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RECORDS AND
REPORTING

July 11, 2000

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

Re: Docket No. 990649-TP (UNEs)

Dear Ms. Bayó

Enclosed please find the original and fifteen copies of BellSouth Telecommunications, Inc.'s Emergency Motion to Compel, which we ask that you file in the captioned matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Bennett L. Ross
Bennett L. Ross (BR)

cc: The Honorable E. Leon Jacobs
Ms. Melinda Butler
All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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- CAF _____
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**CERTIFICATE OF SERVICE
Docket No. 990649-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronically (#) and Federal Express this 11th day of July, 2000 to the following:

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219337

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into)	
Pricing of Unbundled Network)	Docket No. 990649-TP
Elements)	
_____)	Filed: July 11, 2000

BELLSOUTH TELECOMMUNICATIONS, INC.'S
EMERGENCY MOTION TO COMPEL

I. INTRODUCTION

BellSouth Telecommunications, Inc. ("BellSouth") hereby files this emergency motion seeking an order from the Florida Public Service Commission ("Commission") compelling AT&T Communications of the Southern States, Inc. ("AT&T"), Intermedia Communications, Inc. ("Intermedia"), KMC I, II, and III Telecom, Inc. ("KMC"), MCI WorldCom, Inc. ("MCI WorldCom"), and Time Warner Telecom of Florida, L.P., ("Time Warner") to respond fully and completely to BellSouth's discovery. Last month, BellSouth served interrogatories and requests for production on these (as well as other) parties seeking to discover information concerning the useful life of equipment used to provide telecommunications service in the State of Florida. Although directly relevant to the issues that the Commission will hear during the first phase of this proceeding, which is scheduled to begin on Monday, July 17, 2000, these parties objected to BellSouth's discovery or otherwise failed to provide the requested information.¹

¹ BellSouth served similar discovery requests on North Point Communications, Inc., Global NAPs, Inc. @Links Networks, Inc., Network Access Solutions, Rhythms Links, Inc., BlueStar Networks, Inc., Broadslate Networks of Florida, Inc., Florida Digital Network, Inc., ALLTEL Communications, Inc., and Supra Telecommunications and Information Systems. North Point, Global NAPs, and @Links have since decided to withdraw as parties in this proceeding. Network Access Solutions, Rhythms Links, and BlueStar generally provided the information requested by BellSouth concerning useful equipment lives, and Broadslate, Florida Digital, and ALLTEL have agreed to do so prior to the hearing. While acknowledging receipt of a faxed copy of BellSouth's discovery requests, Supra claimed that it did not receive a copy by mail and has to date not responded to BellSouth's requests. However, Supra has committed to providing "good faith responses" prior to the hearing.

In order to avoid having to involve the Commission in discovery issues, BellSouth attempted to resolve this discovery dispute informally. Without waiving its right to seek an order compelling responses to all its discovery requests, BellSouth wrote AT&T, Intermedia, MCI WorldCom, and Time Warner proposing that BellSouth would not file a motion to compel if these parties would answer a limited number of BellSouth's discovery requests. *See* Exhibit 1.² To date, none of these parties has accepted BellSouth's proposal.³ This Commission, therefore, should grant BellSouth's motion to compel and order these parties to prepare complete responses to BellSouth's discovery requests as more fully discussed below.

II. DISCUSSION

In June 2000 BellSouth served comprehensive interrogatories and requests for production on various parties in this proceeding that generally were designed to discover information about the equipment used by Alternative Local Exchange Carriers ("ALEC") in providing telecommunications service in Florida. Included in these interrogatories and requests for production were the following requests:

Please state the economic lives or useful lives used by [ALEC] for depreciation purposes for the switches it owns or operates to provide telephone exchange service in Florida, including the extent to which such lives vary depending upon the type of switch involved (e.g., Digital Electronic, ATM, etc.). In answering this Interrogatory, please identify all documents referring or relating to the economic lives or useful lives used by [ALEC] for depreciation purposes for the switches it owns or operates to provide telephone exchange service in Florida.

² Unlike AT&T, Intermedia, MCI WorldCom, and Time Warner, which objected to providing BellSouth with the information it seeks, KMC never responded to BellSouth's discovery requests at all. KMC's in-house counsel has since advised BellSouth that he did not receive a copy of BellSouth's discovery requests, although KMC's former outside counsel apparently did. In any event, KMC has indicated that it would not provide BellSouth with information concerning useful equipment lives because, in KMC's view, such information was not relevant.

³ While not accepting BellSouth's proposal, counsel for AT&T, Intermedia, MCI WorldCom, and Time Warner have not rejected it either, instead requesting additional time to confer with their clients. With the hearing less than a week away, BellSouth has no choice but to go ahead and file this motion. In the event these parties decide to provide BellSouth with the requested information, BellSouth will promptly advise the Commission.

Please state the economic lives or useful lives used by [ALEC] for depreciation purposes for the cable it owns or operates to provide telephone exchange service in Florida, including the extent to which such lives vary depending upon the type of cable involved (e.g., Fiber Cable, Metallic Cable, Coaxial Cable, Hybrid Fiber/Coaxial Cable, etc.). In answering this Interrogatory, please identify all documents referring or relating to the economic lives or useful lives used by [ALEC] for depreciation purposes for the cable it owns or operates to provide telephone exchange service in Florida.

Please state the economic lives or useful lives used by [ALEC] for depreciation purposes for the digital circuit equipment it owns or operates to provide telephone exchange service in Florida, including the extent to which such lives vary depending upon the type of digital circuit equipment involved (e.g., carrier, optical, amplification, signaling). In answering this Interrogatory, please identify all documents referring or relating to the economic lives or useful lives used by [ALEC] for depreciation purposes for the digital circuit equipment it owns or operates to provide telephone exchange service in Florida.

Produce all documents identified in response to BellSouth's First Set of Interrogatories.

Produce all documents furnished or provided by [ALEC] or on [ALEC's] behalf to its shareholders, accountants, auditors, creditors, or to stock analysts referring or relating to the economic lives or useful lives used by [ALEC] for depreciation purposes for the switches, cable, and digital circuit equipment [ALEC] uses to provide telephone exchange service or interLATA service in Florida.

KMC never responded to these requests, and AT&T, Intermedia, MCI WorldCom, and Time Warner objected to providing the requested information, asserting that it was not relevant to the issues in this proceeding. This objection is without merit and should be summarily overruled.

One of the issues this Commission must resolve is what depreciation lives should be used in the cost studies for purposes of calculating the forward-looking cost of unbundled network elements and interconnection services. The parties generally agree that such lives should reflect "the actual life of the equipment." *See, e.g.,* Deposition of Carol Bentley at 32 (excerpts attached as Exhibit 2; *see also* Direct Testimony of Michael J. Majoros, Jr. at 4 ("... the plant lives used in the calculation of costs must be based upon the expected economic lives of newly placed

plant"). One way for the Commission to determine the actual or expected life of the telecommunications equipment involved on a going-forward basis is to look to the lives used by ALECs for depreciation purposes.

For example, while insisting that the useful lives Supra uses for depreciation purposes has no "relevance," Supra witness Bentley acknowledged that such lives represent Supra's view of the expected life of such equipment:

Q. Does Supra set useful lives that are longer than the actual life of the equipment?

A. No.

Q. Does Supra set useful lives that are shorter than the actual life of the equipment?

A. No.

Q. So is it fair to say that when Supra sets useful lives for its equipment, it makes a determination as to what the actual life of that equipment is?

A. Within certain guidelines.

Q. Okay. That's a yes, within certain guidelines?

A. Yes.

Deposition of Carol Bentley at 33-34 (excerpts attached as Exhibit 2).

Similarly, William Barta, who is testifying on behalf of the Florida Cable Telecommunications Association, acknowledged that the lives used by ALECs for depreciating telecommunications equipment provides an indication of the actual or expected life of that equipment:

Q. Do you believe that useful lives established by a company – and, again, let's talk about Time Warner just generically – are an indication of what that particular company believes to be the useful life of that equipment?

A. One would hope so.

...

- Q. ... Let's assume that a company has established an economic life or useful life for depreciation purposes for switching equipment of ten years. Do you believe that could be viewed as a proxy, if you will, of that company's estimate of the useful life of that equipment?
- A. Yes, and I would further examine all of the assumptions underlying that proposed useful life.

Deposition of William Barta at 22-23 (excerpts attached as Exhibit 3). Thus, in determining the actual or expected life of telecommunications equipment in this proceeding, the useful lives ALECs have elected to use for depreciation purposes is clearly relevant.

There is no merit to the argument that "the lives that ALECs use to depreciate their plant and equipment for internal use or financial reporting purposes are irrelevant" because the FCC rules require "that the total element long-run incremental cost (TELRIC) of an element should be based on the ILEC's forward-looking costs." *See* MCI WorldCom's Responses and Objections at 8. Regardless of whether the cost of an unbundled network element "should be based on the ILEC's forward-looking costs," the FCC rules do not mandate FCC-prescribed depreciation lives for ILECs and certainly do not foreclose consideration of the useful lives established by other carriers. Rule 51.505(b)(3) merely states that "[t]he depreciation rates used in calculating forward-looking economic costs of elements shall be economic depreciation rates." Importantly, the ALECs do not contend that the useful lives they use for depreciation purposes are not "economic depreciation rates." Thus, the information BellSouth seeks is relevant, notwithstanding AT&T's, Intermedia's, MCI WorldCom's and Time Warner's arguments to the contrary.

In addition to relevancy, MCI WorldCom and Intermedia also objected to BellSouth's discovery requests on grounds that such requests were "overly broad and unduly burdensome."

MCI WorldCom's Responses and Objections at 2; Intermedia Objections at 4-9. MCI WorldCom's and Intermedia's unsubstantiated claim that responding to BellSouth's discovery requests would be "unduly burdensome" cannot be sustained because such claims "have little meaning without substantive support." *First City Development of Florida, Inc. v. The Hallmark of Hollywood Condominium Association, Inc.*, 545 So. 2d 502 (Fla. Dist. Ct. App. 1989) (a party objecting to discovery on grounds that a request is unduly burdensome "must be able to show the volume of documents, or the number of man-hours required in their production, or some other quantitative factor that would make it so"). Here, neither MCI WorldCom nor Intermedia has made any quantitative showing to support their claims of "undue burden."⁴

III. CONCLUSION

For the foregoing reasons, the Commission should grant BellSouth's Emergency Motion To Compel and should order AT&T, Intermedia, KMC, MCI WorldCom, and Time Warner to provide the requested information concerning the useful lives they use for depreciation purposes. Such information is relevant, and no party has offered any reason why it should not be considered by the Commission in resolving the issues in this proceeding.

⁴ Intermedia also objected to providing information concerning the useful lives it uses for depreciation purposes on grounds that such information allegedly "is strictly proprietary, competitively sensitive, confidential, or constitutes trade secrets." Intermedia Objections at 4-9. Even assuming this is true, Intermedia's concerns about the confidential nature of the requested information is misguided because the parties have executed a protective agreement that should more than adequately protect Intermedia.

Respectfully submitted this 11th day of July, 2000.

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(PW)

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EXHIBIT

1

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July 10, 2000

VIA TELECOPIER

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Re: Florida Docket No. 990649-TP (UNE)

Dear Mr. Branfman and Mr. Posner:

On June 22, 2000, BellSouth Telecommunications, Inc. ("BellSouth") served its First Set of Interrogatories and First Request for Production of Documents on KMC I, II, and III Telecom, Inc., Inc. in the above-referenced proceeding. Under the Commission's June 8, 2000 Order, KMC was required to provide responses to BellSouth's discovery requests within fourteen days, which, by my calculation, was July 6, 2000. To date, BellSouth has not received any response from KMC.

Because BellSouth's discovery requests relate to issues that will be heard during Phase One of this proceeding, which is scheduled to start on July 17, 2000, time is of the essence. If I do not receive KMC's discovery responses before the close of business today, BellSouth will have no choice but to file an emergency motion to compel with the Commission.

Yours very truly,


Bennett L. Ross

cc: Nancy White
Michael Goggin
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219598

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July 10, 2000

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Re: Florida Docket No. 990649-TP (UNE)

Dear Jim and Marsha:

On June 23, 2000, BellSouth Telecommunications, Inc. ("BellSouth") served its First Set of Interrogatories and First Request for Production of Documents on AT&T Communications of the Southern States, Inc. ("AT&T") in the above-referenced proceeding. AT&T failed to provide much of the information BellSouth was seeking, electing instead to object to nearly every interrogatory and request for production that related to the issue of depreciation.

While BellSouth does not believe that any of AT&T's objections has merit, BellSouth would prefer not to have to file a motion to compel, particularly since Phase One of this proceeding is scheduled to start next Monday. As a result, and consistent with Commissioner Jacob's admonition at the prehearing conference last week that the parties attempt to resolve discovery disputes without involvement of the Commission, BellSouth would like to propose a compromise. Specifically, BellSouth will forego seeking an order compelling AT&T to respond to all of its discovery requests if AT&T will provide responses to the following discovery requests in which BellSouth is particularly interested: Interrogatories 7, 10, 13, 19, 22, 25, and Requests for Production 1 and 2.

In addition, BellSouth would appreciate if AT&T would provide a substantive response to Interrogatory 38, which asked for the 30-year Treasury bond rate as of January 1, 1998, January 1, 1999, and January 1, 2000. AT&T's response that "January 1 is a holiday each year and no Treasury bond rate data are available on this day" is unresponsive and hardly consistent with AT&T's obligation to cooperate in discovery. BellSouth's request did not ask for bond rate data "on" January 1 but "as of" January 1. Thus, because January 1 is undeniably a holiday each year, the most current bond rate data "as of" January 1 would be from the preceding business day. While I did not think this request was particularly difficult to understand, I hope this additional explanation is helpful.

Nothing in this proposal should be construed as some sort of acknowledgement by BellSouth that AT&T's objections are valid or that BellSouth believes it is not entitled to the discovery it seeks. BellSouth is making this offer only in a good-faith attempt to avoid a contentious discovery dispute before the hearing even starts.

If AT&T is willing to accept this proposal, I would appreciate your letting me know by the close of business today. If I do not hear from you or if AT&T continues to refuse to provide the information BellSouth seeks, BellSouth will have no choice but to file an emergency motion to compel.

Yours very truly,


Bennett L. Ross

cc: Nancy White
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July 10, 2000

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Re: Florida Docket No. 990649-TP (UNE)

Dear Ms. Camechis and Mr. Dunbar:

On June 22, 2000, BellSouth Telecommunications, Inc. ("BellSouth") served its First Set of Interrogatories and First Request for Production of Documents on Time Warner Telecom of Florida, L.P. in the above-referenced proceeding. Time Warner failed to provide any substantive information in response to these requests, electing instead to object to nearly every interrogatory and request for production.

While BellSouth does not believe that any of Time Warner's objections has merit, BellSouth would prefer not to have to file a motion to compel, particularly since Phase One of this proceeding is scheduled to start next Monday. As a result, and consistent with Commissioner Jacob's admonition at the prehearing conference last week that the parties attempt to resolve discovery disputes without involvement of the Commission, BellSouth would like to propose a compromise. Specifically, BellSouth will forego seeking an order compelling Time Warner to respond to all of its discovery requests if Time Warner will provide responses to the following discovery requests in which BellSouth is particularly interested: Interrogatories 4, 7, 8, 10, 11, 13 and Requests for Production 1 and 2.

Nothing in this proposal should be construed as some sort of acknowledgement by BellSouth that Time Warner's objections are valid or that BellSouth believes it is not entitled to the discovery it seeks. BellSouth is making this offer only in a good-faith attempt to avoid a contentious discovery dispute before the hearing even starts.

If Time Warner is willing to accept this proposal, I would appreciate your letting me know by the close of business today. If I do not hear from you or if Time Warner continues to refuse to provide the information BellSouth seeks, BellSouth will have no choice but to file an emergency motion to compel.

Yours very truly,


Bennett L. Ross

cc: Nancy White
Michael Goggin
Kip Edenfield ✓

219604

Bennett L. Ross
General Attorney

BellSouth Telecommunications, Inc.
Legal Department - Suite 4300
675 West Peachtree Street
Atlanta, Georgia 30375-0001
Telephone: 404-335-0793
Facsimile: 404-658-9022

July 10, 2000

VIA TELECOPIER

Richard D. Melson, Esquire
Hopping Green Sams & Smith, P.A.
Post Office 6526
123 South Calhoun Street
Tallahassee, FL 32314

Donna Canzano McNulty, Esquire
MCI WorldCom, Inc.
325 John Knox Road
The Atrium Bldg., Suite 105
Tallahassee, FL 32303

Re: Florida Docket No. 990649-TP (UNE)

Dear Rick and Donna:

On June 23, 2000, BellSouth Telecommunications, Inc. ("BellSouth") served its First Set of Interrogatories and First Request for Production of Documents on MCI WorldCom, Inc. ("MCI") in the above-referenced proceeding. MCI failed to provide much of the information BellSouth was seeking, electing instead to object to nearly every interrogatory and request for production that related to the issue of depreciation or simply referring to the discovery responses of AT&T.

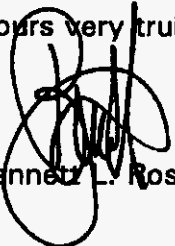
While BellSouth does not believe that any of MCI's objections has merit, BellSouth would prefer not to have to file a motion to compel, particularly since Phase One of this proceeding is scheduled to start next Monday. As a result, and consistent with Commissioner Jacob's admonition at the prehearing conference last week that the parties attempt to resolve discovery disputes without involvement of the Commission, BellSouth would like to propose a compromise. Specifically, BellSouth will forego seeking an order compelling MCI to respond to all of its discovery requests if MCI will provide responses to the following discovery requests in which BellSouth is particularly interested: Interrogatories 7, 10, 13, 19, 22, 25, and Requests for Production 1 and 2.

In addition, BellSouth would appreciate if MCI would provide a substantive response to Interrogatory 38, which asked for the 30-year Treasury bond rate as of January 1, 1998, January 1, 1999, and January 1, 2000. MCI's response simply referred to AT&T's response, which did not provide the information requested.

Nothing in this proposal should be construed as some sort of acknowledgement by BellSouth that MCI's objections are valid or that BellSouth believes it is not entitled to the discovery it seeks. BellSouth is making this offer only in a good-faith attempt to avoid a contentious discovery dispute before the hearing even starts.

If MCI is willing to accept this proposal, I would appreciate your letting me know by the close of business today. If I do not hear from you or if MCI continues to refuse to provide the information BellSouth seeks, BellSouth will have no choice but to file an emergency motion to compel.

Yours very truly,



Bennett L. Ross

cc: Nancy White
Michael Goggin
Kip Edenfield ✓

219607

Bennett L. Ross
General Attorney

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July 10, 2000

VIA TELECOPIER

Scott Sapperstein, Esquire
Senior Policy Counsel
Intermedia Communications, Inc.
3625 Queen Palm Drive
Tampa, FL 33619-1309

Re: Florida Docket No. 990649-TP (UNE)

Dear Scott:

On June 22, 2000, BellSouth Telecommunications, Inc. ("BellSouth") served its First Set of Interrogatories and First Request for Production of Documents on Intermedia Communications, Inc. in the above-referenced proceeding. Intermedia failed to provide any substantive information in response to these requests, electing instead to object to nearly every interrogatory and request for production.

While BellSouth does not believe that any of Intermedia's objections has merit, BellSouth would prefer not to have to file a motion to compel, particularly since Phase One of this proceeding is scheduled to start next Monday. As a result, and consistent with Commissioner Jacob's admonition at the prehearing conference last week that the parties attempt to resolve discovery disputes without involvement of the Commission, BellSouth would like to propose a compromise. Specifically, BellSouth will forego seeking an order compelling Intermedia to respond to all of its discovery requests if Intermedia will provide responses to the following discovery requests in which BellSouth is particularly interested: Interrogatories 4, 7, 8, 10, 11, 13 and Requests for Production 1 and 2.

Nothing in this proposal should be construed as some sort of acknowledgement by BellSouth that Intermedia's objections are valid or that BellSouth believes it is not entitled to the discovery it seeks. BellSouth is making this offer only in a good-faith attempt to avoid a contentious discovery dispute before the hearing even starts.

If Intermedia is willing to accept this proposal, I would appreciate your letting me know by the close of business today. If I do not hear from you or if Intermedia continues to refuse to provide the information BellSouth seeks, BellSouth will have no choice but to file an emergency motion to compel.

Yours very truly,

A handwritten signature in black ink, appearing to be "Bennett L. Ross", written over the closing text.

Bennett L. Ross

cc: Nancy White
Michael Goggin
Kip Edenfield ✓

219602

EXHIBIT

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 990649-TP
:
INVESTIGATION INTO PRICING OF:
UNBUNDLED NETWORK ELEMENTS :
:

*
* ELECTRONIC VERSIONS OF THIS TRANSCRIPT *
* ARE A CONVENIENCE COPY ONLY AND ARE NOT *
* THE OFFICIAL TRANSCRIPT OF THE HEARING *
* AND DO NOT INCLUDE PREFILED TESTIMONY. *
*



TELEPHONIC DEPOSITION OF: CAROL BENTLEY
Located in Miami, Florida

TAKEN AT THE INSTANCE OF: The Staff of the Florida
Public Service Commission

CONDUCTED FROM: Gerald L. Gunter Building
Room 362
2540 Shumard Oak Boulevard
Tallahassee, Florida

TIME: Commenced at 1:10 p.m.
Concluded at 2:10 p.m.

DATE: Tuesday, June 27, 2000

REPORTED BY: TRICIA DeMARTE
Official FPSC Reporter
(850) 413-6736

RECEIVED
JUL 06 2000

DIRECTOR - REG. RELATIONS
TALLAHASSEE, FL

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4 Communications of the Southern States, Inc., participating
5 telephonically.

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9 BENNETT ROSS, BellSouth Telecommunications, Inc.,
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13 telephonically.

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16 Sprint-Florida, Incorporated, participating
17 telephonically.

18 MARK BUCHELE and KELLY KESTER, 2620 S. W. 27th
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20 Supra Telecommunications, participating telephonically.

21 BETH KEATING, FPSC Division of Legal Services,
22 2540 Shumard Oak Boulevard, Tallahassee, Florida
23 32399-0850, appearing on behalf of the Commission Staff.

24
25

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1 Q Okay.

2 A And the intent of my testimony is to state that
3 the same depreciation rates that are described in GAAP and
4 by the Internal Revenue Service should apply to these cost
5 studies.

6 Q All right. So let's assume that Supra is using
7 economic lives for, let's say, switching that are
8 consistent with GAAP --

9 A Which is not economic lives; it's useful lives.

10 Q -- useful lives of switching that's consistent
11 with GAAP. Let's assume that that's what Supra is doing.
12 Are you with me so far?

13 A Yes.

14 Q Do you believe that that information should --
15 would be relevant or, I'm sorry, would be useful to the
16 Commission to knowing what those lives are?

17 A I don't think what Supra or any other telephone
18 company is doing in terms of lives is relevant. This is a
19 forward-looking cost model, and that's what's relevant.

20 Q Okay.

21 A So whatever Supra is doing is irrelevant.

22 Q So whether or not Supra -- I'm sorry. If Supra
23 is using, let's say, 15 years for the economic life or
24 useful life of a switch, and I'm just assuming, that's
25 hypothetical, you don't believe that bears any or weighs

1 in at all as to what the appropriate useful life of a
2 switch should be in a forward-looking cost study?

3 A Absolutely not. I think that the only relevant
4 figure is the actual life of the equipment.

5 Q Help me understand that.

6 A You are trying to build a cost model that
7 recovers your costs, so only the actual useful life of the
8 equipment is relevant. Only as it relates to your ability
9 to recover its cost, not to recover more than its cost.

10 Q Does GAAP require that useful lives be set at
11 something other than actual useful lives?

12 A I don't know what you mean by that.

13 Q Let me try it this way, Ms. Bentley. Let's
14 assume that Supra has used --

15 A Again, I will say that whatever Supra is doing
16 is irrelevant.

17 Q I understood that.

18 A I'm not going to answer any more questions about
19 what Supra does.

20 Q Well, let's assume for purposes of our
21 discussion that Supra is using useful life of a switch of
22 15 years. All right?

23 A No, I'm not going to assume that.

24 Q Well, Ms. Bentley, you know, we've agreed in
25 the -- whether or not it's relevant to our discussion is

1 an issue that's been reserved for the hearing, and I don't
2 believe that counsel -- I hope counsel is not going to
3 instruct you not to answer my questions.

4 MR. BUECHELE: No, no. She'll try to answer
5 your questions to the best of her ability.

6 MR. ROSS: Okay. Thank you.

7 MR. BUECHELE: But I think this is an issue that
8 has been hashed over numerous, only to the extent that you
9 keep asking the same question over. I think she's already
10 explained to you that an account team set life or a set
11 life by the IRS is not relevant because it doesn't reflect
12 the actual real world usage of that equipment and how long
13 it actually lasts in the field.

14 So if you would like to go on, I think she's
15 already made that point clear, that this proceeding is
16 here to address actual costs, not an accounting cost that
17 will result in future profit as a result of
18 overdepreciated equipment in the future.

19 BY MR. ROSS:

20 Q Ms. Bentley, let me go back to Supra, if we
21 could. When Supra sets its depreciation -- and you
22 testified that you set depreciation lives consistent with
23 GAAP and accounting requirements; is that correct?

24 A Yes.

25 Q Does Supra set useful lives that are longer than

1 the actual life of the equipment?

2 A No.

3 Q Does Supra set useful lives that are shorter
4 than the actual life of the equipment?

5 A No.

6 Q So is it fair to say that when Supra sets useful
7 lives for its equipment, it makes a determination as to
8 what the actual life of that equipment is?

9 A Within certain guidelines.

10 Q Okay. That's a, yes, within certain guidelines?

11 A Yes.

12 Q And what are those within certain guidelines?
13 Could you elaborate on that, please.

14 A The guidelines set out by GAAP, FASB, and IRS
15 regulations.

16 Q Do you happen to know offhand what Supra has
17 determined is the actual life of the switches that it
18 deploys in its network?

19 A I don't know offhand.

20 Q In preparing for your deposition or preparing
21 your testimony, did you make any effort to look at that
22 information?

23 A I didn't see that it was relevant, so, no, I
24 didn't.

25 Q And do you know offhand what Supra has

1 determined to be the actual life of fiber that it places
2 in the ground?

3 A I don't know specifically, no.

4 Q And would that be the same answer if I asked you
5 about copper or digital circuit equipment?

6 A Yes.

7 Q Have you reviewed the depreciation study that
8 BellSouth has submitted that was attached to
9 Mr. Cunningham's prefiled testimony?

10 A The depreciation schedules?

11 Q The actual study that Mr. Cunningham had done.

12 A I read the testimony. I'm not sure if I recall
13 specifically the study.

14 Q Did you compare -- or did you look at the useful
15 lives that Mr. Cunningham was advocating be used in a
16 TELRIC cost study?

17 A I did look at several of the different lives
18 that were proposed. I don't have any of those studies in
19 front of me, so I would be unable to confirm what those
20 lives were.

21 Q That's fine, and I'm not going to ask you to do
22 this by memory, but I guess my question is: Did you make
23 any attempt to compare the lives that Mr. Cunningham was
24 proposing with the lives that Supra uses for its
25 accounting purposes?

EXHIBIT

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 990649-TP
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INVESTIGATION INTO PRICING OF:
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*

TELEPHONIC DEPOSITION OF: WILLIAM J. BARTA
TAKEN AT THE INSTANCE OF: The Staff of the Florida Public Service Commission
CONDUCTED FROM: Gerald L. Gunter Building
Room 362
2540 Shumard Oak Boulevard
Tallahassee, Florida
TIME: Commenced at 9:30 a.m.
Concluded at 10:04 a.m.
DATE: Thursday, June 29, 2000
REPORTED BY: JANE FAUROT, RPR
Chief, Bureau of Reporting
Official Commission Reporter
(850) 413-6732

1 APPEARANCES:

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3 c/o Nancy Sims, 150 South Monroe Street, Suite 400,
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6 telephonically.

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9 ALLTEL, participating telephonically.

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14 WAYNE KNIGHT, FPSC Division of Legal
15 Services, 2540 Shumard Oak Boulevard, Tallahassee,
16 Florida 32399-0850, appearing on behalf of the
17 Commission Staff.

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	WITNESS	
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1 prescribed lives by the FCC whether or not the entire
2 industry is using those lives or adhering to those lives
3 or not?

4 A Well, no, my interest in using the FCC
5 prescribed P lives and future net salvage rates is based
6 upon the desire to reflect the forward-looking cost
7 estimates of the incumbent carrier in order to develop UNE
8 rates and promote competition. To the extent that the
9 incumbent carriers are really the dominant carriers in the
10 State of Florida, I think that we should use the objective
11 views of the FCC in establishing depreciation rates.

12 Q All right. What motivates a company to
13 establish a useful life for depreciation purposes?

14 A I don't believe I understand the question,
15 Mr. Ross.

16 Q Probably because it is a bad question. Take a
17 company, again, like Time Warner. When it is establishing
18 its useful lives for depreciation purposes, what kind of
19 factors play into that decision, if you know?

20 A I don't know specifically for Time Warner, but I
21 can express an opinion with regard to all companies.

22 Q That's fine. And that was actually more my
23 question, generically as opposed to specifically.

24 A Okay. First of all, through the IRS you have to
25 capitalize assets. You can't expense capital assets that

1 are going to have a life longer than one year, so you need
2 to come up with some systematic and rational allocation to
3 depreciate those assets over a period of time. There are
4 many factors that can influence a company's decision to
5 elect a depreciation methodology and a particular
6 depreciation rate under that methodology, including
7 economic life considerations, technological obsolescence,
8 tax considerations, accelerated versus straight line,
9 since depreciation rates can offer a shield, a partial
10 shield from tax, income tax. But there are several
11 factors that a company considers in adopting depreciation
12 rates.

13 Q Do you believe that useful lives established by
14 a company -- and, again, let's talk about Time Warner just
15 generically -- are an indication of what that particular
16 company believes to be the useful life of that equipment?

17 A One would hope so.

18 Q In other words, if, in fact, Time Warner is
19 using an economic life of ten years for digital switching
20 equipment, and assuming it's complied with GAAP and all
21 the accounting requirements, do you believe that that
22 would be an estimate of Time Warner's belief as to how
23 long that equipment is going to be in use?

24 MR. GROSS: Okay. I am just going to -- this is
25 Michael Gross. I'm just going to object to the form. It

1 is an improper hypothetical. It doesn't contain enough
2 facts and calls for speculation on the part of the
3 witness. But subject to that objection, Mr. Barta, you
4 can go ahead and answer the question.

5 MR. ROSS: I will rephrase the question. I
6 don't want to --

7 BY MR. ROSS:

8 Q Let's assume just generically. Let's assume
9 that a company has established an economic life or useful
10 life for depreciation purposes for switching equipment of
11 ten years. Do you believe that that could be viewed as a
12 proxy, if you will, of that company's estimate of the
13 useful life of that equipment?

14 A Yes, and I would further examine all the
15 assumptions underlying that proposed useful life.

16 Q Okay.

17 A As I said, there are other considerations in
18 there. It may be that a company would believe that a
19 particular class of switching would be rendered
20 technologically obsolete within ten years, or practical
21 wear and tear would consume the useful life of the switch
22 within ten years. It also could be tax-driven purposes.
23 So, again, I would have to look at all the assumptions
24 underlying the proposed useful life.

25 Q In your discussion of the FCC prescribed lives