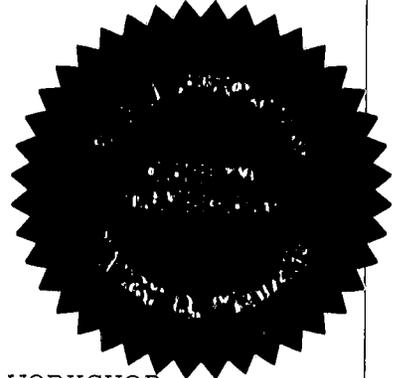


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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

PROJECT NO. 980000B-SP

In the Matter of: \_\_\_\_\_ :  
Issue Identification Workshop for \_\_\_\_\_ :  
Undocketed special Project: Access \_\_\_\_\_ :  
by Telecommunications Companies to \_\_\_\_\_ :  
Customers in Multi-tenant Environments: \_\_\_\_\_ :



PROCEEDINGS: SPECIAL PROJECTS WORKSHOP

CONDUCTED BY: CATHERINE BEDELL  
Staff Attorney

DATE: Wednesday, September 15, 1998

TIME: COMMENCED AT 9:30 A.M.  
CONCLUDED AT 1:30 P.M.

PLACE: BETTY EASLEY CONFERENCE CENTER  
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TALLAHASSEE, FLORIDA

REPORTED BY NANCY S. METZKE, RPR, CCR  
POST OFFICE BOX 3093  
TALLAHASSEE, FLORIDA 32315

C & N REPORTERS  
REGISTERED PROFESSIONAL REPORTERS  
POST OFFICE BOX 3093  
TALLAHASSEE, FLORIDA 32315  
(850)697-8314 / FAX (850)697-2263

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P R O C E E D I N G S

1  
2 MR. HOPPE: We would like to go ahead and start  
3 the meeting now. This is the third workshop for Project  
4 Number 98000B-SP, special project on access by  
5 telecommunications companies to customers in multi-tenant  
6 environments.

7 I want to welcome everyone here, who is here  
8 today. I would like to tell you some brief information to  
9 start off with. We have a sign-up sheet over here to your  
10 right. I would like everybody who is here today, if they  
11 could, please sign in. We also have a court reporter, so  
12 transcripts will be available. If you would please get in  
13 contact with the court reporter sometime during the  
14 proceeding today to get -- if you wish to get copies of the  
15 transcript.

16 The notice for this workshop went out on August  
17 19th, and subsequent to that, the parties -- I want to  
18 thank you all for filing rebuttal comments. We got  
19 roughly, I believe, about 16 responses; and I want to thank  
20 you all for your participation in giving us the information  
21 that you've provided us.

22 Subsequent to that, we reviewed the rebuttal  
23 comments and decided that we would put together some  
24 scenarios so that we could have a form for discussion  
25 today, and those scenarios, I believe, went out on

1 September 4th. And copies of those scenarios, if people  
2 don't have them, are also over on the right table over  
3 there by the sign-up sheet. In addition, we have an agenda  
4 over there for today.

5 We also at that time, on the 4th, sent out a data  
6 request that is due October 2nd. That data request was to  
7 help us reconstruct some of the information that was  
8 provided during the session. We don't have some of the  
9 information, and don't have tracking of what took place in  
10 all of the sessions, so we were hoping that that work  
11 product would help us to find out what happened during the  
12 session, so that is due October 2nd.

13 With that, I would like to turn it over to John  
14 Cutting. He'll start going through the scenarios one by  
15 one.

16 MR. CUTTING: I, again, want to thank everyone  
17 for their rebuttal comments, and I want to give an  
18 opportunity -- if someone feels particularly interested in  
19 giving a rebuttal statement, feel free to do that. If not,  
20 what we would like to try to do is have you incorporate  
21 your comments within the scenarios. We tried to within the  
22 scenarios get as broad as we could to try to incorporate  
23 the different positions that were in your regular filings  
24 as well as the rebuttal. So if there is someone that would  
25 like to come up and give a specific statement on the

1 rebuttal comments, this would be the time to do it, and if  
2 you would just come up and identify yourself if you would  
3 like to do that.

4 MR. SPEARS: John, can they submit it for the  
5 record rather than giving them orally?

6 MS. DANIEL: Identify yourself and come to a  
7 microphone.

8 MR. CUTTING: You are going to have to come up  
9 and talk to the microphone.

10 MR. SPEARS: Richard Spears, representing  
11 Community Associations Institute. I do have a prepared  
12 rebuttal; however, in the interest of saving time, I'd be  
13 perfectly willing to submit that printed version that I  
14 have with me for the record.

15 MR. CUTTING: Does that differ from what you  
16 filed -- Did you file previously?

17 MR. SPEARS: Yes, we did. It differs somewhat,  
18 and then, of course, participate in the scenarios.

19 MR. CUTTING: If you would like to submit that,  
20 that's fine. If you have an electronic copy to put with  
21 records, that would be even better.

22 MR. SPEARS: Okay.

23 MR. CUTTING: But feel free to submit it the same  
24 way you would a normal filing.

25 MR. SPEARS: All right. Fine. Thank you.

1 MR. CUTTING: Great. Thank you.

2 Anyone else?

3 (NO RESPONSE)

4 MR. CUTTING: Okay. Does everyone have a copy of  
5 the scenarios?

6 (AFFIRMATIVE INDICATIONS)

7 MR. CUTTING: Great. Before I get started, any  
8 specific questions about how they were set up or any of the  
9 parameters that we have put out with those scenarios?

10 (NO RESPONSE)

11 MR. CUTTING: You are all busy reading the Starr  
12 report. That's why it's so quiet.

13 Well, as you can see, we set out those scenarios  
14 with four different parties essentially involved in this.  
15 You've got the ILEC, the ALEC, the landlord or property  
16 owner, and the new construction scenario. What we'd really  
17 like to do is -- obviously, we've got most of the groups  
18 represented here except perhaps new construction -- is to  
19 have at least a representative from the three major groups  
20 come up and provide their look at the pros and cons of the  
21 scenario as it's outlined in A through D with your  
22 particular viewpoint in mind. I mean I've read through all  
23 of the rebuttal comments. I think I pretty much know where  
24 all you people are coming from. What we'd like to know now  
25 are the implications of the particular scenario to your

1 particular situation, so obviously if you are an ALEC,  
2 you've got a particular point of view as to whether you  
3 feel you ought to have access or whether the customer  
4 should be the one initiating the contact with the landlord,  
5 issues such as that.

6           So what we would really like to try to do is  
7 have -- you can come up individually or if you have -- I  
8 noticed there were some joint comments filed in the  
9 rebuttal. Feel free to do that as one representative for  
10 the sake of time, that would be great; but I would really  
11 like to open it up. Unless people want me to run through  
12 the scenarios, I think they are self explanatory, but if  
13 you need some detail, I'll be glad to do it. And we'll  
14 open up the floor to whoever would like to start things  
15 off. I can pick on someone. I mean I've got a list of  
16 everybody who has filed. I can start picking on names.  
17 I'm not Ken Starr, but I can act like that.

18           You are going to have to come up to the front,  
19 unfortunately, because we are on the record and identify  
20 yourself.

21           MS. BLASI: Patricia Blasi representing the  
22 International Council of Shopping Centers. And on Scenario  
23 A, I can speak to both the landlord/property owner position  
24 and the new construction issue as I do work for a  
25 development company.

1           I think that the demarcation point issue is, from  
2 the property owner perspective, one of implication of what  
3 happens if you move it. I think that if we were given some  
4 assurances that the landlord is not assuming additional  
5 responsibilities, i.e., wire, interior wiring, maintenance  
6 or the administrative costs or the administrative challenge  
7 of monitoring different carriers utilizing an existing  
8 wiring system in a building, a shopping center, then I  
9 don't think we have too much of a problem with moving the  
10 demarc point. I think our concerns are what is the  
11 aftermath of that, and are you now adding responsibilities  
12 that the landlord or the property owner is not interested  
13 in?

14           I think that there are some landlord and property  
15 owners that may want to either be in the telecom business  
16 themselves or are willing to assume the costs, but I  
17 believe, certainly from our membership and from speaking  
18 with other commercial property owners, there are many of us  
19 that don't want to be in the business and don't want the  
20 additional responsibilities, costs and what not associated  
21 with the potential maintenance and administration of this  
22 type of a program.

23           From the new construction side, it's almost  
24 purely a financial issue. If moving the demarc point now  
25 costs something more in new construction, then as a

1 landlord, I have to be able to achieve that additional cost  
2 in my rental schedules, and I have to be able to achieve  
3 the same return on my investment in that telecom wiring, or  
4 whatever equipment it is, that's going to be required, just  
5 like I would the cost of anything else that I would put in  
6 a building.

7 MR. CUTTING: Thank you.

8 MR. MILNER: Good morning. I'm Keith Milner.  
9 I'm with BellSouth. I would like to comment, make four  
10 points, really, and one I think will resonate with what the  
11 lady just said.

12 The benefits of the existing rule are well  
13 understood. They are very clear. The benefits to a change  
14 to the FCC's Part 68 rules is somewhat less clear, and I'm  
15 sure everyone knows that that rule embraces two different  
16 places that the demarcation might be placed given the age  
17 of the building.

18 Second, BellSouth has proposed what it believes  
19 is a good definition of where the demarcation points are  
20 placed, and I'll paraphrase that, simply that subscribers  
21 would designate the demarcation point in accordance with  
22 applicable statutes, rules, tariffs and any other service  
23 arrangement that is reached with telecommunications  
24 carriers. Importantly, we believe that this definition  
25 would allow the end user to choose the demarcation point

1 subject to any laws or rules, and that such a definition  
2 would eliminate this issue of a forced premises  
3 demarcation.

4 And then, lastly, that any change from the  
5 current rulemaking should grant end users greater freedom  
6 and greater choice, not less choice to determine the  
7 demarcation point for the services that they, for which  
8 they pay. So that's BellSouth's comments on Issue A.

9 MS. CHASE: I'm Jodi Chase. I'm representing the  
10 Florida Apartment Association. Our association, of course,  
11 is made up of residential renters, mostly short-term  
12 renters.

13 I'm sorry to say that we don't have a clear  
14 answer for you or a clear position on where the demarcation  
15 point should be, but what we do have are some concerns  
16 about keeping the demarcation point where it is; and that  
17 is, that in a residential non-owner setting, you are  
18 dealing with high turnover and thousands and thousands of  
19 units. And once again, in a residential non-owner setting,  
20 if the demarcation point remains where it is, then you are  
21 dealing with constant disruption in our communities, and  
22 there has to be a way to solve that. Most of our tenancies  
23 are less than a year, and if your tenancy is one year, then  
24 that's -- even that isn't very long.

25 So, and the problem with using the FCC

1 demarcation point is that many existing buildings can't  
2 accommodate that. Residential apartment communities don't  
3 have phone rooms. So we don't have a clear answer for you,  
4 but we very definitely need you to take into account the  
5 property rights issues involved in this.

6 MR. CUTTING: Next.

7 MS. CASWELL: Kim Caswell, GTE.

8 GTE differs somewhat with BellSouth on the  
9 demarcation point placement issue. We do believe that it  
10 would be beneficial for competition to move the demarc  
11 point toward the minimum point of entry in conformity with  
12 the FCC rules; however, this recommendation comes with the  
13 important proviso that the ILEC be compensated for the  
14 facilities it's forced to abandon when the demarc point is  
15 moved in existing facilities from the customer's premises  
16 to the minimum point of entry.

17 While GTE differs with BellSouth on the demarc  
18 point placement issue, it concurs with BellSouth's  
19 assessment of the substantial investment the ILEC has made  
20 in placing facilities to the customer's premises. That  
21 investment includes not just wire, but in particular cases  
22 fiber optic cable, electronics, power cables, digital cross  
23 connects, optical network units and the like.

24 The ILEC cannot be forced to walk away from these  
25 facilities without proper cost recovery. To remedy this

1 problem, the California commission has, for instance,  
2 ordered a surcharge on end users' bills to reflect an  
3 increased amortization schedule. GTE believes such a  
4 solution may be appropriate here in Florida as well and  
5 would probably amount to only a few cents per month on the  
6 end user's bill. That's all I've got on Scenario A. Thank  
7 you.

8 MR. CUTTING: If you could, could you address --  
9 How would your position be on new construction? Would you  
10 like to see an open negotiation among all communications  
11 carriers to access that building from a new construction  
12 standpoint? Assuming that your carrier of last resort  
13 obligation, let's say, is gone, would you -- how would the  
14 parties think about just a fair and open-ended bidding  
15 process to say who is originally going to wire that  
16 building? Strictly a landlord choice or new con -- Who  
17 is going to cover it in new construction?

18 MS. CASWELL: I guess my first question is,  
19 what's the basis for the assumption that the carrier of  
20 last resort obligation is gone? Because I --

21 MR. CUTTING: Just a different scenario. Just a  
22 different twist on it, that's all. Nothing -- no hidden  
23 signals there at all. Just an assumption I made in asking  
24 the question.

25 MS. CASWELL: Okay. Well, if the carrier of last

1 resort obligation is gone, I would suppose that, you know,  
2 free negotiation between landlord and carriers would  
3 suffice. I haven't really thought about it in terms of,  
4 you know, making my carrier of last resort obligation go  
5 away, so I'd have to give it a little more thought; but  
6 that is my initial reaction.

7 MR. CUTTING: You are going to have to excuse me.  
8 I'm color blind, and I just love these buttons. They are  
9 in colors that I cannot see. Next please.

10 MR. SPEARS: All right, Richard Spears, Community  
11 Associations Institute.

12 John, thank you for bringing up our issue on this  
13 scenario for us. The demarcation issue is extremely  
14 important to community associations and other property  
15 owners and telecommunications providers, of course; however  
16 we believe this issue has been overshadowed by the forced  
17 entry proposals. It deserves detailed discussion outside  
18 of this proceeding in addition to this proceeding in our  
19 view. However, in this proceeding, CAI would like to note  
20 the community associations should determine the demarcation  
21 point in their own associations while, as a general rule,  
22 the demarcation point should be consistent with the federal  
23 demarcation point. Associations need the flexibility to  
24 determine the correct demarcation point to meet their  
25 particular building style and other circumstances.

1           Telecommuni -- I can say this --  
2   telecommunications service providers and community  
3   associations should negotiate the issues of ownership,  
4   control and maintenance of inside wiring. The community  
5   association should not be obligated to own and maintain  
6   inside wiring unless they choose to do so. And to answer  
7   your question directly, in new construction, we would  
8   strongly favor an open bidding in negotiations with all  
9   providers under our particular circumstances of the tenants  
10   who own the building; therefore, it would issue a contract  
11   on their behalf which would be democratically selected by  
12   the people who live there, and that is how these  
13   organizations operate. So, yes, we would strongly favor  
14   that.

15           MR. CUTTING: Thank you.

16           MR. WAHLEN: I'm Jeff Wahlen, Ausley law firm for  
17   Sprint.

18           The demarcation point issue for Sprint is an  
19   extremely difficult one, and the short answer I have for  
20   you is we don't know what the answer is, but I want to  
21   explain a little bit more. There appears to be a tension  
22   here between building owners, landlords, community  
23   associations, that are interested in having the demarcation  
24   point as close to the property boundary as they can be  
25   because they don't like the notion of forced entry. But

1 when you do that, you leave a lot of facilities in their  
2 control, and those facilities are necessary to provide  
3 telecommunication services to end users, and they are not  
4 particularly interested in being regulated as a  
5 telecommunications provider.

6           It's easy in our view to look at this from 10  
7 thousand feet and say, yes, you ought to keep the new  
8 existing rule or you ought to go to an MPOE approach. But  
9 all of these things are so fact intensive, there are so  
10 many different scenarios out there, there are apartment  
11 complexes, there are commercial developments, there are  
12 community associations, there are different wiring  
13 configurations, different engineering configurations, and  
14 it's very difficult for Sprint to form an opinion in  
15 general that the new rule ought to be MPOE or the existing  
16 rule ought to stay in place without a real serious inquiry  
17 into what all the different factual scenarios are.

18           So our counsel or suggestion would be that this  
19 is an area that really ought to be studied carefully in  
20 another proceeding where all of these factual things can be  
21 discussed and so forth. Unless you know and have examples  
22 of how things are configured, it's difficult for us to  
23 evaluate what the right answer is; and the FCC rule is not,  
24 as I understand it, it doesn't specifically say where the  
25 demarcation point would be. What it says is, is that the

1 LEC should develop a non-discriminatory demarcation point  
2 as near as possible to certain places, but it doesn't  
3 specifically go into the detail that is in the Commission  
4 rule right now. And then it goes on to say that if the LEC  
5 doesn't do it, then the landowner can do it. Well, that's  
6 a pretty dynamic arrangement to go to. I mean to just say  
7 we are going to go to an MPOE approach begs a lot of  
8 questions about whether the Commission is going to just  
9 mirror the FCC rule or whether the Commission would stick  
10 with its existing approach of specifically defining where  
11 the demarcation point is in five or six or eight or ten  
12 different scenarios to deal with each of those scenarios in  
13 a more MPOE approach.

14           So this is a long way of saying it's hard for us  
15 to evaluate all of the dynamics of this issue without  
16 understanding more of the factual basis for the situation.  
17 There may be some situations where the existing rule works  
18 perfectly well. There may be some situations where an MPOE  
19 approach would be better. And so our suggestion is for us  
20 to earmark this as an issue that deserves some additional  
21 detailed consideration and move into another proceeding to  
22 do that. And we don't necessarily think you need  
23 legislative authority to do that. You've got the rule.  
24 You could open a rulemaking if you wanted to do it.

25           MR. CUTTING: Did you want to address the new

1 construction issue, or do you feel the same way?

2 MR. WAHLEN: Generally feel the same way.

3 Generally feel the same way. I mean that is as tricky as  
4 the existing locations.

5 MS. DANIEL: I'll give this question a try. It's  
6 something that I've thought a lot about, and we've  
7 discussed it in our staff meetings, and I don't have a  
8 clear picture, and maybe this is a good point for maybe  
9 some of you who have already spoken to address it.

10 We are working with the thought that we've got to  
11 put a report together eventually that is going to discuss  
12 balancing a lot of really heavy issues that have to do with  
13 opening competition, giving customers choice and yet  
14 protecting customers. And I think this demarcation point  
15 issue is the starting point of where those issues come to  
16 light, and I wonder if some of you could respond to that.  
17 How do we put together a report that adequately addresses  
18 how to balance each of those issues?

19 MS. CHASE: Well, I can help you with that  
20 because -- You are not going to like my answer. Jodi  
21 Chase representing Florida Apartment Association.

22 You are not going to like my answer, but I can  
23 give you one that I know is correct; and that is -- and  
24 once again, I'm only addressing the residential non-owner  
25 multi-tenant environment. The market already gives these

1 people choice. There are so many different types of  
2 communities that are particularly designed to reach  
3 different niches in the market, and these communities  
4 respond very quickly. If they are not full, they are  
5 losing money, and they won't continue to operate the way  
6 they have been.

7           So in our particular instance, the market is  
8 already working, and my prediction of all this is, by the  
9 time you finish this report, by the time the legislature  
10 passes a bill, by the time we challenge the  
11 constitutionality of it, by the time we finish with the  
12 appeals, the market is going to have taken care of this  
13 entire problem and the law will never become effective.

14           And I'm sorry that the legislature had to put  
15 this on your shoulders because I understand that you do  
16 have to come out with a report, but I think your report can  
17 recognize a couple of basic issues and still realize the  
18 goal that you need to realize. And the most basic issue is  
19 that you just have to be sure that there is open  
20 negotiation between the parties. There shouldn't be forced  
21 entry by one side, and there shouldn't be forced closure by  
22 another side. Free and open negotiations, I think, will  
23 take care of the problem. I told you you wouldn't like  
24 that answer, but --

25           MS. DANIEL: Well, that was predictable from your

1 responses in your rebuttal testimony, and what you're  
2 saying is, if I understand you correctly, that the tenants  
3 have choice because of their ability to move?

4 MS. CHASE: Well, but it's even more than that  
5 because, in the small part of the world that I represent  
6 here, there are hundreds of -- there are half a million of  
7 these apartment units that are being turned over  
8 constantly, and there are --

9 MS. DANIEL: Can you narrow that to Florida for  
10 me? Do you mind if I --

11 MS. CHASE: That is Florida.

12 MS. DANIEL: Give me again. And I know we have a  
13 data request out and that's what the data request is for,  
14 but what does Florida look like from your perspective?

15 MS. CHASE: Okay. From our perspective, I can  
16 tell you, the association that I represent represents about  
17 127 thousand properties.

18 MS. DANIEL: In Florida?

19 MS. CHASE: Yes, in Florida. Our tenancy, we  
20 have 60 percent turnover per year. Most of our leases, and  
21 I can't give you a percentage, but most of our leases are  
22 12-month leases; but they are 60 percent turnover within  
23 those 12-month leases. So for 127 thousand communities,  
24 there are hundreds of thousands of units and there are  
25 hundreds -- there is turnover in those hundreds of

1 thousands of units every year.

2 We also have different communities designed to  
3 target different markets; that is, there are -- look at  
4 Tallahassee as a microcosm. There are student apartment  
5 communities where they are wired for Internet and computer  
6 use and the highest technology you can find. There is also  
7 low income housing which is governed by federal and state  
8 rules, the construction of that. There is -- in those  
9 communities, there is not a need for some of the high-end  
10 services, and they are not figured into the cost of the  
11 community either.

12 There is transient communities. There is  
13 military housing. There is -- since there is so much  
14 turnover and there is so much competition in these  
15 communities, if you are serving a student population, and  
16 the student population wants high speed Internet  
17 connections in their apartments and you don't have them,  
18 you're not going to fill your community to capacity.

19 So what the market is forcing our owners and  
20 developers to do is to put in those services in those  
21 communities that are targeted to use those services. What  
22 forced entry does is it creates a higher than basic level  
23 of service that all of these communities have to have, and  
24 for a lot of them it's not cost effective and it's not  
25 needed.

1 MS. DANIEL: What about the student who wants the  
2 choice of simply a different carrier not because they want  
3 any advanced services but maybe there is a difference in  
4 pricing?

5 MS. CHASE: Well, that does happen. In fact, it  
6 happens very often. There are some communities, some  
7 cities where there are a lot of different communities.  
8 Orlando is a market, for example, where people will move  
9 from one apartment complex to the other and want to retain  
10 their telephone number. They will not move into an  
11 apartment where they have to change their telephone number.  
12 They will go to the next complex over. That happens very  
13 often, and in those markets, there are enough communities  
14 to satisfy that need.

15 MS. DANIEL: What would you suggest as a way of  
16 enhancing the opportunity for competition and still  
17 protecting yourself with your turnover and your choice,  
18 your desire to not have to deal with customer choice per se  
19 but to continue to enhance competition in Florida?

20 MS. CHASE: Well, if you believe that competition  
21 has to be further enhanced by additional regulation, then  
22 the additional regulation that we could accept would  
23 include exemptions for tenancies less than 12 months; that  
24 is, it would only apply to tenancies for longer than a  
25 year. It would include indemnification of the property

1 owner for all damages, and it would include some sort of  
2 control on property damage.

3 MS. DANIEL: Okay. So there are some mitigating  
4 factors that would get you there?

5 MS. CHASE: For the time being.

6 MS. DANIEL: Not your first choice, but I'm going  
7 to press all of you today.

8 MR. WAHLEN: Until after the constitutional  
9 challenge and all of the litigation that she is planning.

10 MS. DANIEL: Well, I'm going to press all of you  
11 today. Whatever your last choice is, that's what I'm going  
12 to ask you about: How do we get to your last choice and  
13 still accomplish the goal? And I'll do it to every party  
14 here, so don't feel put upon. Thank you.

15 MS. CHASE: Thank you.

16 MR. CUTTING: Mr. Hoffman.

17 MR. HOFFMAN: Thank you. My name is Ken Hoffman.  
18 I'm here this morning with John Ellis on behalf of Teleport  
19 Telecommunications Group.

20 Patti, let me get back to your question, which  
21 was about the minimum point of entry, and very briefly, our  
22 position would be that we have joined in these joint  
23 comments with Teligent and some other carriers reflecting  
24 our basic position on this issue, which is that the  
25 demarcation point ought to be at the minimum point of

1 entry. But I think that Mr. Wahlen has very correctly and  
2 astutely pointed out this morning that certain  
3 circumstances, specific circumstances, call for unique  
4 solutions, and I think that your report to the legislature  
5 ought to be encouraging negotiations between the parties,  
6 and it ought to be encouraging competition toward that end.

7 But I would say to you two things ought to be  
8 included in your report: One, at minimum, in encouraging  
9 these negotiations, that the use of the minimum point of  
10 entry ought to be a default demarcation point so that if an  
11 agreement cannot be reached, that the competing carrier or  
12 the original carrier into the building can always count on  
13 that minimum point of entry to get into the building and  
14 not have to in many circumstances rewire up to the customer  
15 premises.

16 Secondly, along the same lines, in using the  
17 minimum point of entry, Teleport would recommend that any  
18 legislation also include a provision which would require  
19 the building owner or the landlord to provide equal and  
20 non-discriminatory access to the wire behind the minimum  
21 point of entry and up to the customer's premises. That's  
22 all I've got on that.

23 MR. CUTTING: Would you prefer to see a  
24 resolution of that problem within the PSC's jurisdiction or  
25 the courts jurisdiction?

1           MR. HOFFMAN: Mr. Cutting, frankly, I have not  
2 heard back from my client on that one. We have talked to  
3 them about that. We have raised that, but we do not have a  
4 definitive answer. Anything that I have to say today will  
5 in all likelihood be expanded upon in our comments that we  
6 filed after the workshop, including our comments on that  
7 issue.

8           MR. SPEARS: If I can add, you've raised the  
9 courts issue, so let me chime in.

10           We believe that the circuit courts should have  
11 jurisdiction over these issues rather than the Public  
12 Service Commission. We think that the issues involved in  
13 these disputes would be issues of property law and not  
14 telecommunications law. The Commission should not seek  
15 authority to regulate property owners such as community  
16 associations or adjudicative -- to adjudicate property law  
17 disputes. Circuit courts would be the only available  
18 option to do that since there is a question of competency  
19 in who would rule on property rights issues rather than  
20 telecommunications law.

21           I want to associate myself also for, in behalf of  
22 CAI, with Ms. Chase's remarks. We would support her  
23 position in all of her answers. And in response to the  
24 representations made by Sprint, we agree also that there  
25 ought to be a separate proceeding in some of these issues

1 that are not so macro in nature and that not all community  
2 associations want to get the demarcation point as far out  
3 to the end of their property.

4           You know, my father taught me never say all,  
5 never say never and things like that; and certainly  
6 community associations which are condos, single-family  
7 homeowners associations on quarter acre lots, co-ops all  
8 have a little bit different geography to them so that in  
9 general Sprint is correct that that is where they would  
10 want to go. But we need to leave open that option for  
11 negotiation, and I'm coming back to the negotiation issue  
12 once again.

13           In new construction, in current existing  
14 communities, these things need to be negotiated, and not  
15 imposed by law. He who governs least, governs best in many  
16 of these things, and we believe that. So returning to the  
17 specific issue, we are talking property issues, we are  
18 talking property rights issues, and the courts are the ones  
19 who are competent to deal with that.

20           MR. HOFFMAN: Mr. Cutting, let me add to that in  
21 response to that, that I think if you are talking about the  
22 issue of compensation, it will be very difficult from a  
23 legal perspective to leave the courts out of the process.  
24 I think if you look at the Gulf Power case that we have  
25 cited and other parties have referred to, there was a

1 scheme established by federal law where the FCC reviewed  
2 and adjudicated issues of compensation subject to judicial  
3 review, and I think that that sort of mechanism passes  
4 legal muster. So I think it will be difficult to leave the  
5 courts out of the process, on the one hand.

6 On the other hand, having practiced before the  
7 Commission for a number of years, I have a certain level of  
8 comfort and confidence that if the landlords do not comply  
9 with the law and do not comply with any rules promulgated  
10 by the Commission, that the Commission will take action.

11 Now BOMA, for example, in their reply comments  
12 have basically said, and it's on page 4, that if a  
13 mandatory access law is passed, access will be denied.  
14 They are basically saying if you pass a law requiring  
15 access, we won't allow it. Now if they really live up to  
16 that threat, I have confidence that this Commission is  
17 going to respond with orders to show cause and take the  
18 appropriate action.

19 MS. BLASI: Patricia Blasi, International Council  
20 of Shopping Centers.

21 Regarding the issue of who should have  
22 jurisdiction, we believe that it should be the circuit  
23 courts.

24 MS. CHASE: Jodi Chase again.

25 I want to make a remark about what Mr. Hoffman

1 said with a default demarcation point and  
2 non-discriminatory access. I think that that's an  
3 interesting concept that's worth exploring as far as the  
4 default demarcation point goes; I think that is very  
5 interesting.

6           And on nondiscriminatory access, we have to be  
7 very careful to define that. I think we should define  
8 landlords' responsibilities and telecommunications  
9 carriers' responsibilities because non-discriminatory, I  
10 think to most of us in this room, means you can't charge  
11 somebody more or less than you charge somebody else. But  
12 to a court non-discriminatory may mean something else. If  
13 all we are talking about are fees and charges for access,  
14 then I think my client can agree to that concept of  
15 non-discriminatory. But if we are talking about, you know,  
16 having, once again, physical intrusion in the property, I  
17 think that that has to be limited and defined a little bit.

18           On the issue of who should enforce this, I also  
19 believe that constitutionally the courts have to have  
20 jurisdiction because these are disputes over compensation  
21 issues, and that's -- constitutionally I think the court  
22 has to have some jurisdiction.

23           MR. HOFFMAN: Let me just respond very briefly  
24 and add to what Jodi has just said. In preparing your  
25 report and working out the mechanics of the different

1 issues, I think there are two guiding principles that ought  
2 to be kept in mind, and one is that your recommendations  
3 ought to be directed toward the goal of promoting  
4 competition for the tenants. But also, at the same time, I  
5 believe that the landlords and the building owners should  
6 not be harmed. And I think that concept was incorporated  
7 in the proposed legislation last year, in drafts of the  
8 proposed legislation last year which did not make -- which  
9 did not pass; but I think they apply and should apply to  
10 your report.

11 MS. BLASI: I'd also like to follow up on Jodi's  
12 comments relative to the issue of non-discriminatory  
13 accommodations. I think that in the context of these  
14 proceedings that term is getting thrown around a lot,  
15 primarily as it refers to whether or not an incumbent  
16 carrier is going to be charged fees on the same basis as  
17 new competing companies.

18 I think though we are overlooking something else  
19 that's very important. When we use words like "all  
20 telecommunications companies," that scares me because one  
21 of the things that I think landlords and property owners  
22 need to have a right to do is to qualify their vendors.

23 I was reading in the BOMA comments that there are  
24 now two hundred licensed carriers in the State of Florida,  
25 and if I recall correctly, when I first started working on

1 this issue in March, there were 130 or 140. So it would  
2 concern me how qualified each of those vendors may be in  
3 their financial capacity to complete their obligations and  
4 their ability to carry appropriate liability insurance and  
5 a lot of other issues where, if you as a landlord were  
6 interviewing vendors for any kind of service, you would  
7 have a certain pre-qualification criteria. If that's going  
8 to be construed as discriminatory, then my group is going  
9 to have a problem with the term "non-discriminatory"  
10 because I think that a lot of this is economic based; and,  
11 yes, there is discrimination on the basis of economics  
12 relative to a vendor's capacity to perform a task. And  
13 unfortunately, I think a lot of that criteria is very  
14 subjective, and I'm not really certain. And again, like  
15 Jodi said, I don't know that you like the answer because I  
16 think it starts to create more questions, but that's a big  
17 issue when you start saying all carriers,  
18 non-discriminatory.

19 MR. WAHLEN: Can I --

20 MS. MEREK: Hello. My name is Carolyn Merrek.  
21 I'm with Time Warner Telecom. I would like to just go on  
22 the record by saying that Time Warner, first of all,  
23 support the comments that Mr. Hoffman made on behalf of  
24 Teleport. We do believe that the demarcation point should  
25 be moved to the minimum point of entry; that in terms of

1 looking at pros and cons, at least the three pros that we  
2 see for that approach is that the establishment of the  
3 demarcation point at the minimum point of entry will, one,  
4 facilitate telecommunications company access to the tenant  
5 end users in a multiple-tenant building. It will, two,  
6 minimize the disruption to a multiple-tenant building  
7 caused by the entrance of additional telecommunications  
8 company facilities. And three, it will lessen ALEC  
9 reliance, or alternative locale exchange companies reliance  
10 on the incumbent LEC's network.

11 A couple of other points, we do think that the  
12 Commission should probably have the authority and exercise  
13 jurisdiction over access to buildings kind of issues, but  
14 that the courts are probably the appropriate place for  
15 compensation issues.

16 And finally, if I may just briefly comment on the  
17 last one. The fact that the Public Service Commission has  
18 gone through the certification process of an ALEC says that  
19 they have already considered an ALEC's financial,  
20 managerial and technical capability and that a certificate  
21 would not be given to an ALEC if the Commission had  
22 determined that they did not have the financial  
23 qualifications. So I would not feel comfortable that a  
24 landlord would then in turn be trying to see what the  
25 financial capabilities are of an ALEC if all of that has

1 already been disclosed and decided upon by the Public  
2 Service Commission.

3 MS. DANIEL: Could you elaborate on how the MPOE  
4 would minimize the disruption?

5 MS. MEREK: I think that if you have several --  
6 by putting the minimum point of entry, you then also get  
7 access to the inside wiring; and so if the minimum point of  
8 entry is at the tenant's apartment, let's say, or next to  
9 the tenant, then the ALEC is going to have to also perhaps  
10 run inside wiring to get there. So we think it could  
11 minimize some of the disruption by having access to inside  
12 wire.

13 MR. MOSES: Why would you assume that you  
14 automatically have access to that inside wire?

15 MS. MEREK: We would hope that that would be a  
16 part of this rule.

17 MR. MOSES: So you don't know if moving the  
18 demarcation is really going to ensure that then?

19 MS. MEREK: That's true, unless it's specifically  
20 stated.

21 MR. WAHLEN: Could I comment on that just  
22 briefly? It's probably true that if you move the  
23 demarcation point to a minimum point of entry and give all  
24 carriers non-discriminatory access to that point, it does  
25 minimize the need for carriers to go beyond the demarcation

1 point on to the property owner's property to the customer  
2 location, but it also leaves the property owner in control  
3 of the last link to the customer; and when a tenant is  
4 having a service problem and its attributable to that wire,  
5 they are going to call you. And for you to say, oh, well,  
6 I'm sorry, you live in an apartment complex, you have a  
7 one-year lease, the market works, you can leave if you  
8 want, is going to be a very unsatisfying answer to those  
9 customers. That's the balance. That's a real tough issue  
10 for you.

11 I want to also elaborate a little bit on what  
12 Ms. Merek said. You all have decided who the carriers that  
13 are qualified to provide service in this state, and what  
14 I'm hearing is that there are some entities out there that  
15 would like to act as a mini public service commission and  
16 decide for themselves who should reserve service from which  
17 carrier in one little area that they claim to control. And  
18 I don't think the Telecommunications Act was designed to  
19 have the Public Service Commission give up its jurisdiction  
20 to decide who provides service to end users, to building  
21 owners and landlords, I just don't think it was. I don't  
22 think that the federal congress anticipated letting the  
23 Public Service -- forcing the Public Service Commission to  
24 accept the decision of some building owner somewhere about  
25 who is going to provide service to an end user in an

1 apartment.

2 MS. DANIEL: I'm still confused about the  
3 minimizing the disruption if you move the MPOE. It seems  
4 like that puts the wiring from the minimum point of entry  
5 to the tenant up to the industry and the landlords to  
6 negotiate and the possibility for multiple ALECs to want to  
7 enter that building and participate in negotiations and  
8 multiple wires and all of the fallout.

9 MR. WAHLEN: Well, maybe I don't understand.

10 MS. DANIEL: Where am I missing it?

11 MR. WAHLEN: You've got station wire coming in to  
12 the demarcation point. On the customer side of the  
13 demarcation point, you have inside wire. Inside wire is  
14 not owned by the telephone company. As far as I know, by  
15 and large, only one wire can be used to provide service by  
16 one telephone company at one time. And in most instances,  
17 one customer is only going to need one or two wires. So  
18 getting the wire from the customer's telephone to the  
19 demarcation point is no longer the responsibility of the  
20 telephone company. The telephone company doesn't have to  
21 go through the demarcation point to run the wire all the  
22 way to the end user's premises. The telephone company just  
23 shows up at the demarcation point, and because the  
24 demarcation point is the point where the telephone  
25 company's obligation to serve ends, they've got to rely on

1 facilities owned and controlled by someone else to provide  
2 service to the end user.

3           The way it minimizes disruption is if you say, if  
4 you want to provide service to a customer in apartment B,  
5 you hook up at the demarcation point, there is a wire from  
6 the demarcation point to customer B, you don't have to run  
7 your wire in there. And if you need to do an extra wire,  
8 that's something to be negotiated between the landlord and  
9 the customer to get there.

10           But where the disruption comes in that the  
11 landlords seem to be concerned about is if the demarcation  
12 point is at the first jack in the apartment and there is an  
13 existing wire there and a customer doesn't want service  
14 from the incumbent or a new carrier and demands to have a  
15 new wire run into that jack. That's the disruption they  
16 are worried about, I think.

17           MS. DANIEL: Oh, good, lots of hands. This is  
18 good.

19           MS. CALLEN: I'll go. Frankie Callen from the  
20 Commercial Real Estate Society of Central Florida.

21           Two points. First of all, I think the point he  
22 is trying to make is if any of us have ever called any  
23 telephone company -- I know in Orlando if you call them to  
24 your house because your phone is not working and the first  
25 thing they are going to do is go outside and look at the

1 jack. Well, if that is not where their problem is, nine  
2 times out of ten, unless you've got that service agreement  
3 that allows them to come into your home and fix it, they  
4 are gone. And the problem now becomes either you as the  
5 property owner, if you own the home, you've got to figure  
6 out what the problem is; or if you rent, you've got to call  
7 your landlord and say, Come fix my phone, because I've been  
8 through that several times, and you get hit 45 dollars  
9 every time they come knocking at your door.

10 But his point is well taken as far as the  
11 property owner is concerned in terms of whether that  
12 demarcation point sits outside of the building or whether  
13 it sits inside a unit. In our mind the problem is still  
14 the same regardless of where that sits because you are  
15 still talking about access into the building. Now if the  
16 problem occurs and the repair has to take place between  
17 nine and five o'clock, generally that is not a problem  
18 because there is someone there to come and let people in to  
19 fix the wiring.

20 From the property owner's perspective, where the  
21 problem comes in is when you start talking about after  
22 hours, you start talking about security issues and that  
23 type of thing; but those issues don't change whether that  
24 demarcation point is at the building entry or at the unit  
25 entry. Those are still the same issues wherever the unit

1 is. But I also just want to say that I really think -- I'm  
2 sorry, I don't remember your name. This gentleman's point  
3 in terms of looking at point of demarcation really needs to  
4 be expanded.

5           And I would also suggest in your question earlier  
6 about how do you do this report that we look at  
7 multi-tenant residential units totally separate from how we  
8 look at commercial because it is a totally different  
9 issue. We don't have the same type of problems that a  
10 residential multi-unit has, and I think it would be very  
11 cumbersome for us to try and write laws or statutes or  
12 regulations that try and govern both of them under this  
13 same area because the problems are so different. We don't  
14 necessarily deal with turnover at the rate that the  
15 residential do. We still have problems in terms of people  
16 moving in and out, but I don't think it's nearly as  
17 disruptive as it is in a residential area.

18           The other point I would like to make is if we do  
19 decide to study the point of demarcation further, I would  
20 also like to ask that we add consideration given to  
21 different technology that is coming because what we have  
22 said before in the past is depending on what you're talking  
23 about going into a building in terms of providing  
24 non-discriminatory access, depends greatly on what you are  
25 talking about as far as equipment. If you are talking

1 about allowing ten telephone companies to use the same  
2 wiring in your building, and just after the point it goes  
3 in, that A, B, C and D goes to A, B, C and D, there is no  
4 disruption in terms of the property owner is concerned, it  
5 still acts the same way as it does. If you are talking  
6 about allowing ten telecommunications companies to come  
7 into your building and put ten microwaves on your roof,  
8 that is a totally different issue, and the impact on the  
9 property owner is totally different.

10           So from our perspective we would really favor the  
11 idea of sitting down and talking about what are we really  
12 talking about here. If we are just talking about who gets  
13 to turn the switch, that is real different than having ten  
14 telephone companies at your door wanting to knock down  
15 walls in order to hang equipment. So I think we really  
16 need, when we start talking about this -- and I know we  
17 don't want to do it necessarily in this setting -- but what  
18 are we really talking about? If we are really talking  
19 about ten telephone companies coming in and having to hang  
20 equipment on a wall, again, that is real different than who  
21 turns the switch. In trying to make laws that meets  
22 everybody's needs, I mean you guys obviously have more  
23 experience than this, it's very, very difficult. But I  
24 would also say if we could wait until we get the data back  
25 from the end users, both the telecommunications companies

1 and our people -- we have sent that out to our membership  
2 and try and get responses back -- we may find out that we  
3 don't have nearly the problems we think we have.

4 I know in Orlando I've got several property  
5 owners that have six telecommunications companies in it  
6 right now and it works great. They've got individual  
7 leases with them and agreements with them, and there is no  
8 problem. We also have property owners that literally are  
9 rented out to the last square inch they possibly can, and  
10 if you tell them they've got to take a hundred square feet  
11 and hang telephone equipment, that is a real different  
12 problem for them. So I just wanted to ask if we could  
13 include that in further discussion to make sure that we are  
14 not limiting ourselves, that we are only talking about  
15 technology that is good for two years, or else we are going  
16 to be back here again in another year and a half figuring  
17 out what we are going to do with microwaves.

18 MS. CHASE: Jodi Chase again. I think those  
19 comments were incredibly unfair and colored, the comments  
20 regarding multi-tenant non-owner settings. And I just  
21 wanted to clear the record on that.

22 If there was misunderstanding about how this  
23 market works, then we can clear that up. This market does  
24 not work by a landlord telling a tenant, if the wire in  
25 your wall doesn't work, tough; and I think that was very

1 unfair.

2 MS. CALLEN: I'm sorry, I didn't mean to --

3 MS. CHASE: No, not from you, Frankie. That was  
4 not from you, Frankie.

5 MR. WAHLEN: Jodi, if that was the implication  
6 that you thought I was trying to make, I apologize. That  
7 was not the implication that I intended, because I don't --

8 MS. CHASE: Thank you.

9 MR. WAHLEN: -- think that that's how it works.  
10 But I do think that if you look back at the history of the  
11 deregulation of inside wire back in the 80s, when inside  
12 wire was first deregulated and customers became responsible  
13 for the inside wire on their side of the demarcation point,  
14 there was an incredible amount of customer confusion about  
15 who was responsible for fixing that. And when you are  
16 defining demarcation point, you are talking about where the  
17 telephone company's obligation to maintain ends and where  
18 the customer's begins. So moving the demarcation point  
19 from where it is now to a minimum point of entry could  
20 result in that same kind of confusion, could result in  
21 those same kind of calls you got in the 80s, when people  
22 said, my telephone company wouldn't come out and fix my  
23 phone. So that's the point I'm trying to make, and if I  
24 said anything that offended Ms. Chase, I apologize.

25 MS. DANIEL: And that point is my concern, is

1 that we are walking a real tight rope there when we open  
2 that up and we still have to consider the end user's  
3 protection.

4 MS. BLASI: I'd like to speak to two points. One  
5 is as a landlord I don't want to be a mini public service  
6 commission, though it sounds like an interesting hobby. I  
7 think we are all busy in the real estate business, and I'm  
8 not looking to be in the Public Service Commission  
9 business, nor would -- I'm more comfortable sitting where  
10 I am. I don't want to sit on that side.

11 The Public Service Commission's certification of  
12 a telecom company should give them the right to provide  
13 that service in the State of Florida, but certainly should  
14 not be construed as my obligation to utilize them. Just as  
15 the state licenses general contractors, that would give  
16 them the right to perform that service in the state but  
17 certainly would not obligate me as a property owner to  
18 utilize them.

19 MR. MOSES: Could you give me a scenario of when  
20 you would be utilizing them? In other words, when would  
21 you be intervening for getting service for a customer other  
22 than yourself?

23 MS. BLASI: When a customer -- when a new company  
24 wants to wire our buildings for the benefit of a tenant,  
25 then they have to come to us to get that access, so we

1 would --

2 MR. MOSES: So what if the law only said that you  
3 were responsible for the conduits and the raceways and not  
4 the wiring, that's up to the customer to negotiate with the  
5 certificated company, that takes you out of the loop,  
6 doesn't it?

7 MS. BLASI: Well, it does to the point that if  
8 they have negotiated access to the building and have  
9 satisfied us that they are insured, and --

10 MR. MOSES: Why do they have to be insured just  
11 to put a piece of cable through your conduit? Why do you  
12 care?

13 MS. BLASI: I care if they have to come in the  
14 building. If they can do that outside the building without  
15 disrupting property that we own, then I don't.

16 MR. MOSES: But if the conduits were there and  
17 you were required by law to provide the conduits for the  
18 access for the purposes of this scenario, then what  
19 concerns would you have in that regard?

20 MS. BLASI: When you say that I have the  
21 responsibility to provide the conduits --

22 MR. MOSES: Well, I'm talking about -- I'm  
23 talking about the certification of the company and their  
24 financial responsibilities. If they contract with the end  
25 user, not you, to come in there and provide service to them

1 and all you are required is to provide conduit, why would  
2 you care about the financial wherewithal of that company?

3 MS. BLASI: Do I have the responsibility to  
4 provide the conduit?

5 MR. MOSES: Yes, just for argument's purposes.

6 MS. BLASI: Even in new construction or in  
7 existing facilities?

8 MR. MOSES: Just for argument's purposes say  
9 you --

10 MS. BLASI: For argument's purposes, if I wasn't  
11 impacted financially by the requirement to provide the  
12 conduit, and that would probably relate most to existing  
13 property rather than new construction, then, no.

14 MR. MOSES: Okay. Thank you.

15 MS. CALLEN: Can I answer that one step further?  
16 The real problem with that comes in when there are repairs  
17 and access to actually that conduit needs to be made, and  
18 if the agreement is between the user and the -- the user  
19 and the provider, then you're right, the property owner can  
20 stay out of it, if that's all it is. Where it comes into  
21 is not necessarily the financial agreement between the two  
22 but the actual access to the wire; and the question that  
23 needs to be answered is, if it is determined that the  
24 problem is not the end user and not the telecommunications  
25 user -- provider, rather, but it is actually the physical

1 conduit itself, then the property owner does have to get  
2 involved because that is their property. If you are saying  
3 that we have to build the conduit, then that is when there  
4 needs to be at least acknowledgement and right given to the  
5 property owner. In other words, let's say you in your  
6 lease say that, you know, we provide 24-hour telecommuni --  
7 as a property owner that if I want you to rent from me, or  
8 lease from me, if something happens to my conduit that you  
9 are using and I provide 24-hour turnaround time to you if  
10 the repair needs to be made, we need to know what your  
11 agreement is with your telecommunications provider in order  
12 to honor that.

13 MS. BLASI: I think Frankie raises an interesting  
14 point. We talk a lot about negotiation and rights. It  
15 almost sounds that in some of these discussions the right  
16 of the tenant supersedes the right of the property owner,  
17 and I don't think that is appropriate. The tenant  
18 negotiates his rights in his lease. The landlord  
19 negotiates the rights of the property because he is the  
20 owner.

21 MR. CUTTING: I know Mr. Wiggins has been trying  
22 to step in here. I was going to give you an opportunity to  
23 do that.

24 MR. WIGGINS: Thank you. Earlier this morning  
25 when Mr. Wahlen was first speaking about how some of these

1 things are factual, factually specific instances -- This  
2 is before he began to alienate both sides. He had everyone  
3 nodding for a while.

4 MR. WAHLEN: It was entirely too quiet in here.

5 MS. DANIEL: That same observation, I think,  
6 applies to jurisdiction, which is what I wanted to speak to  
7 at this point. Patrick Wiggins for Intermedia.

8 There is concurrent jurisdiction, which means if  
9 you drew two circles on a page, they would overlap, a  
10 connect theory. Some portions of the circles would be  
11 exclusive to one and some would be shared and some would  
12 be -- some would be PSC, one would be circuit court, and  
13 some would be overlapped.

14 The circuit courts jurisdiction is granted under  
15 Article 5 of the Florida Constitution, and PSC cannot do  
16 that stuff. I think as Jodi pointed out earlier, it cannot  
17 adjudicate contracts, cannot award damages, cannot provide  
18 injunctive equitable relief given to courts. On the other  
19 hand, there are a lot of things that you can do that sounds  
20 a lot like that, you know.

21 The supreme court has looked at situations  
22 before. I believe it was actually a toll settlement kind  
23 of deal where relief looked a lot more like contract  
24 damages, and they said you can't do that. It's one of the  
25 few areas we can get you reversed, is if you try and do

1 Article 5 things.

2           On the other hand, there is primary jurisdiction  
3 doctrine that says where a court has its own jurisdiction  
4 and there appears to be concurrent jurisdiction it will  
5 often defer to the Public Service Commission to do  
6 something that looks like fact finding with a special  
7 master, and that decision can be used, even presented to a  
8 jury in a court trial.

9           I say all this just to say that you can't -- I  
10 don't think you can make a blanket statement here that it  
11 needs to be either circuit court or PSC. I think the  
12 answer is all of the above, and it will depend on the  
13 factual circumstances, and there is case law that pretty  
14 much delineates the responsibility. So there you go.

15           By the way, just to reiterate Intermedia's basic  
16 position, we favor MPOE; and where there is a retrofit  
17 situation or even on a green, new build, we favor  
18 negotiation between the landlord, the property owner and  
19 the various vendors as the best mechanism to afford the  
20 reasonable accommodations for competitively neutral access.

21           MR. CUTTING: To the extent those negotiations  
22 didn't result in a contract that was to anyone's liking,  
23 would you just walk away, or would you go to the courts  
24 seeking redress? Would you come here? In other words,  
25 everyone talks about negotiations between the parties. To

1 the extent that the compensation, let's say, can't be --  
2 you know, you can't settle on a number, I mean what happens  
3 in the new construction, or even the existing construction,  
4 existing building? Where would any or all of these parties  
5 go to seek their, to seek redress?

6 MR. WIGGINS: I don't know if Intermedia has a  
7 position on that at this point, and I don't want to get too  
8 far out ahead of them and follow Mr. Wahlen's example and  
9 start alienating everybody in the room.

10 I think, first of all, from my own perspective --  
11 this is just me speaking for me, and then if Intermedia  
12 likes it, they can say, yeah, me too; but if not, they can  
13 disown me. I think the thing that bothers me about that  
14 question is -- I mean it's a legitimate question, but  
15 you're not talking about negotiations that this country or  
16 this state has not seen ever before. I mean we have got 50  
17 to a hundred years of intense commercial  
18 landlord/tenant/vendor negotiation as a background. I mean  
19 I suppose you go back 10 or 20 years, we get computer  
20 changes, air conditioning changes, landlords are having to  
21 negotiate ducts and where you put this and put this all the  
22 time. This is nothing new to them. It's the same old pain  
23 in the neck, okay?

24 The only difference is that for them to get the  
25 benefit of the public switch network, and that is what you

1 are getting, is the benefit of the public switch network,  
2 you have to pay a little bit more sensitivity to the end  
3 user's right to access to that public switch network than  
4 you traditionally had to pay attention to the tenant's  
5 right to use an IBM computer or a Sanyo or something like.  
6 That's the only difference from what I can see.

7           That difference does not mean to me that the  
8 negotiation process would be impotent. I have a lot of  
9 faith that it would become, that it will work out. I kind  
10 of agree with you, that in two or three or four years, it  
11 will be fine. My way of framing it, and this is just me, I  
12 would frame it in terms of good faith. I would impose some  
13 sort of good-faith obligation to negotiate and then allow  
14 remedies off of a good faith as opposed to an absolute  
15 standard or default.

16           MS. CHASE: I think I want to add one more thing  
17 to that. Please, do not lose sight that what you are  
18 talking about doing is a huge change in the law because  
19 mandatory forced access in effect grants a property right  
20 to the telecommunications provider. You're taking away  
21 part of the property rights of the landowner and giving  
22 them to that telecommunications provider. So if you're not  
23 very careful and if you don't create a new standard like a  
24 good-faith standard, then there can't be negotiation  
25 because the telecommunications provider, if they don't like

1 the outcome of the negotiation, they go to the court and  
2 they say, hey, court, I've got a property right that the  
3 legislature granted me, this guy has got to let me in on  
4 his property. And then the only issue is going to be  
5 compensation. So please, don't lose sight of that. This  
6 is no small change.

7 MR. WIGGINS: Yeah, I agreed with that point, but  
8 there is a -- I think there is something that is unique  
9 about telecommunications; and that is, that the remedy  
10 could very well be, fine, you don't have to allow  
11 Intermedia or ACME or Teligent or whomever on to this  
12 property. You can do it just the way you want. That's  
13 fine. But that doesn't mean you have the right to hook to  
14 the public switch network if you violate those terms of  
15 reasonableness. In other words, as a landlord, I would  
16 have the tendency as a property owner to claim the right to  
17 connect to the public switch network under reasonable terms  
18 so that I could use that connection to enhance my value to  
19 people I would have to be tenants; but what I'm saying is  
20 that's a privilege, that's not a right. So that's why I  
21 agree that there has to be a reasonable standard because,  
22 on the one hand, I don't want to see an edict that says,  
23 landlord, you can't get any telecommunications services  
24 because you are being a butt head; and then on the other  
25 hand, I don't want to see the negotiations basically

1 short-circuited because there is a default standard that if  
2 you can't come to an agreement, then it's going to be this  
3 way. That is why I think there has got to be a reasonable  
4 standard, and that's why I believe that in any event, in  
5 the long run, the commercial marketplace will take care of  
6 it.

7 MS. DANIEL: That describes negotiation for  
8 access. Tell me about standards for once that access has  
9 been achieved and services ongoing and then there is a  
10 problem. What are the standards then?

11 MR. WIGGINS: I need a more -- Patti, you need to  
12 be more specific for me please.

13 MS. DANIEL: A customer has a problem with the  
14 service, and -- I'm shifting gears.

15 MR. WIGGINS: Sure.

16 MS. DANIEL: Okay. I'm shifting gears and we've  
17 gotten past the notion that we are using a minimum point of  
18 entry, and we now have multiple carriers providing service  
19 to the customer and I'm just very broadly asking you what  
20 kind of standards do you think should exist, whose  
21 responsibility is what, how do you know whose  
22 responsibility is what, once there are multiple carriers  
23 providing service in a multi-tenant building?

24 MR. WAHLEN: I don't understand the question.

25 MR. WIGGINS: Maybe I'm just not functioning very

1 well at the moment. So I have, let's say, a commercial  
2 tenant in a multi-tenant environment.

3 MS. DANIEL: A number of commercial tenants.

4 MR. WIGGINS: Commercial tenants, and they're --

5 MS. DANIEL: Using different vendors.

6 MR. WIGGINS: And there are three or four vendors  
7 providing service, and one of them is now irritated with  
8 ACME because ACME is not delivering or there is call  
9 blocking or there's --

10 MS. DANIEL: They don't know if they are  
11 irritated at ACME or their own internal wiring or what have  
12 you.

13 MR. WIGGINS: And so what is the question?

14 MS. DANIEL: The customer has a dilemma. How do  
15 they get it resolved?

16 MR. WIGGINS: This to me is a non-problem, a  
17 non-dilemma. The customer deals with the carrier, and if  
18 the carrier can't work with the landlord in a way to affect  
19 satisfactory service, then that carrier loses the customer  
20 and the customer goes somewhere else. I don't see that as  
21 being -- I see that as a kind of false dilemma. But the  
22 deal is --

23 MS. CALLEN: Patti, if I --

24 MR. WIGGINS: I'm sorry, is it okay if I --

25 MS. CALLEN: I'm sorry.

1           MR. WIGGINS: Yeah, I think the deal is, is that  
2 where you actually have competitively neutral access, you  
3 will have that -- what's the right term? -- efficiencies  
4 of the market. You will have the ability of the carriers  
5 to compete with each other, to compete effectively with  
6 BellSouth or General Telephone or whomever. And you can,  
7 in fact, entrust the carrier to try to keep the customer  
8 satisfied, and I think that means working in a reasonable  
9 way with the landlord and the property owner. I think that  
10 is going to work.

11           I think there is only one real problem here, and  
12 this is my own view, and that is retrofit. That is where  
13 you've got BellSouth having their wire strung up right now  
14 to the point of demarc. The property is not a simple  
15 property. There is a little house here, there is a closet  
16 there; it's a mess. And my client and a couple other  
17 clients come in and say, hey, we want to bring in our new  
18 fiber to you and we don't want to pay for it. I mean I  
19 think that's the -- I think retrofit is the real problem.  
20 Green field, I don't think it's going to be a problem. I  
21 don't think ten years from now it's going to be a problem.  
22 I think the conversion of existing situations where there  
23 is -- where basically the serving local exchange company  
24 has historically been providing the access through a point  
25 of demarc being at the tenant's premises without them

1 paying for that access, as well it should have been under  
2 that system. I think moving from that situation to the new  
3 more efficient competitive multi-vendor environment, that's  
4 the problem, that's where it all comes up; and it's so  
5 tortuous for me to try to figure that out. I have come to  
6 the conclusion as a default you basically have to allow it  
7 to negotiation and hope for the best.

8 MS. DANIEL: Thank you.

9 MS. CALLEN: I was just going to say, you know,  
10 in posing your question, my initial reaction is you really  
11 can't have it both ways. You can't tell a property owner  
12 that they are not going to be involved in tenant and  
13 telecommunications provider negotiation, that that will be  
14 up between the tenant and the telecommunications provider  
15 and then turn around and say, well, when there is a  
16 problem, now you get involved.

17 Quite honestly, we are dealing with that now  
18 regardless of who you have. If you've got a repair  
19 problem, you've got a repair problem; and a lot of times in  
20 buildings usually the tenant will take care of it because  
21 they are the first one to know that there is a problem and  
22 they'll call the phone company. And again, the landlord or  
23 property owner gets involved once it starts affecting the  
24 physical property of the building itself.

25 The other point is if we're -- again, I kind of

1 go back to what we are really talking about is physical, in  
2 physical equipment. If between BellSouth and a property  
3 owner they negotiate to say, you know, BellSouth, you have  
4 access to the building 24 hours a day, here is the key,  
5 here is our security number, you take care of it and don't  
6 bother me; that is a negotiated agreement.

7           As far as this gentleman's comment about  
8 retrofit, I absolutely agree, I think under new  
9 construction there is -- technology is moving so quick and  
10 so fast that builders are hardly able to keep up with it,  
11 and at some point in time you've just got to say, this is  
12 all I can provide, and then the market takes over. But as  
13 far as a retrofit is concerned, quite honestly, there are  
14 extensive physical barriers to be able to say, you know, I  
15 as a property owner would love to have all 20 of you guys  
16 in my building and offer this as part of a marketing to  
17 market tenants, but that's not real. So you can't go back  
18 and correct the problems with physical buildings in order  
19 to allow non-discriminatory access, but you just have to  
20 have a starting point and say, okay, from this point on,  
21 here is what we do.

22           MR. CUTTING: There certainly exists within some  
23 of the statutes that I've looked at in other states the  
24 opportunity for a landlord to express the problem of  
25 physical space, a situation -- you know, space cost, a

1 couple of other criteria are listed. Do you see a problem  
2 with a statute or even a rule being written that way? I  
3 mean it's --

4 MS. CALLEN: I think your real problem is, is in  
5 your definition of non-discriminatory. I think that is  
6 where your real problem comes in because I don't, unless --  
7 at least from the members I've talked to, you know, their  
8 biggest concern is what the woman was saying about they  
9 don't want to get into another whole area of management  
10 that they have to deal with. Again, I go back to personal  
11 experience, if you've ever had to deal with the phone  
12 company waiting for them to come to your house, I mean that  
13 is just life and you have to deal with it that way; but to  
14 say, you know, for the property owner to have 12 tenants  
15 and have to be doing that on a regular basis, they don't  
16 really want any part of that.

17 Our difficulty is how you are going to determine  
18 what non-discriminatory is. If in your definition you  
19 allow for physical constraints to be a part of that  
20 definition, then I think that's fine. I think it really  
21 comes down to how you as a Commission define  
22 non-discriminatory, and I know that telecommunications  
23 companies with good reason don't want that to get into a  
24 situation with who pays the property owner more. In other  
25 words, if you can only fit five and you've got ten vying,

1 who are the five that are going to provide the most money  
2 to you the property owner? I think that has to be  
3 considered too. I think the fees, if we decide to go the  
4 fee route, have to be reasonable and can't be  
5 discriminatory.

6 MR. MILNER: Thank you. Keith Milner with  
7 BellSouth. I guess hearing the interchange here I'm struck  
8 with the notion that if there is one clear message that we  
9 are hearing this morning, it is that there is not one clear  
10 message, and that that would tend to favor a situation  
11 where negotiation between the parties was the right  
12 approach, and BellSouth agrees with that.

13 Having said that, however, I'd quickly add that  
14 negotiation without some boundaries and without some  
15 framework would likely lead to a frustration of the parties  
16 rather than resolution of the issues, and to that extent,  
17 BellSouth believes that this Commission can take action  
18 that will frame those negotiations and hope -- and I would  
19 hope lead to successful outcomes.

20 And two specific recommendations: We believe that  
21 this Commission should adopt rules that require property  
22 owners to allow those carriers, who by regulatory dictate  
23 must unbundle their networks and make those networks  
24 available to other carriers, to allow those carriers to  
25 physically place their facilities to end-user premises.

1 And this action will ensure that customers have choices,  
2 and it will also ensure that other carriers have choices in  
3 how to build and operate their own networks.

4 And secondly, we believe that this Commission  
5 should urge property owners to plan for and install support  
6 infrastructure going forward that would accommodate  
7 multiple carriers having direct physical access to end  
8 users, here again, to foster competition and give customers  
9 the choices that they deserve.

10 Let me return just momentarily to the issue of  
11 jurisdiction. We've tended to focus this morning on the  
12 issue being one of access to property, and that rightly is  
13 one of the things that this Commission needs to address.  
14 The other side of that coin is the issue of access to  
15 telecommunications services, and BellSouth believes rightly  
16 that this is an area that this Commission has jurisdiction  
17 over through its own rules and as supplemented by  
18 telecommunications companies' tariffs.

19 And secondly, to the extent that a party wishes  
20 to challenge the authority of this Commission, there are  
21 already judicial and legislative channels for such  
22 challenge. So BellSouth believes, A, this Commission does  
23 have authority in this matter; secondly, to the extent that  
24 a party wishes to challenge that authority, there are  
25 already challenges for such -- or there are already

1 channels for such challenge. Thank you.

2 MR. KUPINSKY: Stuart Kupinsky from Teligent.  
3 I'm getting a very nice sense of family. I see a lot of  
4 familiar faces, and I'll endeavor not to offend Ms. Chase  
5 also.

6 I guess, first off, I just want to quickly point  
7 out that we are not inventing something wholly new here.  
8 Illinois and California have gone through these processes  
9 and have worked out a lot of these issues, and it seems to  
10 be working.

11 Secondly, as far as good faith as a standard for  
12 negotiation, let's just keep in mind that price is not  
13 really subject to good-faith standards, at least it's not  
14 easy to apply that standard. I'm not sure how you would go  
15 about doing that, and ultimately, you know, price is a  
16 foreclosure. So if an astronomical price is required,  
17 then, you know, it could be required in good faith, I  
18 guess; and that's a problem.

19 As far as microwave technology, we are here  
20 today, not in two years, so it's an issue that should be  
21 addressed currently.

22 And lastly, as far as those carriers subject to  
23 unbundling obligations having to, or being allowed to wire  
24 directly to the premises, as we've stated in the past, the  
25 real problem with that is subjecting those carriers that

1 would use the unbundled elements to sort of a lowest common  
2 denominator as far as service intervals, that type of thing  
3 where, you know, Teligent would call BellSouth and rely on  
4 BellSouth's meeting Teligent at the building in order to  
5 use that last hundred feet of wire, and that poses some  
6 very serious problems for us. Thank you.

7 MR. CUTTING: I'm not going to cut anybody off,  
8 but I've seen people leaving the room, and it's probably  
9 about that time of the morning when people want to take a  
10 break. So why don't we break for about 15 minutes, and  
11 then we'll come back, and Ms. Chase can continue.

12 MR. HOPPE: Also, people who have come in late  
13 and haven't signed in, please sign in over to the  
14 right-hand side over there so we have a record of your  
15 appearance.

16 (BRIEF RECESS TAKEN)

17 MR. CUTTING: I'm not a coffee drinker, so we are  
18 going to have to get back and get started here, if we  
19 could. I absolutely don't want to cut off any comments on  
20 the demarc point, but we do have some other scenarios to  
21 get through today, and what I would like to try to do if we  
22 could is get through the final bout or round of comments on  
23 demarc and then move on if we could.

24 MS. CHASE: Well, I want to answer the question  
25 that was posed before the break, and that was, who has

1 responsibility if there is a service problem and you've got  
2 different carriers, is it the landlord, or is it the  
3 carrier? And one of the answers was that that is probably  
4 not a problem, and I think that that is probably true  
5 because you can leave that up to the landlord or the  
6 property owner, and the different properties and different  
7 landlords are going to have different solutions, and they  
8 can put into their lease a provision that says you are  
9 responsible for your own telephone service.

10 But let me bring up something that I think is a  
11 much larger problem than that, and that is, the question of  
12 whether we can limit how many times a tenant can change  
13 their mind. That is a much bigger problem because, if  
14 you've got a one-year tenancy, we would like to be able in  
15 our leases to say you can choose your telecommunication  
16 provider one time, but you can't change that  
17 telecommunication provider every month. And there has to  
18 be some limits on reasonableness, and I think that's an  
19 issue that hasn't been brought up, but that's a very  
20 important issue. How many times are we going to let  
21 someone who doesn't own the building, doesn't own the  
22 premises, how many times are we going to let them change  
23 their mind? And I would ask you to add that to your list.  
24 And the answer I would pose to you is they should choose  
25 one time during that lease.

1 MS. DANIEL: And that's even under the scenario  
2 where it becomes the tenant's problem for the repair?

3 MS. CHASE: Yes, because you see -- you have to  
4 understand the way these buildings are built. It's not  
5 that single tenant's problem. In order to change the wire,  
6 you have to go through another tenant's apartment, and so  
7 you have to tell all your tenants that you are going to  
8 have workmen in your ceilings. It's not -- these are not  
9 separate buildings.

10 MR. MOSES: But you are making the assumption  
11 that you are changing wire every time. The case may be it  
12 may be existing wire and you're going to use that wire for  
13 each different type of ALEC that comes in there.

14 MS. CHASE: If that were the case, then they can  
15 change their minds as many times as they want, because  
16 disruption is --

17 MR. MOSES: So then why have that in there?

18 MS. CHASE: Disruption is the issue, not, you  
19 know --

20 MR. MOSES: So how much disruption have you  
21 experienced?

22 MS. CHASE: Do we experience now? We don't  
23 experience disruption now.

24 MR. MOSES: Okay.

25 MR. CUTTING: I guess I would just like to ask,

1 you know, assuming that there is going to be a cost to that  
2 tenant, if indeed he is causing disruption to his landlord,  
3 if he has only got a one-year lease, how many times -- or  
4 how much cost is he willing to incur, do you think, to  
5 change his company every month? I mean to me if I'm a  
6 tenant with a one-year lease and it's going to cost me  
7 money every time I change because the landlord is requiring  
8 that of my lease, I'm not sure I'm going to want to change.  
9 It's going to be a real big financial advantage before I'm  
10 going to want to change on a monthly basis.

11 MS. CHASE: Okay. Let me explain something else  
12 to you: The way these residential leases work, there is no  
13 extra charge for telecommunication services. That's, you  
14 know, that is part of what you get in the rent. It's like  
15 you get water in the bathtub. You don't pay extra for the  
16 water out of the sink. You don't pay extra for the  
17 telecommunication services. Now I'm sure the provider is  
18 going to charge the tenant for changing, and if the tenant  
19 wants to spend 45 dollars every few months to change, then  
20 that would be their per -- You know, the question  
21 becomes, can you put a limit on that, yes or no? And we  
22 would maintain that in order for the other people who live  
23 in the building to be able to enjoy their property rights,  
24 you would have to be able to put a limit on it. You know,  
25 you get property rights with a lease. You get the right to

1 quiet enjoyment of your space during the time that you are  
2 there, and now we are going to put a limit on that and say,  
3 yeah, you get quiet enjoyment but not if the guy next door  
4 wants to change his telecommunication provider, if you are  
5 talking about new wiring. So, you know, if you are leaving  
6 the wiring alone, you are okay. But how many times a  
7 person can choose, I think that is an issue that has to be  
8 addressed.

9 MR. MOSES: Well, until you've got some  
10 experience with it or until it becomes a problem, couldn't  
11 this be handled on a case-by-case basis? If you've got a  
12 tenant that just wants to change every single month and is  
13 causing you disruption problems, we can certainly address  
14 that; but I don't think this is something you want into the  
15 law.

16 MS. CHASE: That's exactly my point. I think it  
17 can be taken care of on a case-by-case basis, but I think  
18 that that is something that does have to be in the law. I  
19 think the law has to say that the landlord can determine  
20 that, yes.

21 MR. MOSES: Then you are putting the landlord in  
22 charge of the consumer's rights, and I'm not sure if that's  
23 something we want to do.

24 MS. CHASE: No, you are not. You are putting the  
25 tenant in charge of the landlord's property rights. You

1 see you are giving --

2 MR. MOSES: Well, let's move on to some of these  
3 other points that we need to discuss because I don't think  
4 that is something that we would be willing to put into the  
5 law, at least not from my opinion at this point, until  
6 we've got some experience with it; but let's move on to  
7 some of these other things. We are starting to run out of  
8 time.

9 MR. CUTTING: We've bounced a bit between A, B, C  
10 and D, and obviously the Scenario B deals with access; and  
11 we've dealing a bit with access and access to the service,  
12 whether it be landlord's access to the telecommunications  
13 service or to the tenant's access. And if there are  
14 specific comments that get to the pros and cons of our  
15 being the two parts of B, I'd be glad to approach them.  
16 I've got a couple of questions, or I can certainly wait on  
17 my questions until people want to get more into the issue.  
18 Nobody wants to address B?

19 MR. WAHLEN: I will.

20 MR. CUTTING: Good.

21 MR. WAHLEN: But I want to make sure I understand  
22 what you're talking about. When you are talking about a  
23 resale environment, you are talking about a situation where  
24 the wiring is there and service is being provided by  
25 Company A and the tenant wants service from Company B, and

1 Company B goes to Company A and says, I want to resell your  
2 existing service at that tenant location and it requires no  
3 additional facilities at all. Am I understanding the  
4 scenario correctly?

5 MR. MOSES: I think what we're saying is if there  
6 is existing facilities there and that you are going to go  
7 in there and you're going to use the existing facilities,  
8 not so much that you are going to resell that company's  
9 service. In other words, if there is an existing piece of  
10 wire there, what is the possibility of sharing that wire  
11 under some kind of compensation type thing?

12 MR. WAHLEN: I think maybe I'm --

13 MR. MOSES: Well, you are familiar with the  
14 shared tenant rules?

15 MR. WAHLEN: Yeah.

16 MR. MOSES: Okay. That same type of scenario.

17 MR. WAHLEN: Maybe I'm missing something, but it  
18 seems to me that if a new carrier wants to resell that  
19 service the incumbent is going to have a resale contract,  
20 and as a matter of law, that new company is going to be  
21 able to resell that service and no one ever has to go out  
22 there and do the first thing at the location. It's done  
23 completely without any trip out to the customer location,  
24 without any new facilities, without anything; and it  
25 escapes me why --

1           MR. MOSES: Well, the scenario given you is that  
2 part, is the top part of it, or do you want to go to the  
3 landlord who controls the access to telecommunication  
4 services? We've given you the flip flop of that.

5           MR. WAHLEN: Well, I guess Sprint's position is  
6 that they cannot understand why the landlords would have  
7 any interest in prohibiting free choice by the customer on  
8 a pure resale basis, and that, you know, all  
9 telecommunications companies should have access to all  
10 customers in a multi-tenant environment for resale.

11           MS. BLASI: I think that at its very basic level  
12 there isn't an argument from the commercial or probably the  
13 multi-tenant residential side, but two things: When you  
14 reuse or you resell the existing wire, does the obligation  
15 to maintain that wire remain with the ILEC, the person who  
16 installed those facilities?

17           MS. BEDELL: We are talking about reselling in  
18 terms of service. You are not selling the wire. You are  
19 selling --

20           MS. BLASI: Okay. They are selling the service.  
21 What then happens if there is no -- under what criteria  
22 does the ILEC decide who they will resell to and how does  
23 the issue of non-discriminatory access by all of the ALECs  
24 fit into that? I'm not understanding that.

25           MR. WAHLEN: I can address that if you would like

1 me to.

2 MR. MOSES: Go right ahead.

3 MR. WAHLEN: At least all of the large incumbent  
4 local exchange companies in Florida have a standard resale  
5 agreement, and this is an oversimplification, but any  
6 competitive local exchange company, alternative local  
7 exchange company that wants to enter into a resale  
8 agreement with an incumbent can. And those agreements  
9 generally provide for the resale of services at a wholesale  
10 discount. That means the whole service. That means  
11 repair. That means the whole thing.

12 So when Company B resells the service provided by  
13 Company A and there is a problem with the line, the resale  
14 agreement generally provides for Company A to go out and  
15 maintain the line and make the repair and do everything so  
16 that service is installed. And it's basically transparent  
17 to the end-user customer. All they are doing is getting a  
18 bill from a different company for a different price, and  
19 there is not a -- I mean I don't see the direct access  
20 issue in a resale environment the way I do under C when  
21 there is a need to install additional facilities. Maybe  
22 I'm missing something.

23 MS. BLASI: I would agree then. If there is no  
24 additional facilities requests, and it sounds like the  
25 resale not only is transparent to the tenant, but in my

1 case more importantly to the landlord and the property  
2 owner, then I don't think that's a problem.

3 MS. CHASE: Solves our problems as well as far as  
4 damage to the property and other issues.

5 MR. MILNER: Keith Milner with BellSouth. Yes,  
6 let me add just one very small point, if I might, to the  
7 remarks from the gentleman from Sprint. In the case of  
8 BellSouth's arrangements and agreements with resellers of  
9 BellSouth services, in just about every single -- all the  
10 cases that I'm familiar with, BellSouth still is  
11 responsible for maintaining its own network. Let me -- the  
12 point I wanted to clarify was, BellSouth's customer in that  
13 case is the ALEC, not the end-user customer; and generally  
14 that ALEC and the end-user customer have arrangements such  
15 that the end-user customer, if there is a problem, calls  
16 the ALEC rather than calls BellSouth. In fact, if they  
17 call us, then we redirect that call to their service  
18 provider which is the ALEC, not BellSouth. So I think in  
19 the pure resale environment, I don't know that there is a  
20 mighty issue that -- in terms of access that we need to,  
21 that we need to discuss further.

22 There is an issue, and I made this point earlier,  
23 I'll perhaps frame it in a little better context here. And  
24 it is under the rules of this Commission and under the  
25 rules of the Telecommunications Act, BellSouth's obligation

1 to unbundle its network, and that includes the wiring  
2 that's on the premises on the network side of the  
3 demarcation point. So since we are obligated to provide  
4 those facilities, which I'll call network terminating wire  
5 or riser cable on an unbundled basis, that to some degree  
6 mitigates the requirement for a lot of carriers to have  
7 their facilities in each and every building to the extent  
8 that BellSouth's facilities are adequate for the purpose  
9 that they want to put those things to.

10 So in that case, and this is the point I made  
11 earlier, that in those cases where a company such as  
12 BellSouth is required by law to unbundle its facilities, we  
13 believe it's in the public interest as well to allow us to  
14 provide those facilities all the way to the end-user  
15 premises such that the competition among carriers is  
16 enhanced, not diminished; and to the extent that other  
17 companies -- other carriers wish to use those facilities on  
18 an unbundled basis, then that minimizes, not increases, the  
19 inconvenience to property owners as well. So in that case  
20 we think where we have that obligation to provide our  
21 network on an unbundled basis, let us do that all the way  
22 to the end-user premises. That helps us. It helps the  
23 carrier, we believe, and it helps the end user.

24 And then secondly, and finally, we believe that  
25 on a going forward basis, all carriers, as well as property

1 owners are benefited by property owners making a very  
2 careful analysis of infrastructure requirements, conduits  
3 and the like, and sizing and placing those things in a way  
4 that by the very nature of it accommodates multiple  
5 carriers, again with an eye towards minimizing any possible  
6 disruption. I will agree that there is a certain amount of  
7 competition for conduits and structures such as that to get  
8 into particular buildings. That's an artifact of days gone  
9 by where there was only a single service provider in most  
10 cases. That situation has changed and, likewise, we think  
11 that property owners are well advised to change the fashion  
12 that they make available those same support structures,  
13 such that by their design they accommodate multiple  
14 carriers, again, in an effort to minimize any disruption of  
15 the property itself or inconvenience to the tenants or to  
16 the property owners. Thank you.

17 MR. CUTTING: One more comment.

18 MR. KUPINSKY: Stuart Kupinsky from Teligent.

19 I just want to make sure that under Scenario B,  
20 if the purpose of the resale option -- this is sort of a  
21 Hobson's choice in my mind. But if the purpose of the  
22 resale option is a suggestion that the Commission could  
23 recommend to the legislature, that all other forms of  
24 service to tenants and MTEs would be included and resale  
25 would be the only avenue in, I guess I'll state the

1 obvious, that, you know, that precludes a lot of the  
2 benefits, if not most of the benefits, of competition to  
3 those tenants. And, you know, Congress when it passed the  
4 '96 Act used, you know, sort of a three-point theory on how  
5 to open up the local market. The end goal being  
6 facilities-based competition. Resale was the first mini  
7 step followed by unbundled elements, as BellSouth has  
8 pointed out, and then facilities-based competition. So I  
9 don't think that would serve the needs of tenants.

10 MR. CUTTING: I think you just provided my lead  
11 into Scenario C because that certainly is the  
12 facilities-based options, and so unless you have more  
13 comments, we'll certainly get into the facilities  
14 installation and the options available to that.

15 MS. CALLEN: Can I just ask a question of the  
16 gentleman from BellSouth?

17 MR. CUTTING: You are going to have to -- You  
18 have to come up and --

19 MS. BEDELL: While she is coming up,  
20 Mr. Kupinsky, I think our intent was to not have either B  
21 or C but to have them altogether.

22 MR. KUPINSKY: Okay. Thank you.

23 MS. CALLEN: I just had a technical question in  
24 terms of the reselling of lines into -- let me make sure I  
25 understand this. You are talking about having the resale

1 and have it reselling the wires to the point of entry in  
2 the tenant's unit, correct?

3 MR. MILNER: No, let me clarify that. I'm  
4 talking about resale of service. For example, you have one  
5 party residential service today from BellSouth perhaps, and  
6 tomorrow you are contacted by a competitor of BellSouth's  
7 who says, I have this special rate. I can also do this,  
8 and that competitor to BellSouth has chosen rather than  
9 build its own network or use unbundled network elements to  
10 simply resell the same service using the same wires, the  
11 same switches, the same everything else that you use today,  
12 but to resell that service; and as the gentleman from  
13 Sprint pointed out, to that carrier BellSouth offers a  
14 discount -- a wholesale rate which they would in turn sell  
15 to you at some other price. So we are not selling the  
16 facilities but rather we are selling that entire service  
17 that includes the use of wires and switches and everything  
18 else.

19 MS. CALLEN: Okay. This doesn't change -- it  
20 doesn't necessarily answer the question of the demarcation  
21 point then, correct? You would sell whatever to whatever  
22 point we determined?

23 MS. BEDELL: Frankie, earlier you said that you  
24 have clients that have five or six providers in the  
25 building.

1 MS. CALLEN: Right.

2 MS. BEDELL: That is probably what they are  
3 doing, is what we are talking about.

4 MS. CALLEN: Okay. I guess -- But my question  
5 is, is what he was saying in his statement -- I just want  
6 to make sure I understand this -- is that in reselling it,  
7 the question is still then -- that doesn't change the  
8 question of who is responsible for the lines once -- for  
9 repair purposes, who is responsible for the lines inside  
10 the building once whoever is providing the service?

11 MR. MOSES: It would be the ILEC, or through  
12 their contract with the ALEC, they would route the calls to  
13 the ALEC; but they would be responsible for it, the  
14 building owner wouldn't. And that's assuming the  
15 demarcation stays the same as it is now.

16 MS. CALLEN: Okay. But right now the -- if my  
17 understanding is correct, you know, they are providing the  
18 service and are responsible for the service up to a certain  
19 point in that building.

20 MR. MOSES: And if it's the same --

21 MS. CALLEN: If the problem occurs between that  
22 point and the end user, that is where the real question is  
23 here --

24 MS. DANIEL: There is no point --

25 MS. CALLEN: -- in terms of who -- Pardon me?

1 MR. MOSES: Okay. Let me back you up.

2 MS. DANIEL: There is no gap.

3 MR. MOSES: The demarcation right now, if you are  
4 talking residential or business, if it's a single tenant,  
5 it's going to be within that person's --

6 MS. CALLEN: A single tenant, right, but what --

7 MR. MOSES: Okay. In other words, say you've got  
8 an apartment complex, it will be the first jack within  
9 that, and so there is no gap in there that you are talking  
10 about. That is the demarcation point, and that company is  
11 responsible all the way up to that demarcation point.

12 MS. CALLEN: The way it is today?

13 MR. MOSES: Yes.

14 MS. CALLEN: Okay. So this doesn't change any of  
15 that. This really doesn't have anything to do with A?

16 MR. MILNER: That's what I was going to add, that  
17 whatever -- to answer a little more broadly, whatever that,  
18 wherever that demarcation point was before the resale,  
19 that's demarcation point. After the resale, BellSouth  
20 still owns those facilities, still maintains those  
21 facilities. Really the only thing that is changed to you  
22 as an end-user customer is who you receive your bill from  
23 and who you may call in case there is a trouble condition.

24 MS. CALLEN: Okay. And my question would be if  
25 Sprint is providing my service and they've resold lines

1 from BellSouth and I have a problem, does BellSouth have to  
2 respond, or does Sprint have to contact BellSouth? I mean  
3 it goes back to --

4 MR. WAHLEN: You call Sprint.

5 MS. CALLEN: Okay.

6 MR. WAHLEN: Sprint calls BellSouth. BellSouth  
7 makes the repair.

8 MS. DANIEL: But that's transparent to you. The  
9 customer calls their contracted carrier.

10 One more thing I'm not sure of the exact numbers,  
11 but there are probably 20, maybe 25 facility-based carriers  
12 in the state. That two hundred carriers in the state,  
13 well, 175 of them are resellers.

14 MS. CALLEN: Okay. I guess I was confused. I  
15 was thinking that his response to B was answering our  
16 question to A, and that's where I was confused.

17 MR. MOSES: Well, if you think of it kind of like  
18 the long distance market when you switch to a reseller that  
19 doesn't really have facilities --

20 MS. CALLEN: I understand.

21 MR. MOSES: -- they are a pencil pusher out  
22 there, that's the same scenario.

23 MR. CUTTING: There are already faces looking at  
24 me like, okay, now we are going to get to the 25 companies  
25 that Patti just referred to. Do I need to preface this or

1 just open up the floor to how we want to deal with  
2 facilities-based competition and how that enters the  
3 multi-tenant environment?

4 MS. CHASE: That's the issue. We might as well  
5 start down here. That's the issue.

6 MS. BLASI: We'll start.

7 MS. CHASE: I guess if I had to choose from these  
8 different scenarios in here under C, I disagree with your  
9 wording, and I'm going to number them one, two and three,  
10 okay? I disagree with your wording, your word choice in  
11 number 2; but if I understand the concept right, that is  
12 the lesser of all evils. And let me describe my  
13 understanding of that concept.

14 That is, that the legislature will make a  
15 determination that a customer can get service from any  
16 licensed telecommunications provider, and they can choose  
17 the provider, and the landlord can have limits on that  
18 provider's access on to the landlord's property. That's my  
19 understanding of what that middle sentence describes.

20 I think that if properly worked it could be  
21 acceptable, and that is, that the law has to have some  
22 certain -- some minimum reasonable accommodation  
23 standards. Things like indemnification. I mean you have  
24 very clearly made the point that telecommunications  
25 companies are financially able to be telecommunications

1 companies, but we want telecommunications companies to be  
2 financially able to pay damages in civil actions for either  
3 personal injury that is caused on a landlord's property or  
4 property damage on a landlord's property. So there must be  
5 some sort of indemnification, and they shouldn't disagree  
6 with that at all. And there must be some sort of a -- you  
7 know, the landlord ought to be able to decide the  
8 aesthetics to some degree. You know, if you are in a real  
9 up-scale building, you don't want wires on the outside, you  
10 want them buried. So there should be some minimum  
11 standards for reasonable access.

12 MR. CUTTING: I can tell you that within a lot of  
13 the statutes that are out there, whether they are cable  
14 access statutes or telephone access statutes, those  
15 provisions are in there, and I think that is certainly the  
16 intent of number 2. I mean you read a little bit into  
17 number 2 without us going into all the detail, but that is  
18 certainly out there. And to the extent you are allowing an  
19 electrician or a plumber into your building to fix  
20 something, you are going to make sure that company is going  
21 to handle any damages that that contractor does to the  
22 building. The telecommunications shouldn't be any  
23 different, in my mind at least, to any other utility  
24 service provisioned within the building, whether it's a guy  
25 fixing windows or a guy fixing hot water heaters. You

1 know, if he does damage to the building, you know,  
2 obviously the company has got to back up and take care of  
3 the damage. So those provisions are out there within the  
4 laws, and certainly we weren't ignoring those.

5 MS. CHASE: Okay. Well, we would agree with  
6 those. Let me address the first, what I number as Number  
7 1; and that is, that the tenant and the landlord are  
8 responsible for this compensation agreement. I don't think  
9 that landlords in multi-tenant non-owner settings want to  
10 have to collect anything else from tenants. They don't  
11 want to be responsible for the tenant paying them for the  
12 property damage. This has to be an agreement between the  
13 carrier, I think, and the landlord. They don't want to  
14 have to try to collect more out of a tenant.

15 MS. BLASI: Following up a little bit to what  
16 Jodi just touched upon in the first scenario. Again, I  
17 would encourage you to bear in mind that relationships for  
18 property access are between property owners, not tenants,  
19 and vendors.

20 The issue of facilities is a very, very  
21 complicated one, primarily as it results -- as it applies  
22 to existing property because the configurations of service  
23 in existing commercial property vary greatly. Scenarios of  
24 multi-story office buildings, scenarios of one-story  
25 shopping centers, multi-building industrial parks, the age

1 of the building, the existing ILEC service and how  
2 sophisticated it is and how sophisticated it needs to be  
3 going forward; and I think that the primary variable there  
4 is going to be capacity. What physically exists in that  
5 property and just how much new facility can an existing  
6 property handle before both the access to it becomes  
7 unreasonable in the landlord's opinion and just the true  
8 physical space becomes used and completely used up? And  
9 now we've got as a landlord potentially some requirement to  
10 allow all carriers access. Well, that's just not going to  
11 be possible in a lot of circumstances.

12           The gentleman from BellSouth speaks to landlords  
13 becoming responsible for infrastructure on a -- I think you  
14 mean more on a going forward basis, that in a new facility  
15 one should contemplate that there will be multiple  
16 carriers. To a degree I say, yes, but just how many? And,  
17 again, when does the cost of providing that conduit and  
18 that infrastructure and that area become unreasonable, and  
19 I think that if you are going to continue to use words like  
20 "all carriers have to have access," you are going to run  
21 continuously into physical space and cost issues both on  
22 existing property and new construction because somewhere  
23 the property owner has to recover that cost; and typically,  
24 we recover cost only one way, that is through charging the  
25 tenant.

1 MS. CALLEN: Section 3 would, obviously, be our  
2 preferred route on this, on C. But I think two is probably  
3 more reasonable, and I would just like to offer some  
4 suggestions in wording on this. We really have not a huge  
5 problem with this except for the word "must reach  
6 reasonable accommodation for access." As the woman just  
7 stated, it may be impossible to reach accommodation for  
8 access. So what I would like to offer is just a suggestion  
9 for a wording change on this, and have it read "customers  
10 may be entitled to access of telecommunication service from  
11 any certified telecommunications company if landlord and  
12 telecommunications company reach reasonable accommodation  
13 for access."

14 MR. CUTTING: Go ahead, sir.

15 MR. MILNER: Keith Milner with BellSouth.

16 It appears that Scenario 3, as I will call it,  
17 and I will paraphrase that to say that that is the one  
18 where the landlord controls access to any facilities-based  
19 carrier other than the carrier of last resort strikes a  
20 balance between the perspective of the tenant and consumer  
21 and the property owner and the carrier of last resort.

22 So it's BellSouth's position that while it and  
23 other telecommunications carriers are designated carrier of  
24 last resort, and I will hasten to add that that is a  
25 beneficial requirement of communications carriers, that at

1 least one of those carriers be obligated to provide  
2 service; that Scenario 3 strikes a reasonable balance  
3 between the desires of the landlord, the desires of the  
4 customer and the requirements of the carrier of last  
5 resort.

6 And secondly, while all three of these scenarios  
7 certainly have things that are appealing to them, this  
8 seems to be an easily implemented policy that could be made  
9 acceptable to property owners as well as others. So our  
10 favor would be for the third scenario that you've named.

11 MR. CUTTING: You want to continue down the line?

12 MR. WAHLEN: Sure. Jeff Wahlen for Sprint, and I  
13 guess with some trepidation I will tell you that Sprint is  
14 not particularly fond of the second or third options and  
15 thinks that the first option is the best way to be looking  
16 at this. But having said that, it only embraces the first  
17 approach as a concept and doesn't necessarily agree with  
18 all the specific details and language in it. It's just  
19 sort of the way you look at this problem, and the way  
20 Sprint looks at this problem is that there are tenants who  
21 want service from carriers; and when tenants want service  
22 from carriers and that imposes additional costs on the  
23 landlord, it's not unreasonable to ask the tenant to bear  
24 that cost if it's not already being paid for through the  
25 rent.

1           The conduit and riser space that we are talking  
2 about here is a common area of an apartment complex or a  
3 building just like some of the others, and we will concede  
4 that in some -- that it's scarce. It's just like any other  
5 thing, it's not unlimited. But I guess our inclination  
6 would be one right now, but it's something that we think  
7 needs to be studied further.

8           The possibility exists under number 1, that if a  
9 customer wants service from a carrier and facilities are  
10 required and that customer goes to the landlord and says, I  
11 need these facilities, they may be able to negotiate.  
12 There may be some things that the landlord wants to do  
13 consistent with the landlord's control of the premises for  
14 it to do that and either assess tenants or not assess  
15 tenants, or maybe come to the telephone companies and say,  
16 hey, what about this? But there is a longstanding  
17 relationship between tenants and landlords, and we think  
18 maybe that is a good way to look at this.

19           MR. CUTTING: Thank you.

20           Mr. Kupinsky.

21           MR. KUPINSKY: Let's see where to start. I  
22 think, first off, just a general comment that the  
23 compensation to the building owners will come ultimately  
24 from the customer base one way or another. So we are  
25 talking about sort of how the stream is trickling in rather

1 than where it's coming from.

2           The first scenario, you know, obviously there is  
3 sort of an aspect of discriminating against new entrants,  
4 almost as much as in Scenario Number 3, but not quite,  
5 where the tenants also don't have any sophistication as far  
6 as what types of permissions and what types of space will  
7 be required, that type of thing; so that clearly has to be  
8 sort of a building owner, carrier discussion.

9           The second scenario seems to address that  
10 relationship, the parties that are knowledgeable about what  
11 the requirements are from the carrier and what the building  
12 owner has to provide. That's the relationship that's  
13 invoked, and that seems appropriate.

14           The third category clearly, I think, is  
15 discriminatory against new entrants and couldn't be the  
16 recommendation.

17           A general comment about the issue of space, and  
18 we've heard a lot about, you know, what if two hundred  
19 carriers are coming in, that kind of thing. First off,  
20 many of the carriers that are certificated in this state,  
21 just like any other state are resale carriers, so they are  
22 not all facilities-based carriers. So you are not going to  
23 have all of the certificated carriers in this state coming  
24 in.

25           But secondly, these are all space constraint

1 issues that are addressed in many contexts. Collocation  
2 space in BellSouth central offices -- it's the same  
3 scenario -- there is a limited amount of space. We seem to  
4 have been able to work that out amongst competitors, so I  
5 think we could probably work it out amongst essentially  
6 non-competitors.

7           There are first come, first serve rules. There  
8 is -- you know, you are not allowed to warehouse. These  
9 are sort of the details that would have to be worked out,  
10 admittedly. And it's in our interest to have a fair way of  
11 working it out, just as it is for the building owner. So I  
12 think there are answers to those questions.

13           MR. WAHLEN: Could I add one more thing? This  
14 one, and I don't want to stir people up again, but this one  
15 to me is like --

16           MR. CUTTING: Better you than me.

17           MR. WAHLEN: Somebody has got to do it.

18           This one is a little bit like A. This one is  
19 also very hard to evaluate without an understanding of the  
20 underlying facts. I think there are situations like a  
21 residential apartment complex in a college town that are a  
22 lot different than something that looks more like a  
23 condominium that are a lot different than looks something  
24 like a commercial building, and the abilities and skills  
25 and bargaining power and all of the things of all of the

1 parties involved in those different situations is a lot  
2 different; and so it's real hard to do a one-size-fits-all  
3 thing.

4           If you wanted to, it might be interesting to look  
5 at this and ask the question: What about in this  
6 situation? What about in this situation? What about in  
7 this situation? What about in this situation? Because you  
8 might get people with different answers. Maybe not. But  
9 this one is awfully hard to evaluate without knowing which  
10 kind of multi-tenant environment you are talking about, to  
11 my way of thinking.

12           MS. CHASE: Can I clarify something?

13           MR. CUTTING: Quickly.

14           MS. CHASE: Okay, very quickly. I want to  
15 clarify two things. The first thing is multi-tenant,  
16 non-owner, residential setting, you do not always recover  
17 these costs because you're in a fixed, or almost like a  
18 fixed commodity market. You can't move that community, and  
19 each community is targeted to a different market; and so  
20 you cannot always recover those costs. In a low income  
21 setting, you can't raise the rent 15 dollars a month to  
22 recover those costs. So we can't move our product, so we  
23 can't always recover those costs from the tenant.

24           And the one thing that I think is real important  
25 for us to clarify, our clients don't have conduit.

1 Everybody talks about conduit like it's an easy thing. A  
2 lot of our guys don't have conduit. You are running wires  
3 on the outside of the wall, so don't make a conduit-based  
4 decision because then we are -- we have to retrofit  
5 everything, and then we are in a lot of trouble.

6 MR. CUTTING: Go ahead, sir. Identify yourself  
7 for the record please.

8 MR. BERGER: I appreciate the opportunity to come  
9 down today. I'm Bob Berger from WinStar Communications.  
10 It's been the first chance I or my colleague have had a  
11 chance to come down here and participate and so welcome  
12 it.

13 Let me just start out by answering the question  
14 and then give a couple of comments. Number 2 clearly is  
15 our strongly preferred choice given Scenario 3. If you're  
16 not familiar, WinStar Communications, like Teligent who you  
17 have heard from, is one of the other handful of fixed  
18 wireless CLECs, national CLECs active in the marketplace  
19 today. WinStar is actually, probably by default, the  
20 oldest, longest standing one. We are in just under 30  
21 markets nationally on a facilities basis, and our core  
22 asset are spectrum holdings, principally in the 38  
23 gigahertz band, which is, as a practical matter,  
24 principally used for -- and really can only be used on a  
25 broad basis effectively for the last mile local loop. If

1 we cannot deploy the last mile local loop itself, our core  
2 asset makes no sense. And that is true for Teligent, for  
3 Optel, who I believe you've gotten written comments from,  
4 for the new LMDS spectrum winners in the FCC's recent  
5 spectrum.

6           So your game plan, we put a Lucent switch into  
7 market, and we begin -- well, we'll enter the market doing  
8 a little bit of resale and things like that. We need to,  
9 as a company and want to, bring our own last mile local  
10 loop which delivers broad band services directly to the end  
11 user. As a physical matter, if we cannot access, put our  
12 dish on the roof, which it's a 12-inch dish, it weighs  
13 about 40 pounds, and it stands about four feet high just on  
14 a pole -- you cannot see it from the street in most cases  
15 in the small and mid size business multi-tenant commercial  
16 buildings that are our principal target market -- and drop  
17 a coaxial cable off the roof, we physically cannot deploy.  
18 I mean that is just an objective matter.

19           We began deploying non-switched services in '94.  
20 We began deploying our first switched services in New York  
21 in November of '96. We have been in Florida only the last  
22 several months. We have a switch in Tampa, and we are  
23 deploying in Miami, but we have been in service as a CLEC  
24 since November of '96. We have certain -- Certain  
25 experiences tell us the following as a practical matter:

1 The number one choice, that the burden is going to fall on  
2 the customer, on the tenants. As a practical matter in the  
3 day-to-day world, doesn't work. It's a good construct.  
4 It's a nice legal construct, but in our more mature markets  
5 we repeatedly have had customers requesting service or  
6 access from their landlords to let their preferred carrier,  
7 WinStar, in. Many customers just don't have the  
8 wherewithal -- they are small businesses -- to go and do  
9 those kind of negotiations; but even in some of the larger  
10 ones who do, very frequently the response is, We are not  
11 interested. Number 1 doesn't work in practice.

12           Number 3 is kind of a snapshot of where we are  
13 today, but it's interesting, the buildings we are talking  
14 about are really competitive buildings. We are not talking  
15 about a building served by one because either we or the  
16 other -- the subset of facilities-based carriers who  
17 actually want to bring a loop to the building aren't trying  
18 to get in there, so we are not talking about a building  
19 that is otherwise abandoned. There are one or several of  
20 us who want to get there.

21           As a practical matter, when you run your  
22 economics for what does it cost to deploy, whether you are  
23 a fiber-based carrier, like MFS or Teleport, Time Warner  
24 through cable over build, or whether you are a fixed  
25 wireless carrier, once you get beyond three to four

1 carriers who physically are bringing a local loop to the  
2 building maximum, your economics never prove out. You can  
3 never recover your economics. And for those of us who are  
4 pure -- I mean we are listed on NASDAQ. We are a fairly  
5 large company by small company standards at this point. We  
6 are kind of a big small company, so to speak; but we are  
7 pure risk capital. We have no, what used to be known as  
8 captive ratepayers in the old days. We are not affiliated  
9 with a larger enterprise at all. We are purely based on  
10 the capital we have raised. So if we can't have our  
11 buildings prove out economically, it makes no sense for us  
12 to go in there in the first place.

13           So in virtually all the buildings you are looking  
14 at, you are talking about a maximum in practice of three or  
15 four carriers at most who will be there. You are talking  
16 about when it comes to fixed wireless, like Teligent and  
17 ourselves, carriers -- not the old big microwave, you know,  
18 with the huge dish things that you could see for miles and  
19 miles, but very discrete setups. And for us Number 2,  
20 where the customer has a right to receive service from the  
21 carrier of its choice that will provide a local dial tone,  
22 where the landlord and telecom company must reach a  
23 reasonable accommodation, negotiation is our first and  
24 preferred choice. We have done it for years. It is a very  
25 slow pace. It is the gating function for us for physical

1 deployment. There is no other real gating function. And  
2 if there are rational parameters to that, starting with  
3 time parameters, kind of like interconnection negotiations,  
4 they can't go on forever, it at least provides us the  
5 framework to roll out our broad band services to the end  
6 user and to compete in the marketplace. But for that, we  
7 effectively are precluded, and that's true for Teligent,  
8 it's true for Optel, and it's true for any other carrier  
9 that wants to go to a given building with its own  
10 facilities and compete there.

11 MR. CUTTING: I'm going to throw this out in fear  
12 of having to duck when the bullets come back. In the  
13 Federal Act, the interconnection agreements do not work  
14 out, what are your thoughts on arbitration proceedings?  
15 Should negotiation not fallout on a timely basis, or if you  
16 had the occasion in your markets around the country where  
17 you've had the negotiations, so you've walked away where  
18 there was no other option left to you?

19 MR. BERGER: I'm hoping we are not mixing apples  
20 and oranges, when it comes to rights of way, inside wire,  
21 vis-a-vis the incumbent, the incumbent carrier. We are  
22 working through that process, and in most cases we have  
23 embraced -- perhaps because we were probably one of the  
24 first handful of carriers negotiating early in '96, many of  
25 our agreements have provisions that were voluntarily agreed

1 to for right-of-way building access to the extent that the  
2 incumbent has it. We have some discussions with BellSouth  
3 right now to implement provisions of our agreement.

4           The issue, however, again, as practices, you have  
5 to deal with the landlord, and you should have to deal with  
6 the landlord. The landlord is not an interconnection  
7 negotiation or arbitration issue. There is also a  
8 timeliness issue. We, like most of the independent smaller  
9 carriers, you'll see more and more volunteer negotiations  
10 in these days of operating. We don't have two years, quite  
11 frankly, to go through a five- or six-month negotiation, a  
12 five- or six-month arbitration, and then another year to  
13 get the agreements in place. As a business that has to  
14 deploy, whose business is purely local dial tone service,  
15 we are trying to run this as a pragmatic business. Our  
16 strongest efforts are ongoing since '94, our negotiations  
17 with landlords for building access, but it's a very slow  
18 process. It's a very lumpy problematic process. To the  
19 extent that it can become more regularized, and there is a  
20 legislative framework to help that, achieve that in the  
21 commercial arena, that is an ideal solution.

22           MR. WAHLEN: Your question sort of slips into D  
23 just a little bit.

24           MR. CUTTING: Yeah, a little bit but not as much  
25 as you may be inferring, and I don't really want to get

1 into the compensation piece of it because I think that's a  
2 real knotty problem. But as we were talking internally  
3 about D, it would be a very bad thing for the development  
4 of competition for disputes over accommodation, meaning how  
5 you get access, to be in circuit court because circuit  
6 court takes a long time to litigate. You all as an  
7 institution have the ability to do those things faster.  
8 The arbitration model may or may not be the right one, but  
9 you could, if you were to handle those disputes as an  
10 institution, they would be done more quickly than in  
11 circuit court, and you would end up with a more uniform  
12 non-discriminatory statewide result than if you left those  
13 to circuit courts.

14           It may be that some sort of arbitration model  
15 might make sense, and it's something that we would be  
16 interested in thinking about a little bit more, and maybe  
17 it's not arbitration at the Public Service Commission,  
18 maybe it's private arbitration. The problem with private  
19 arbitration is that you run a greater risk of different  
20 results in different parts of the states -- a state with  
21 different arbitrators on factually indistinguishable  
22 situations, but we are looking for uniformity. We are  
23 looking for the ability to get in quickly on a  
24 non-discriminatory basis and really do not want to increase  
25 the transaction cost for the landlords or the tenants or

1 the telephone companies because someone said, and it's  
2 true, that the tenants' customers end up paying the freight  
3 in the long run.

4 I said we would work back this direction, so I  
5 guess BellSouth in the middle.

6 MR. MILNER: Thank you, Keith Milner, for  
7 BellSouth.

8 First of all, I will echo the gentleman from  
9 Sprint's comments. My experience has been that in terms of  
10 jurisdictional efficiency that circuit courts tend to move  
11 at a slower pace than does the Commission action. However,  
12 having said that, though, let me be very clear that  
13 BellSouth's preferences for negotiation over arbitration.  
14 The Telecommunications Act provides a very clear path from  
15 disputed issues that come out of the interconnection  
16 agreements to this Commission for resolution. I'd add only  
17 that some telecommunications carriers have negotiated into  
18 their agreements with BellSouth alternative dispute  
19 resolution clauses that would take disputes to that, as we  
20 call it, the ADR process rather than through the  
21 Commission. But certainly we believe that, A, that is a  
22 path that is already available to telecommunications  
23 carriers; and that is, that issues cannot be resolved  
24 through the interconnection agreement. Negotiations have a  
25 very clear path through the Telecommunications Act. And as

1 I suggested before, we believe very strongly that this  
2 Commission already has jurisdiction in these matters. We  
3 think that those -- that the Commission's rules are also,  
4 are supplemented by the tariffs that the independent, or  
5 incumbent carriers such as BellSouth has put in place and  
6 that those are the sorts of authorities; and, again, there  
7 are judicious remedies beyond this Commission should a  
8 party seek redress beyond here.

9 MR. CUTTING: Go ahead go, sir.

10 MR. SULMONETTI: I wasn't going to comment on  
11 your question because my company doesn't have a position on  
12 it at this time.

13 MR. CUTTING: Please state your name, sir.

14 MR. SULMONETTI: Brian Sulmonetti, representing a  
15 new start-up company, MCI WorldCom. And what I wanted to  
16 comment on, was echo the comments of Teligent on the three  
17 scenarios you have in C; and we would support Scenario 2  
18 there. But I would add at the end of it wording, on a  
19 non-discriminatory basis. We think that would add to it  
20 and clarify positions of this Commission, and the  
21 legislature wants non-discriminatory access to the  
22 buildings.

23 And I also want to make a point about you say  
24 there are 25 certified carriers, facility-based. That is  
25 probably true, but in actuality, there is probably only

1 going to be three or four going into any one building as  
2 Bob Berger said from WinStar. So I don't think a space  
3 constraint will be as great a difficulty as building owners  
4 think. So that's all I have.

5 MR. CUTTING: Are you going to take the same  
6 slot, Mr. Hoffman, or let Ms. Blasi go next?

7 MR. HOFFMAN: Ms. Blasi.

8 MS. BLASI: Trish Blasi, International Council of  
9 Shopping Centers.

10 I think that if the reality is that there are  
11 going to be only three or four of these facility-based  
12 carriers that want to access buildings, then everyone  
13 should probably agree with Number 3, which as your items  
14 are worded currently, would be the only one that we would  
15 consent to today. I also believe that the control of  
16 facilities answers your question on how you would settle  
17 disputes. Unfortunately, I think that most of these issues  
18 are going to be property rights issues, and the only  
19 acceptable venue by which they would be resolved would be  
20 the courts.

21 MS. CHASE: I must be confused. I must have  
22 misunderstood the entire issue because I thought we were  
23 talking about tenants wanting access to certain providers,  
24 and what Mr. Berger just said was, well, there is really  
25 only going to be three or four; and if it's not cost

1 effective for my company, I'm not coming to the building.  
2 Well, we have to decide if we are going to have it one way  
3 or two ways, and I think that if we are talking about  
4 tenant control, then whatever that tenant asks for, that  
5 carrier has to provide it, whether it's cost effective or  
6 not because that is what they are asking us to do.

7           Now the way it works better, of course, is for  
8 the landlord to say, okay, tenants, we have got these three  
9 providers on our property, you either live here if you like  
10 these three providers, or you can find another community  
11 that has three different providers. But we have just added  
12 a whole new wrinkle; and that is, that the  
13 telecommunications provider can decide if they want to come  
14 on the property or not, and I must have been confused for  
15 months over this.

16           The answer to the question on arbitration is  
17 that, you know, we have a tenant who lives in an apartment  
18 for three months and he comes in and he says, I want  
19 Mr. Berger to put a microwave dish on top of my roof and  
20 I'm going to be -- I'm moving out in three months, and the  
21 legislature told me I had a right to that. Well,  
22 Mr. Berger better put that thing up there before that guy  
23 moves out because, if he doesn't, who is responsible, me or  
24 Mr. Berger? Not me. So you can't arbitrate these things.  
25 You can't drag them on, not in a non-owner residential

1 setting because these people are moving out before the  
2 service gets put in.

3           Now if we can make a decision that through --  
4 there is going to be negotiation through the market, space  
5 constraints, cost analysis on part of the  
6 telecommunications companies and they are going to decide  
7 which facilities-based carriers want to be within which  
8 markets, then that's fine. To me that is the way the world  
9 works today, but I thought we were talking about something  
10 different. For example, the guys who live in his buildings  
11 in Tallahassee, you know, they want access to cable for  
12 their Internet access. Well, doggone it, somebody better  
13 start bringing it in.

14           So let's decide what we are talking about here.  
15 Really, I'm serious about this. I'm confused because, if  
16 all we are talking about is a landlord has to provide  
17 access to a choice of facilities-based providers, I don't  
18 think there is a big problem.

19           MR. MOSES: Let me see if I can help you out here  
20 a second. It's the same thing as the long distance market.  
21 There is no requirement that every long distance carrier  
22 serve every customer in the State of Florida. The only  
23 requirement is, is if that company chooses to serve you,  
24 that you have to have access to that company. That's all  
25 we're trying to talk about.

1 MS. CHASE: But that's not what he said.

2 MR. WIGGINS: May I help?

3 MR. MOSES: Sure.

4 MR. WIGGINS: I think it was Brian who said that  
5 if he didn't want to go.

6 Okay. We are talking about multi-tenant  
7 environments where, typically, the aggregation of end users  
8 will create market demand for services inviting competition  
9 into that location, fair enough?

10 MS. CHASE: Uh-huh.

11 MS. DANIEL: Okay. In that situation, the  
12 carrier of last resort concept, that is to say, that the  
13 local exchange company which has a common carrier  
14 obligation throughout its service territory -- that means  
15 BellSouth, General Telephone, Sprint -- that common carrier  
16 obligation throughout its service territory combined with  
17 the obligation that it cannot withdraw from the area, is  
18 now not necessary to ensure that the end users get  
19 service.

20 Since service to end users is so important, we  
21 want to make sure that competition will, in fact, deliver.  
22 And one of the key components of that is that each end user  
23 will have access to the available local competitors, or in  
24 the long distance market, to the long distance  
25 competitors. We don't require in a competitive market that

1 all competitors go into all areas to provide service, but  
2 we do say that if you go into that area to provide service  
3 you do it on a non-discriminatory basis. That in  
4 regulatory talk means that you can charge different things  
5 for different people, but there needs to be economic  
6 justifications for those categories.

7 In this environment, what it boils down to is  
8 some hangover problems from the previous monopoly approach  
9 combined with this new vision of competition.  
10 Specifically, before we had MCI -- who are you today, MCI  
11 WorldCom? -- and Intermedia and Teligent and others  
12 competing to get into this multi-tenant location, we only  
13 had BellSouth. And under Mr. Moses' point of demarcation  
14 vision, we have the wire going to the tenant's location,  
15 the premises, all right? They see themselves as having a  
16 carrier of last resort obligation to be in there.

17 Now we've got Intermedia and several others  
18 wanting to serve that territory, serve that, and we want to  
19 have access to the end user on the same basis that they  
20 have. We want it to be competitively neutral. We don't  
21 want them to pay for the access that they don't have to pay  
22 for, and we want your guys to help us get there. That's  
23 where the problem comes.

24 Historically, the Commission has looked at it not  
25 from helping Intermedia or necessarily helping BellSouth,

1 but what do we have to do to create the optimal situation  
2 for the end user to have access to Intermedia, BellSouth,  
3 Teligent, MCI, WorldCom; so that is where we are. That is  
4 why Mr. Sulmonetti can say we can look at a situation where  
5 there may already be three other competitors and we may  
6 make the market decision that we don't need -- we don't  
7 want to go there. And even if a customer there says we  
8 would really like to get you in there, MCI Metro, they may  
9 say to them, well, we are not choosing to go to that  
10 location. Does that --

11 MS. CHASE: But you can't make the statement that  
12 there is only -- that this isn't a problem because there  
13 are only going to be three or four facilities-based --

14 MR. WIGGINS: No, I think what he -- I'm not  
15 trying to speak for Brian, but I think what he was saying  
16 is that just as you have said and other folks have said,  
17 that we need to try to keep our focus on what the practical  
18 problems are going to be in the marketplace. Let us not  
19 overstate the number of competitors that are going to come  
20 banging on your door asking for conduit space; that in all  
21 likelihood there will be -- the concentration of customers  
22 will limit the number of vendors who do wish to get in, and  
23 that he is predicting that it won't be more than three or  
24 four or five rather than 10 or 15 or 20.

25 MS. CHASE: Well, it's --

1 MR. WIGGINS: Does that --

2 MS. CHASE: Yeah, that is what I thought we were  
3 talking about, but that's not what I'm hearing.

4 MR. WIGGINS: I think you were right the first  
5 workshop and up until the point where you said you were  
6 confused.

7 MS. BEDELL: I wanted to ask a question of  
8 Mr. Berger, if you can remember what you said a while ago.  
9 And it ties into the business of the economics of serving a  
10 building as well as the space issue, which is if, in fact,  
11 you have -- Ms. Chase has an apartment building that has  
12 wires running up the wall and has no facilities, perhaps  
13 even has no roof to put a wireless connection on, I mean  
14 would it be in your mind, under any of these scenarios  
15 where we have used the word "reasonable," reasonable to  
16 assume that you couldn't provide service?

17 MR. BERGER: There are certain -- Well, as a  
18 business you have to look at certain basic things, and  
19 that's true for each of the carriers that are going to  
20 bring their own facilities. When we're saying bring their  
21 own facilities, I'm saying deploy an alternative pathway to  
22 that billing, as opposed to using simply what is  
23 preexisting there and either, A, fully simply reselling it,  
24 which is transparent; B, using the preexisting loop as-is  
25 because, if you pick it up at the end office, you can pick

1 it up as-is, and effectively you go right to the consumer,  
2 to the tenant. You may have your own switch. You may have  
3 your own back whole network, but you are not deploying your  
4 own last mile physical loop.

5           The variation on that is there are companies that  
6 are certainly going in -- many companies that are now going  
7 in and putting electronics both at the end office as well  
8 as at the customer prem, XDSL type technology, which is  
9 electronics to provide certain broad band services; so that  
10 is a variation. But for, in any given building -- First  
11 of all, as a practical matter, each of us have different  
12 marketing plans. WinStar, like a number of the ALEC  
13 brethren here, have targeted different market segments. We  
14 target multi-tenant, small and mid size business units,  
15 usually, roughly a hundred thousand or so square feet.  
16 That's who you're marketing to. We come in with no name  
17 recognition usually, with no former market presence  
18 whatsoever. As a practical matter, you get very few  
19 requests from folks other than those you market to. As a  
20 practical matter also, in terms of the economics of you  
21 deploying your own loop which for us is this 38 gigahertz  
22 loop. It's a little radio kind of an aggregation point for  
23 us or what we call a hub. It's a small radio on an  
24 end-user building. There has to be line of sight because  
25 of the technology. For anyone using a fixed wireless local

1 loop today, if you don't have line of sight, you can't get  
2 there using your technology. It has to be within a certain  
3 distance, otherwise, again, the technology -- you began to  
4 get fade.

5           So for us in most of the markets, as a practical  
6 matter, to achieve fiber-based reliability, a mile and a  
7 quarter mile and a half -- Tampa is a little shorter; in a  
8 place like Phoenix, a little longer because atmospheric  
9 affect any microwave. Certainly, if there is no roof space  
10 available, no one with any kind of microwave can get on  
11 there. If you go up to a point, you may not be able to get  
12 there. If there are already three or four carriers  
13 physically present within the building who physically have  
14 deployed, say, fiber to the building or three fiber-type  
15 carriers and maybe Teligent or Optel, as a practical  
16 matter, you are not going to market to them. If you get a  
17 requesting care -- customer from that building, to the  
18 extent that you either are required to serve them or choose  
19 to serve them, you are going to do it over resale, or you  
20 are going to do it over -- essentially, you are going to  
21 acquire on a kind of commercial basis a preexisting loop.  
22 It's kind of a wholesale market, and that's what having  
23 multiple path ways to the customer is about. You begin to  
24 develop a secondary wholesale market. But there is no way  
25 for any of us that you are going to -- that any of us can

1 justify being the eighth carrier physically present in a  
2 building, bring your last mile local loop there, or the  
3 ninth carrier or the tenth carrier or the twentieth  
4 carrier. It's not only not in the landlord's interest, the  
5 tenant -- if you get a mix of three or four carriers to the  
6 building, the tenant will have access to resold services,  
7 those carriers that are bringing in purely resale. There  
8 will be several carriers potentially serving that building  
9 using an unbundled local loop, and there will be probably  
10 up to three or four carriers that have chosen to deploy or  
11 would like to deploy, assuming they can get building  
12 access, to the building.

13 That's, as a practical business matter, that is  
14 how it has worked in the marketplace today. And then the  
15 question is: Can he get access to the building? At what  
16 price and how fast can you get that access? Are the gating  
17 functions actually being -- deploying there?

18 MR. CUTTING: Any other comments? Ken Hoffman,  
19 excuse me.

20 MR. HOFFMAN: Ken Hoffman on behalf of TCG.

21 I guess at this point I have very little to add  
22 to this discussion. Let me just let you know though sort  
23 of where we lineup preliminarily under Issue C, and for  
24 many of the reasons given by Mr. Berger and Mr. Kupinsky  
25 and Mr. Sulmonetti, with Mr. Sulmonetti's little addendum

1 language wise, we lineup under Number 2. We would support  
2 conceptually the proposals under Number 2 given a choice  
3 between one, two and three.

4           One doesn't work very well for us for many of the  
5 reasons that Mr. Berger stated. Essentially, that, at  
6 least in our experience in the real world of trying to gain  
7 new customers, it doesn't make sense practically to try and  
8 gain that customer's business and then basically say to the  
9 potential new customer, well, you work it out with the  
10 building owner and landlord and let me know when you've got  
11 it all done. That is up to you to carry that burden. You  
12 the carrier, the carrier has the resources to take on that  
13 burden, and essentially that's why Number 1 doesn't work  
14 very well for us.

15           Number 3 in many ways is a recitation of the  
16 status quo. I thought that Mr. Milner might argue that in  
17 light of the disparate treatment imposed on the competing  
18 carriers that this would be an unconstitutional bill of  
19 attainder, but no such luck. But, no, Number 3 would be  
20 pretty much the status quo, and we would support Number 2.

21           Now on the issue of arbitrations and so forth, I  
22 think that we would tend to come out in support of that. I  
23 think there has to be a place to go. We also support  
24 negotiations. I don't need to reiterate all of that, but  
25 there ought to be a place to go to resolve this, and where

1 is the better place to go? I think Mr. Wahlen basically  
2 said it for you very succinctly. If you are looking for  
3 uniformity and policy and if you are looking for the  
4 potential for uniformity in procedure, come here. You go  
5 to a circuit judge in Broward County, and you go to a  
6 circuit judge in Leon County, they've got no obligation  
7 absent an appellate court precedent to enter a similar  
8 ruling. They can take it as they see it. The same would  
9 go for mediators. So with the Commission, the Commission,  
10 you know, obviously tries to maintain a level of  
11 consistency in its decisions. The Commission, assuming  
12 it's given the criteria by the legislature to make these  
13 decisions, would have the ability to do so, would have the  
14 criteria upon which to act, and certainly would have the  
15 jurisdiction to come up with a set of procedures, hopefully  
16 an expedited set of procedures, to resolve remaining  
17 disputes.

18 MS. CHASE: Just on that last issue of venue for  
19 dispute. I just want to make sure that you're aware of  
20 what you are getting into if you make the PSC the venue for  
21 access disputes.

22 As I said, my little association alone is 127  
23 thousand different communities, hundreds of thousands of  
24 apartments. You've got hundreds -- you've got hundreds of  
25 thousands of condominiums, individual condominium owners,

1 which are each individual access issues. You've got  
2 homeowners associations. You've got malls. You've got  
3 shopping centers, and I certainly hope that we can figure  
4 out who is going to fund this new system for you to resolve  
5 these disputes because you will have to become -- somebody  
6 is going to have to create a full-time access dispute  
7 resolution center throughout the state because some of  
8 these disputes will be with large sophisticated owners and  
9 some will be with, you know, my Grandma Mae who lives in  
10 Century City.

11 MR. CUTTING: Since I was the one who brought up  
12 the jurisdiction issue earlier in the day, unless someone  
13 has got some prior comments -- or additional comments on D,  
14 I think we are pretty much done. If anyone would like to  
15 file some concluding comments, we would like to take them,  
16 unless there is something we have missed, pros, cons.  
17 There has been some discussion of additional filings made  
18 after this proceeding, and I think Mr. Hoppe or Ms. Bedell  
19 have got a response to that at this point.

20 MS. BEDELL: We are still inviting any comments  
21 that you all would like to make, any responses you would  
22 like to make to anything that was said today, any further  
23 ideas you have about how things should be.

24 We would like -- our next -- Basically in terms  
25 of any group contact, we do not have any further workshops

1 or, you know, hearings or anything scheduled until we  
2 actually present this to the commissioners in December.  
3 And just for those of you who don't know how our internal  
4 affairs packages work, they are not usually available until  
5 sometime during the week prior to the internal affairs  
6 meeting; and if we are able to get a package together  
7 sooner than that, we will send one to everybody who has  
8 participated in these workshops or sent us comments, but --  
9 I'm saying this because we are going to try to get  
10 something drafted so that we have a decent product. We are  
11 going to get started as soon as we can and, therefore, we  
12 need anything that you have to give us as soon as  
13 possible.

14           The data request that we have out is due on  
15 October 2nd. We would like to request that if you have any  
16 further comments, anything else you want to file, any  
17 information you think that would be beneficial to us, that  
18 you get those to us by October 2nd. We will certainly  
19 consider anything that comes after that to the extent that  
20 we are able, but we would very much like to see anything  
21 that you have by the 2nd.

22           Ms. Caswell.

23           MS. CASWELL: Yeah, I just wanted to ask if you  
24 would be posting the responses to the data request on the  
25 Internet.

1 MS. BEDELL: We hadn't anticipated doing that.  
2 We can -- I'm not real sure what we are going to get. I  
3 don't know how much material it's going to be. We had told  
4 records and reporting that they would only be posting the  
5 comments that have been filed so far, the ones that we had  
6 scheduled, that we knew about. Why don't we take a look at  
7 what we get, and if it is -- if people can file those for  
8 us on diskette, we will see if we can get it -- if we can  
9 get it on. You know, if there is a tremendous amount of  
10 material, we may have a problem with it, but I don't know.

11 MR. KUPINSKY: Excuse me, are you planning any  
12 sort of confidential treatment of the material? Is that  
13 going to be available in any way, shape or form? There are  
14 sensitivities involved in the information you are  
15 requesting.

16 MS. BEDELL: We have a whole program for  
17 confidentiality, and if you want some help with that, you  
18 can ask me, or you can ask any of the other folks that  
19 practice here.

20 MR. KUPINSKY: Okay. But you are contemplating  
21 that that would apply if we invoked it?

22 MS. BEDELL: If you request confidential  
23 treatment in the fashion that we require it, then we will  
24 examine it that way.

25 MR. KUPINSKY: Okay. Great. Thank you.

1           MR. HOPPE: Just to cover a few loose ends on  
2 what you all might be responding to by October 2nd. We  
3 would hope that if people hadn't given us what they think  
4 their definitions are of access to multi-tenant  
5 environments, demarcation points, reasonable  
6 non-discriminatory accommodations, the definitions on this  
7 first page, that you would please include those in any  
8 comments you might have.

9           Also, one piece that we are interested in is  
10 activities in other states, and there has been some  
11 comments made that some of the interested people here are  
12 working in other states. So other states that have the  
13 MPOE as a demarcation point, if there are parties here who  
14 are actively working in those states, we would like some  
15 information on your experiences. If you are for our  
16 current rule and you are working in another state or it's  
17 the MPOE, we would like to know what problems you've had  
18 with that demarcation point. If you agree with our -- if  
19 you disagree with our current rule and think it should be  
20 the MPOE, we would hope that in these states where you are  
21 practicing, you would give us examples or maybe numbers of  
22 contracts or something like that as far as where you are  
23 having success with the MPOE as the demarcation point, if  
24 possible.

25           MR. CUTTING: Any other final comments?

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(NO RESPONSE)

MR. CUTTING: Thank you we are adjourned.

(WHEREUPON, THE HEARING WAS ADJOURNED)

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CERTIFICATE

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STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, NANCY S. METZKE, Certified Shorthand Reporter and Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 24th day of September, 1998.

*Nancy S. Metzke*  
\_\_\_\_\_  
NANCY S. METZKE, CCR, RPR