f) An incumbent LEC shall provide to a requesting telecommunications carrier technical information about the incumbent LEC's network facilities sufficient to allow the requesting carrier to achieve interconnection consistent with the requirements of this section.

**51.307 Duty to provide access on an unbundled basis to network elements.**

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(e) An incumbent LEC shall provide to a requesting telecommunications carrier technical information about the incumbent LEC's network facilities sufficient to allow the requesting carrier to achieve access to unbundled network elements consistent with the requirements of this section.

51.325 Notice of network changes: public notice requirement.

(a) An incumbent local exchange carrier ("LEC") must provide public notice regarding any network change that:

(1) will affect a competing service provider's performance or ability to provide service; or

(2) will affect the incumbent LEC's interoperability with other service providers.

(b) For purposes of this section, interoperability means the ability of two or more facilities, or networks, to be connected, to exchange information, and to use the information that has been exchanged.

(c) Until public notice has been given in accordance with 51.325 - 51.335, an incumbent LEC may not disclose to separate affiliates, separated affiliates, or unaffiliated entities (including actual or potential competing service providers or competitors), information about planned network changes that are subject to this section.

(d) For the purposes of 51.325 - 51.335, the term services means telecommunications services or information services.

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**Requirements of Section 271:**

**13.** "RECIPROCAL COMPENSATION ARRANGEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 252(D)(2)."

**Requirements of Florida Commission's Order:**

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

**Requirements of FCC's Orders:**

First Order - Rule 51.703 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**51.703 Reciprocal compensation obligation of LECs.**

(a) Each LEC shall establish reciprocal compensation arrangements for transport and termination of local telecommunications traffic with any requesting telecommunications carrier.

(b) A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network.

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**Requirements of Section 271:**

14. "TELECOMMUNICATIONS SERVICES ARE AVAILABLE FOR RESALE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 251(C)(4) AND 252(D)(3)."

**Requirements of Florida Commission's Order:**

December 31, 1996 Final Order on Arbitration for consolidated Docket Nos. 960833-TP (AT&T), 960846-TP (MCI), 960916-TP (ACSI)

March 19, 1997 Final Order on Motions for Reconsideration in Docket Nos. 960833-TP, 960846-TP and 960916-TP and Amending Order

**Requirements of FCC's Orders:**

First Order - Rule 51.613 (CC Docket No. 96-98)  
First Order - Rule 51.615 (CC Docket No. 96-98)  
First Order - Rule 51.617 (CC Docket No. 96-98)

**FCC Final Rules Text:**

**51.613 Restrictions on resale.**

(a) Notwithstanding 51.605(b) of this part, the following types of restrictions on resale may be imposed:

(1) *Cross-class selling.* A state commission may permit an incumbent LEC to prohibit a requesting telecommunications carrier that purchases at wholesale rates for resale, telecommunications services that the incumbent LEC makes available only to residential customers or to a limited class of residential customers, from offering such services to classes of customers that are not eligible to subscribe to such services from the incumbent LEC.

(2) *Short term promotions.* An incumbent LEC shall apply the wholesale discount to the ordinary rate for a retail service rather than a special promotional rate only if:

(A) such promotions involve rates that will be in effect for no more than 90 days; and

(B) the incumbent LEC does not use such promotional offerings to evade the wholesale rate obligation, for example by making available a sequential series of 90-day promotional rates.

(b) With respect to any restrictions on resale not permitted under paragraph (a), an incumbent LEC may impose a restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory.

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(c) *Branding.* Where operator, call completion, or directory assistance service is part of the service or service package an incumbent LEC offers for resale, failure by an incumbent LEC to comply with reseller unbranding or rebranding requests shall constitute a restriction on resale.

(1) An incumbent LEC may impose such a restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory, such as by proving to a state commission that the incumbent LEC lacks the capability to comply with unbranding or rebranding requests.

(2) For purposes of this subpart, unbranding or rebranding shall mean that operator, call completion, or directory assistance services are offered in such a manner that an incumbent LEC's brand name or other identifying information is not identified to subscribers, or that such services are offered in such a manner that identifies to subscribers the requesting carrier's brand name or other identifying information.

**51.615 Withdrawal of services.**

When an incumbent LEC makes a telecommunications service available only to a limited group of customers that have purchased such a service in the past, the incumbent LEC must also make such a service available at wholesale rates to requesting carriers to offer on a resale basis to the same limited group of customers that have purchased such a service in the past.

**51.617 Assessment of end user common line charge on resellers.**

(a) Notwithstanding the provision in 69.104(a) of this chapter that the end user common line charge be assessed upon end users, an incumbent LEC shall assess this charge, and the charge for changing the designated primary interexchange carrier, upon requesting carriers that purchase telephone exchange service for resale. The specific end user common line charge to be assessed will depend upon the identity of the end user served by the requesting carrier.

(b) When an incumbent LEC provides telephone exchange service to a requesting carrier at wholesale rates for resale, the incumbent LEC shall continue to assess the interstate access charges provided in part 69, other than the end user common line charge, upon interexchange carriers that use the incumbent LEC's facilities to provide interstate or international telecommunications services to the interexchange carriers' subscribers.