

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

DOCKET NO. 000075-TP

In the Matter of

**INVESTIGATION INTO APPROPRIATE
METHODS TO COMPENSATE
CARRIERS FOR EXCHANGE OF
TRAFFIC SUBJECT TO SECTION
251 OF THE TELECOMMUNI-
CATIONS ACT OF 1996.**



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**VOLUME 3
PAGES 354 THROUGH 445**

PROCEEDINGS: HEARING

**BEFORE: CHAIRMAN E. LEON JACOBS, JR.
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI**

DATE: Wednesday, March 7, 2001

**TIME: Commenced at 9:35 a.m.
Adjourned at 4:40 p.m.**

**PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida**

**REPORTED BY: TRICIA DeMARTE
Official FPSC Reporter**

APPEARANCES: (As Heretofore Noted)

FLORIDA PUBLIC SERVICE COMMISSION

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I N D E X

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1 PROCEEDINGS

2 (Transcript follows in sequence from
3 Volume 2.)

4 CHAIRMAN JACOBS: Ms. Masterton.

5 MS. MASTERTON: Sprint calls --

6 CHAIRMAN JACOBS: Before we begin, it may be
7 worthwhile to kind of take a survey of the parties as to
8 whether or not it's possible to go through all the
9 witnesses today in a reasonable time frame.

10 MR. EDENFIELD: I will tell you that Mr. Moyle
11 spoke to me at the break, and I know that he may have a
12 commitment. And I am fine if we want to just get as far
13 as we can by five o'clock or whatever time he needs to
14 leave. I'm happy with that, and we can come back and
15 finish up tomorrow. I think it will probably go fairly
16 quickly from this point, I would think.

17 CHAIRMAN JACOBS: If we could complete by
18 six o'clock, I would be interested in staying. If we
19 don't think we could be done by 6:00 or 6:30, in that
20 vicinity, I would suggest going ahead and coming back and
21 finishing in the morning.

22 MR. EDENFIELD: At this point, I would be
23 sceptical about the ability to finish at 6:00, but we can
24 always push on and see where we are when we get closer to
25 5:00.

1 **CHAIRMAN JACOBS: Okay. Very well.**

2 **MR. EDENFIELD: But I'm happy to accommodate**
3 **anybody who had a conflict of any sort. We'll accommodate**
4 **them and leave whenever they need to make that, as far as**
5 **I'm concerned.**

6 **CHAIRMAN JACOBS: Very well. Proceed.**

7 **MICHAEL R. HUNSUCKER**

8 **was called as a witness on behalf of Sprint-Florida, Incorporated**
9 **and Sprint Communications, L.P., and, having been duly sworn,**
10 **testified as follows:**

11 **DIRECT EXAMINATION**

12 **BY MS. MASTERTON:**

13 **Q Mr. Hunsucker, will you state your name and**
14 **address for the record, please.**

15 **A Yes. My name is Michael Hunsucker. My business**
16 **address is 6360 Sprint Parkway, Overland Park, Kansas.**

17 **Q And by whom are you employed and in what**
18 **capacity?**

19 **A I'm employed by Sprint Corporation as**
20 **director-regulatory policy.**

21 **Q And Mr. Hunsucker, were you present this morning**
22 **when the witnesses were sworn in?**

23 **A Yes, I was.**

24 **Q Mr. Hunsucker, did you cause to be filed**
25 **21 pages of direct testimony and 7 pages of rebuttal --**

1 wait, 21 pages of direct testimony on December 1st, 2000,
2 and 7 pages of rebuttal testimony on January 10th, 2001,
3 in this docket?

4 A Yes, I did.

5 Q Do you have any changes or deletions to the
6 direct or rebuttal testimony?

7 A No, I do not.

8 Q And if you were asked the same questions as they
9 appear in your direct and rebuttal testimony today, would
10 your answers be the same?

11 A Yes, they would.

12 MS. MASTERTON: Mr. Chairman, Sprint moves that
13 Mr. Hunsucker's direct and rebuttal testimony be inserted
14 into the record as though read.

15 CHAIRMAN JACOBS: Without objection, show
16 Mr. Hunsucker's direct and rebuttal testimony as entered
17 into the record.

18

19

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25

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DIRECT TESTIMONY

3 OF

4 MICHAEL R. HUNSUCKER

5

6

7 Q. Please state your name and business address.

8

9 A. My name is Michael R. Hunsucker. I am Director-
10 Regulatory Policy, for Sprint Corporation. My
11 business address is 6360 Sprint Parkway, Overland
12 Park, Kansas 66251.

13

14 Q. Please describe your educational background and work
15 experience.

16

17 A. I received a Bachelor of Arts degree in Economics and
18 Business Administration from King College in 1979.

19

20 I began my career with Sprint in 1979 as a Staff
21 Forecaster for Sprint/United Telephone - Southeast
22 Group in Bristol, Tennessee, and was responsible for
23 the preparation and analysis of access line and minute
24 of use forecasts. While at Southeast Group, I held

1 various positions through 1985 primarily responsible
2 for the preparation and analysis of financial
3 operations budgets, capital budgets and Part 69 cost
4 allocation studies. In 1985, I assumed the position
5 of Manager - Cost Allocation Procedures for Sprint
6 United Management Company and was responsible for the
7 preparation and analysis of Part 69 allocations
8 including systems support to the 17 states in which
9 Sprint/United operated. In 1987, I transferred back
10 to Sprint/United Telephone - Southeast Group and
11 assumed the position of Separations Supervisor with
12 responsibilities to direct all activities associated
13 with the jurisdictional allocations of costs as
14 prescribed by the FCC under Parts 36 and 69. In 1988
15 and 1991, respectively, I assumed the positions of
16 Manager - Access and Toll Services and General Manager
17 - Access Services and Jurisdictional Costs responsible
18 for directing all regulatory activities associated
19 with interstate and intrastate access and toll
20 services and the development of Part 36/69 cost
21 studies including the provision of expert testimony as
22 required.

23

1 In my current position as Director - Regulatory Policy
2 for Sprint/United Management Company, I am responsible
3 for developing state and federal regulatory policy and
4 legislative policy for Sprint's Local
5 Telecommunications Division. Additionally, I am
6 responsible for the coordination of regulatory/
7 legislative policies with other Sprint business units.

8

9 Q. Have you previously testified before state Public
10 Service Commissions?

11

12 A. Yes. I have previously testified before state
13 regulatory commissions in South Carolina, Florida,
14 Illinois, Pennsylvania, Nebraska and North Carolina.

15

16 Q. What is the purpose of your testimony?

17

18 A. The purpose of my testimony is to address, on behalf
19 of Sprint, Issues 1-9 of the List of Issues.

20

21

22 Issue 1: (a) Does the Commission have the jurisdiction to
23 adopt an inter-carrier compensation mechanism for
24 delivery of ISP-bound traffic?

1 (b) If so, does the Commission have the
2 jurisdiction to adopt such an inter-carrier
3 compensation mechanism through a generic proceeding?
4

5 Q. To what extent does the FPSC have jurisdiction to
6 determine inter-carrier compensation for traffic to
7 Internet Service Providers?
8

9 A. The FPSC's authority to determine inter-carrier
10 compensation for ISP traffic was addressed in the
11 FCC's Declaratory Ruling in CC Docket No. 96-98,
12 adopted February 25, 1999. In that ruling, although
13 the FCC concluded that Internet traffic was
14 "...jurisdictionally mixed and appears to be largely
15 interstate" (para. 1), it also conceded that "The
16 Commission has no rule governing inter-carrier
17 compensation for ISP-bound traffic". (para. 9)
18 Pending the outcome of its rulemaking proceeding to
19 establish federal rules for inter-carrier compensation
20 for ISP-bound traffic, the FCC explicitly permitted
21 state commissions to determine the appropriate
22 compensation for this traffic, holding that:
23 "A state commission's decision to impose reciprocal
24 compensation obligations in an arbitration proceeding-
25 -or a subsequent state commission decision that those

1 obligations encompass ISP-bound traffic--does not
2 conflict with any Commission rule regarding ISP-bound
3 traffic. By the same token, in the absence of
4 governing federal law, state commissions also are free
5 not to require the payment of reciprocal compensation
6 for this traffic and to adopt another compensation
7 mechanism." (para. 26)
8

9 Q. Can, and should, the FPSC adopt such an inter-carrier
10 compensation mechanism through a generic proceeding?
11

12 A. Yes. Although individual LECs are free to negotiate
13 whatever inter-carrier compensation arrangements are
14 appropriate for their particular circumstances, it
15 would clearly be more efficient and in the interests
16 of all LECs (both ILECs and ALECs alike) to resolve
17 this issue through a generic proceeding to determine
18 the appropriate inter-carrier compensation for ISP-
19 bound traffic.
20
21

22 **Issue 2: Is delivery of ISP-bound traffic subject to**
23 **compensation under Section 251 of the**
24 **Telecommunications Act of 1996?**
25

1 Q. Is delivery of ISP-bound traffic subject to
2 compensation under Section 251 of the
3 Telecommunications Act of 1996?
4

5 A. While the FCC has yet to make a final determination
6 regarding the appropriate compensation arrangement or
7 methodology that carriers should employ to compensate
8 each other for completing dial-up Internet calls, the
9 FCC has clearly stated that reciprocal compensation is
10 an acceptable option for the interim period. The FCC
11 declared that state commissions may order reciprocal
12 compensation be paid for terminating ISP-bound
13 traffic. In its February 25th Declaratory Ruling, the
14 FCC stated:

15 In the absence of a federal rule, state
16 commissions that have had to fulfill their
17 statutory obligation under section 252 to resolve
18 interconnection disputes between incumbent LECs
19 and CLECs have had no choice but to establish an
20 inter-carrier compensation mechanism and to
21 decide whether and under what circumstances to
22 require the payment of reciprocal compensation.
23 Although reciprocal compensation is mandated
24 under section 251(b)(5) only for the transport
25 and termination of local traffic [See 47 C.F.R.
26 51.701(a); *Local Competition Order*, 11 FCC Rcd at
27 16013], neither the statute nor our rules
28 prohibit a state commission from concluding in an
29 arbitration that reciprocal compensation is
30 appropriate in certain instances not addressed by
31 section 251(b)(5), so long as there is no
32 conflict with governing federal law. [As noted,
33 section 251(b)(5) of the Act and our rules

1 promulgated pursuant to that provision concern
2 inter-carrier compensation for interconnected
3 local telecommunications traffic. We conclude in
4 this Declaratory Ruling, however, that ISP-bound
5 traffic is non-local interstate traffic. Thus,
6 the reciprocal compensation requirements of
7 section 251(b) (5) of the Act and Section 51,
8 Subpart H (Reciprocal Compensation for Transport
9 and Termination of Local Telecommunications
10 Traffic) of the Commission's rules do not govern
11 inter-carrier compensation for this traffic. As
12 discussed, *supra*, in the absence a federal rule,
13 state commissions have the authority under
14 section 252 of the Act to determine inter-carrier
15 compensation for ISP-bound traffic.] A state
16 commission's decision to impose reciprocal
17 compensation obligations in an arbitration
18 proceeding -- or a subsequent state commission
19 decision that those obligations encompass ISP-
20 bound traffic -- does not conflict with any
21 Commission rule regarding ISP-bound traffic." [As
22 noted, in other contexts the FCC has directed the
23 states to treat such traffic as local. See *ESP*
24 *Exemption Order*, 3 FCC Rcd 2631, 2635 n.8, 2637
25 n.53.] (Declaratory Ruling at ¶26)

26

27

28 **Issue 3: What actions should the commission take, if any,**
29 **with respect to establishing an appropriate**
30 **compensation mechanism for ISP-bound traffic in light**
31 **of current decisions and activities of the courts and**
32 **the FCC?**

33

34 **Q. What actions does Sprint recommend this commission**
35 **take with respect to establishing an appropriate**
36 **compensation mechanism for ISP-bound traffic?**

1

2 A. The absence of a federal rule specifying the treatment
3 of ISP-bound traffic for purposes of reciprocal
4 compensation has created significant financial and
5 marketplace uncertainty for all LECs. As previously
6 discussed, the Commission does have the authority,
7 albeit on an interim basis, to resolve this issue.
8 Sprint urges the Commission to do so through a generic
9 determination for the industry as a whole.

10

11 Issue 4: What policy considerations should guide the
12 Commission's decision in this docket? (Including, for
13 example, how the compensation mechanism will affect
14 ALECs' competitive entry decisions; cost recovery
15 issues and implications, economically efficient cost
16 recovery solutions in the short term and in the long
17 term.)

18

19 Q. What policy issues does Sprint recommend that the
20 Commission consider in this docket?

21

22 A. Sprint urges the Commission to treat ISP-bound calls
23 as though they were local calls for purposes of inter-
24 carrier compensation arrangements. Thus, whatever

1 compensation arrangements apply to purely local calls
2 would apply to these calls as well. ISP-bound traffic
3 is functionally the same as other local voice traffic
4 and it is administratively cumbersome and/or expensive
5 to distinguish between the two types of traffic.
6 Longer holding times, for example, are characteristic
7 of other users in addition to ISP.

8
9 In addition, interconnecting LECs must necessarily
10 negotiate or arbitrate the reciprocal compensation
11 rates for jurisdictionally local traffic, and treating
12 ISP-bound traffic as local would avoid imposing
13 separate or additional regulatory hurdles on CLECs
14 that might make entry more difficult, expensive and
15 time-consuming. Furthermore, ISP-bound traffic, which
16 tends to be one-way, considered together with other
17 local traffic, may avoid the incentives for one party
18 or the other to seek compensation rates that are
19 unduly high or unduly low, depending on which carrier
20 tends to have the largest base of ISP customers.

21 Instead, by combining this traffic with other traffic
22 streams, carriers are likely to adopt more reasonable
23 negotiating positions. Thus, Sprint believes that
24 efficient entry and rational pricing schemes are most

1 likely to be encouraged if ISP-bound traffic is
2 treated for purposes of inter-carrier compensation the
3 same way it is treated for all other regulatory
4 purposes-i.e., as if it were purely local traffic.

5

6 **Q.** Have any other state commissions ruled in favor of
7 treating ISP-bound calls as local for purposes of
8 reciprocal compensation?

9

10 **A.** Yes. Following the FCC's February 1999 ruling,
11 numerous states have ruled that ISP traffic is local,
12 subject to reciprocal compensation. A few of the
13 states are Pennsylvania, North Carolina and Nevada,
14 just to name a few.

15

16

17 **Issue 5: Is the commission required to set a cost-based**
18 **mechanism for delivery of ISP-bound traffic?**

19

20 **Q.** Does Sprint believe that a cost-based mechanism is
21 required for delivery of ISP-bound traffic?

22

23 **A.** Under Section 251 and 252 of the Act, ILECs are
24 required to file cost-based rates for all traffic,

1 including ISP-bound traffic. Since rates already
2 exist, Sprint believes that using these rates for ISP,
3 as well as local traffic is the best policy to follow
4 in order to send economically efficient pricing
5 signals to the marketplace, although the local
6 switching rates do need to be structured into a two
7 part rate structure that recognizes the two distinctly
8 different cost components - call set-up and call
9 usage.

10

11

12 Issue 6: What factors should the commission consider in
13 setting the compensation mechanism for delivery of
14 ISP-bound traffic?

15

16 Q. Please describe the general approach Sprint recommends
17 for compensation.

18

19 A. Sprint believes that a reciprocal compensation rate
20 should ideally reflect the overall costs and mix of
21 traffic. Specifically, Internet calls have much longer
22 "holding times" than the average voice call. It is
23 essential that this critical difference be recognized in

1 the development of reciprocal compensation rates for
2 Internet traffic.

3

4 Q. Please describe the switching cost components that
5 need to be considered in order to develop accurate
6 reciprocal compensation rates for ISP traffic.

7

8 A. The cost of switching a telephone call consists of two
9 distinct cost components. One is incurred on a per
10 message basis, the other on a per minute basis. The
11 per message cost, also known as call set-up cost,
12 consists primarily of the amount of time the switch's
13 central processor requires to set-up the call. (There
14 are also some SS7 network costs associated with the
15 set-up of the trunk required for the call). These
16 costs are incurred for each call, and do not vary by
17 the length of the call.

18

19 Investment associated with the Minute of Use (MOU), or
20 call duration cost component, consists primarily of
21 the line and trunk investment portions of the switch.
22 These costs vary directly between calls based on
23 varying minutes of use. For example, the minute of
24 use cost component for a 10-minute call will be double

1 the minute of use cost for a 5-minute call.
2 Conversely, the per message cost component would be
3 the same for both the 10 minute call and for the five
4 minute call (everything else assumed constant).

5

6 Q. Do the traditional ILEC local switching rate
7 structures reflect the differences in "holding
8 times"?

9

10 A. No. Typically, ILECs do not charge for each switching
11 component separately; rather, a single per minute of
12 use billing rate is used by blending the per message
13 and usage sensitive costs into the per minute charge
14 using an assumed average call duration or "hold time."
15 This means that the per message cost will be spread
16 over an assumed average call duration characteristic
17 without distinction to the type of calls being made or
18 their duration. Under this scheme, calls with longer
19 call holding times than the average will result in
20 over-recovery of costs, since the per message cost
21 recovery is built based on an "average call" duration.
22 For calls with shorter holding times than the average,
23 the opposite will be true.

24

1 Q. What is Sprint's recommended reciprocal compensation
2 rate structure?

3
4 The basic tenet of Sprint's proposal is that as call
5 holding times increase, the per message (call-setup)
6 portion of the end office switching charge should be
7 spread across more minutes, thus reducing the overall
8 per MOU rate. (Overall per MOU rate is defined as the
9 per message cost component of a call spread over the
10 duration of the call, plus the per MOU unit cost
11 component of the call. Formula: Per message
12 Cost/Minute duration of call + Per MOU cost component
13 = Overall Per MOU compensation rate). The basic
14 switching components used for voice and Internet-bound
15 traffic are the same. There is nothing unique about
16 Internet calls that causes the per message and per MOU
17 unit cost components to change. Only the call
18 duration changes. The correct solution is to
19 bifurcate the switching charge into a call setup
20 charge and a call duration charge. Thus, regardless
21 of the length of the call or type of call, the charges
22 match the underlying costs and ensure that the costs
23 are recovered appropriately.

24

1 Q. Can local switching costs be readily separated into
2 two elements?

3

4 A. Yes. The Telecordia SCIS switching cost model widely
5 employed by the industry has a standard output for
6 central processor call set-up costs. Signaling costs
7 are not recovered, in the reciprocal compensation
8 context, by any other charge. Thus, switching costs
9 can be reliably separated into call setup and per MOU
10 amounts.

11

12 Q. Please provide an example of the application of the
13 bifurcated rate structure.

14

15 A. Let's assume that the average holding time for ILEC
16 terminated traffic is 5 minutes while the average
17 holding time for ISP traffic is 30 minutes. Further,
18 let's assume that the call setup cost is \$.012 per
19 call and the switching cost is \$.002 per minute of use
20 (MOU). When the ILEC develops a blended switching
21 rate, the rate would be based on call setup of \$.012
22 plus 5 MOU at \$.002 for a combined cost of \$.022 for
23 the five minute call or \$.0044 for each MOU. The
24 resulting rate of \$.0044 is billed on all ILEC

1 terminated calls and the CLEC has the right to use
2 this rate for billing the ILEC for ISP terminated
3 calls. Assuming a holding time of 30 minutes for ISP
4 traffic, the CLEC would charge the ILEC 30 MOU times
5 \$.0044 or \$.132 for the 10 minute call. Under a
6 bifurcated rate structure, the CLEC would charge the
7 ILEC for 1 call setup at \$.012 plus 30 MOU at \$.002
8 for a combined charge of \$.072. This results in a
9 change of \$.06 (\$.132-\$.072) or 45%. The practical
10 reality of a change to a bifurcated rate structure is
11 that CLECs should not be compensated for more than one
12 call setup per message (for any type of local dialed
13 call) as they only incur this cost one time per call.

14
15

16 **Q. Is it Sprint's recommendation that the bifurcated rate**
17 **structure apply to all traffic subject to reciprocal**
18 **compensation?**

19

20 **A. Yes. The bifurcated rate structure more closely**
21 **aligns compensation with the way costs are incurred**
22 **and applying it to all local dialed traffic avoids**
23 **discrimination. It also has the advantage of**

1 eliminating the need to attempt to separately identify
2 ISP traffic.

3

4 Q. Have any other state Commissions adopted the
5 bifurcated rate structure?

6

7 A. Yes. This bifurcated rate structure for local
8 switching has been adopted by the Texas PUC
9 [*Proceeding to Examine Reciprocal Compensation*
10 *Pursuant to Section 252 of the Federal Communications*
11 *Act of 1996, Docket No. 21982, Arbitration Award, July*
12 *13, 2000, at 49A.*], as well as the Wisconsin
13 Commission.

14

15

16 Issue 7: Should inter-carrier compensation for delivery of
17 ISP-bound traffic be limited to carrier and ISP
18 arrangements involving circuit-switched technologies?

19

20 Q. Should inter-carrier compensation for delivery of ISP-
21 bound traffic be limited to carrier and ISP
22 arrangements involving circuit-switched technologies?

23

1 A. To limit inter-carrier compensation for ISP-bound
2 traffic to only circuit-switched traffic is both
3 unwarranted and provides uneconomic incentives for
4 LECs not to implement more advanced, and more
5 efficient, technologies. For example, Sprint's ION
6 (Integrated On-demand Network) utilizes packet-
7 switching technology. Excluding Sprint from the
8 reciprocal compensation arrangements applicable to
9 those LECs utilizing circuit-switched technology would
10 impose on Sprint the additional delay, costs, and
11 burden of separately arbitrating the issue of the
12 level of inter-carrier compensation. In effect, it
13 would penalize Sprint for being innovative and
14 aggressive in adopting a more forward-looking and more
15 efficient technology.

16

17

18 **Issue 8: How can ISP-bound traffic be separated from non-**
19 **ISP bound traffic for purposes of addressing any**
20 **reciprocal compensation payments?**

21

22

23 Q. Should a separate class of service be created for
24 dial-up Internet traffic?

1

2 A. At this time, there is no need to create a separate
3 class of service for dial-up Internet traffic for
4 several reasons. First, it appears that all carriers
5 do not have the technology sufficient to separate out
6 dial-up Internet traffic from other types of local
7 traffic and it is extremely administratively
8 burdensome to do so. Second, there are other types of
9 traffic, besides Internet traffic, that tend to
10 generate a disproportionately larger amount of
11 terminating traffic than originating. It is far from
12 clear that Internet traffic should be singled out as
13 some type of arbitrage culprit without looking at all
14 types of traffic and traffic flows.

15

16

17 Q. Can Internet traffic presently be distinguished from
18 other categories of telephone calls?

19

20 A. No, not very easily. At present, the main method an
21 interconnected carrier has for determining ISP-bound
22 traffic is terminating to a CLEC is to compare
23 originating and terminating traffic flows between
24 itself and the CLEC. If the ILEC is terminating

1 significantly more traffic to the CLEC than the CLEC
2 terminates to the ILEC, then the ILEC typically makes
3 the assumption that the traffic being terminated to
4 the CLEC is ISP-bound traffic. Another method for
5 differentiating the traffic is to identify all ISP
6 local numbers. In some instances, ILECs have measured
7 the traffic terminating to an ISP by asking the CLEC
8 to identify ISP-related NXXs. However, such a method
9 is administratively burdensome and largely unworkable.
10 Billing records must be updated daily, if not hourly,
11 to ensure accurate tracking of ISP minutes.
12 Furthermore, there are CPNI restrictions that could
13 preclude the CLEC from providing customer sensitive
14 information of the ISP's network usage to the ILEC.
15 Additionally, if an ILEC knows that a CLEC serves only
16 ISP traffic, the ILEC could identify the trunk groups
17 serving that CLEC and measure the traffic flowing over
18 those trunk groups. However, it should be emphasized
19 that the ILEC does not know with any degree of
20 certainty whether the type of traffic it is
21 terminating to the CLEC is ISP-bound. Rather, it must
22 merely assume that the traffic is ISP-bound based on
23 holding times.

24

1

2

Issue 9: Should the Commission establish compensation

3

mechanisms for delivery of ISP-bound traffic to be used

4

in the absence of the parties reaching an agreement for

5

negotiating a compensation mechanism? If so, what should

6

the mechanism be?

7

8

Addressed in Issue 4 above.

9

10

11

Q. Does that conclude your testimony?

12

13

A. Yes.

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**2 **REBUTTAL TESTIMONY**3 **OF**4 **MICHAEL R. HUNSUCKER**5
6 **Q. Please state your name and business address.**7
8 A. My name is Michael R. Hunsucker. I am Director-
9 Regulatory Policy, for Sprint Corporation. My
10 business address is 6360 Sprint Parkway, Overland
11 Park, Kansas 66251.12
13
14 **Q. Are you the same Michael R. Hunsucker that filed**
15 **direct testimony earlier in this proceeding?**16
17 A. Yes, I am.18
19
20 **Q. What is the purpose of your rebuttal testimony?**21
22 A. The purpose of my testimony is to rebut the testimony
23 of Ms. Elizabeth Shiroishi, representing BellSouth

1 Telecommunications, Inc., as well as Mr. Edward
2 Beauvais, PH.D, representing Verizon Florida Inc.

3

4

5 Q. On page 3, Ms. Shiroishi contends that "since the
6 Declaratory Ruling is vacated, and it was the only
7 order conferring authority to the state commissions,
8 there now is no order conferring such authority" for
9 states to determine inter-carrier compensation for
10 ISP-bound traffic. Do you agree?

11

12 A. No. The March 24, 2000 U.S. Court of Appeals for the
13 District of Columbia opinion in Bell Atlantic
14 Telephone Companies v. Federal Communications
15 Commission and United States of America, Case No. 99-
16 1094, (the "D.C. Circuit Ruling") had no impact on a
17 state's authority to determine an inter-carrier
18 compensation mechanism for ISP-bound traffic. In
19 fact, the D.C. Circuit Court stated in their order
20 that "We do not reach the objection of the incumbent
21 LECs that Section 251(b)(5) preempts state commission
22 authority to compel payments to the competitor
23 LECs;..." Thus, in the absence of an FCC rule, states

1 continue to be free to adopt compensation mechanisms
2 for ISP-bound traffic.

3

4

5 **Q. Ms. Shiroishi, on page 7, states that the FCC has a**
6 **long-standing precedent of determining the**
7 **jurisdiction of a call based on an end-to-end**
8 **analysis. Is this relevant to the D.C. Circuit**
9 **Ruling?**

10

11 **A. No. Ms. Shiroishi appears to ignore the D.C. Circuit**
12 **Court Order where clearly the Court questions this**
13 **analysis as appropriate for ISP-bound calls. In fact,**
14 **the D.C. Circuit Court stated that "Because the**
15 **Commission has not supplied a real explanation for its**
16 **decision to treat the end-to-end analysis as**
17 **controlling, we must vacate the ruling and remand the**
18 **case." Thus, as it relates to ISP-bound traffic, the**
19 **FCC's reaffirmation of its own rulings bears no weight**
20 **on the issue at hand - how to treat ISP-bound traffic**
21 **for reciprocal compensation purposes.**

22

23

1 Q. In addition, Mr. Beauvais on page 7 of his direct
2 testimony argues that "if such (ISP) traffic had not
3 been interstate, then there would have been no need
4 for the FCC to exempt it from access charges..." Did
5 the D.C. Circuit Court also address this argument?

6
7 A. Yes, they did. The D.C. Circuit Court Order
8 specifically reviewed the FCC's use of this argument,
9 i.e. an access exemption would not be necessary if the
10 traffic was in fact local and the D.C. Circuit Court
11 found that "this is not very compelling." Obviously,
12 the Court feels that this argument is misguided.

13
14
15 Q. BellSouth and Verizon describe the differences in
16 holding times (i.e. call length or duration) between
17 voice traffic and ISP-bound traffic. Does Sprint
18 agree?

19
20 A. Yes. Sprint agrees that the holding times for voice
21 and ISP-bound traffic vary significantly.
22 Additionally, BellSouth, on page 22 discusses the two
23 distinct components of terminating a call, including

1 call length or duration, as being different between
2 ISP-bound calls and voice calls.

3

4

5 **Q. Has Sprint made a compensation proposal that**
6 **accurately reflects the difference in call duration?**

7

8 A. Yes. As stated in my Direct Testimony, the basic
9 theory of Sprint's proposal is that as call holding
10 times increase, the per message (call-setup) portion
11 of the end office switching charge should be spread
12 across more minutes, thus reducing the overall per MOU
13 rate. (Overall per MOU rate is defined as the per
14 message cost component of a call spread over the
15 duration of the call, plus the per MOU unit cost
16 component of the call. Formula: Per message
17 Cost/Minute duration of call + Per MOU cost component
18 = Overall Per MOU compensation rate). The basic
19 switching components used for voice and Internet-bound
20 traffic are the same. There is nothing unique about
21 Internet calls that causes the per message and per MOU
22 unit cost components to change. Only the call
23 duration changes. The correct solution is to
24 bifurcate the switching charge into a call setup

1 charge and a call duration charge. Thus, regardless
2 of the length of the call or type of call, the charges
3 match the underlying costs and ensure that the costs
4 are recovered appropriately.
5
6

7 **Q. Do you agree with the BellSouth and Verizon positions**
8 **that the payment of reciprocal compensation for ISP-**
9 **bound traffic discourages an ALEC from serving the**
10 **residential customer (see Shiroishi Pg. 16 and**
11 **Beauvais Pg. 27)?**
12

13 **A. No.** Ms. Shiroishi argues that ALECs will have a
14 "major incentive to serve ISPs rather than true local
15 customers" if the Commission finds that reciprocal
16 compensation should be paid for ISP-bound traffic.
17 Her theory is simply wrong and completely ignores the
18 reality of what is actually happening in the
19 telecommunications market today. Sprint, AT&T, MCI
20 WorldCom, Rhythms, Covad, Northpoint, Winstar, and a
21 host of others are designing and deploying networks to
22 reach business and residential customers. Sprint is
23 presently collocating in more than 1,000 ILEC central
24 offices across the U.S., with more than 100 of those

1 in Florida, to deploy its ION high-speed advanced
2 services network.

3

4

5 **Q. Ms. Shiroishi, on page 15, states that "...the payment**
6 **of reciprocal compensation for ISP-bound traffic is**
7 **nothing more than a revenue windfall for ALECs." Do**
8 **you agree with her statement?**

9

10 A. No. Both BellSouth and ALECs originate and terminate
11 ISP-bound traffic. As such, both carriers incur costs
12 to terminate this traffic. The payment of reciprocal
13 compensation on ISP-bound traffic is a mechanism for
14 each carrier to recover the costs of terminating this
15 traffic or any other local traffic from the other
16 carrier. This is the same mechanism used by carriers
17 to compensate each other for other local traffic.
18 This is clearly not a windfall, but rather a cost
19 recovery mechanism that is wholly consistent with the
20 Telecom Act and the FCC's Rules.

21

22 **Q. Does that conclude your testimony?**

23

24 A. Yes.

1 **BY MS. MASTERTON:**

2 **Q And, Mr. Hunsucker, have you prepared a summary**
3 **of your testimony today?**

4 **A Yes, I have.**

5 **Q Would you please give your summary at this time.**

6 **A Okay. Good afternoon. As I said, my name is**
7 **Mike Hunsucker, and I'm here representing Sprint**
8 **Corporation. While there were nine identified issues in**
9 **this proceeding, I'm going to focus my summary on the**
10 **three that I feel are most key to the decision to be made**
11 **in this proceeding.**

12 **The first question, as we've heard a lot of**
13 **conversation already, does the Commission have the**
14 **authority to determine an intercarrier compensation**
15 **mechanism for ISP traffic?**

16 **Second, what should that compensation mechanism**
17 **look like for ISP traffic?**

18 **And third, should ISP traffic be separated from**
19 **other local traffic for reciprocal compensation?**

20 **On the first issue of the Commission's**
21 **authority, the FCC issued a declaratory ruling in which**
22 **they found ISP traffic to be predominantly interstate, but**
23 **they deferred a decision on the appropriate compensation**
24 **mechanism to state commissions. While the D.C. Circuit**
25 **Court vacated the FCC's declaratory ruling, the Court did**

1 not, and this is a quote, reach the objections of the
2 ILECs that Section 251(b)(5) of the Telecom Act preempts
3 state commissions authority to implement a mechanism for
4 compensation of ISP traffic. It is Sprint's opinion and
5 the opinion of other state commissions that the Florida
6 Commission has the authority to implement an intercarrier
7 compensation mechanism for ISP traffic.

8 **The second question, what is the appropriate**
9 **compensation mechanism? Sprint believes that ISP traffic**
10 **should be treated as local traffic subject to all FCC and**
11 **state commission rules and regulations. Now, there's been**
12 **a lot of debate in the testimony as to what percentage of**
13 **the traffic may be local versus interstate, but I think**
14 **it's very clear that even the FCC in their declaratory**
15 **ruling said it's predominately interstate. They did not**
16 **say it was 100 percent interstate. The ALECs have put**
17 **forth in their testimony the position that as much as**
18 **90 percent of this traffic could be intrastate in nature;**
19 **therefore, I think any decision to move forward would**
20 **still be applicable to any intrastate portion if the FCC**
21 **comes back at some point and takes jurisdiction over the**
22 **interstate portion.**

23 **All parties in this proceeding agree that ISP**
24 **calls have longer holding times than typical voice calls.**
25 **Current ILEC reciprocal compensation rates are based on a**

1 rate structure where call setup costs are recovered over
2 the average length of the call. For ISP calls with longer
3 holding times, the current structure provides for multiple
4 call setup costs to be recovered. And if we look at an
5 example of, if the average ILEC call is five minutes in
6 nature, then we have recovered one call setup across the
7 average five minutes or 20 percent of that cost in each
8 minute. It's very possible that some calls are longer
9 than five minutes, some are shorter than five minutes, but
10 five minutes is the average -- in this example would be
11 the average for the ILEC. So the ILEC would overrecover
12 on some calls, underrecover on other calls, but on
13 average, they are compensated appropriately.

14 If an ISP call is, for example, 30 minutes in
15 duration, then they would be recovering 30 times the
16 blended ILEC rate, which means they're recovering six call
17 setups versus the one actual call setup cost that they
18 incurred.

19 **CHAIRMAN JACOBS:** That's interesting. I guess I
20 hadn't heard that before, so walk me through that.

21 **THE WITNESS:** Okay. Again, with the example,
22 let's assume the average ILEC call is five minutes.

23 **CHAIRMAN JACOBS:** Okay.

24 **THE WITNESS:** So our models that we use to
25 determine the per minute of use compensation rate looks at

1 the fact that there was one call setup cost incurred, and
2 there were five call duration costs incurred. And we
3 blend that together to come up with a single per minute
4 rate.

5 And if you apply that same structure to recip
6 comp for ISP traffic that has a longer holding time, then
7 you could be recovering, in the case of 30 minutes, six of
8 those call setups and the 30 call durations. It's
9 appropriate to get the 30 call durations, but you
10 shouldn't have to pay for six call setup costs.

11 CHAIRMAN JACOBS: You're arguing that; they are
12 going to argue otherwise.

13 THE WITNESS: Right.

14 CHAIRMAN JACOBS: Thank you.

15 A To solve this, Sprint has proposed a two-part or
16 bifurcated rate structure which would result in one charge
17 for call setup that does not vary with the duration of the
18 call and a per minute of use charge to recover call
19 duration costs. Sprint believes that this structure
20 should be applied to all local calls, including ISP
21 traffic.

22 The third issue of whether we should try to
23 separate the traffic. The answer to that is no, that the
24 ILECs have proposed certain methodologies to attempt to
25 separate the ISP traffic from other seven-digit dialed

1 local traffic. And the point is, it's only a methodology
2 that estimates what that traffic is. It is not
3 100 percent accurate. The proposed methodologies could
4 also place undue burdens and administrative costs on both
5 ILECs and ALECs in Florida.

6 Sprint's proposal for a bifurcated rate
7 structure solves the problems associated with separating
8 the traffic as all local traffic, including ISP-bound
9 traffic would be compensated under the same methodologies.
10 That concludes my summary.

11 MS. MASTERTON: We have no exhibits,
12 Mr. Chairman, so the witness is available for cross
13 examination.

14 CHAIRMAN JACOBS: Now, let me make sure we get
15 this right. This witness is testifying from -- as an
16 ALEC; correct?

17 THE WITNESS: I'm testifying as both an ILEC and
18 an ALEC, so I have no friends in this room.

19 CHAIRMAN JACOBS: I thought we just worked all
20 that stuff out. Now it's all out the window. How would
21 you guys like to go about this one? It sounds like the
22 testimony is more -- the interests are more aligned with
23 the ALEC than the ILEC in this instance. Do you agree?
24 So let's ask for cross on this side first.

25 MR. McGLOTHLIN: No questions.

1 **MR. McDONNELL:** I'm Marty McDonnell, I'm
2 co-counsel with Ken Hoffman, if I could ask just a couple
3 of questions.

4 **CHAIRMAN JACOBS:** Okay.

5 **CROSS EXAMINATION**

6 **BY MR. McDONNELL:**

7 **Q** **Mr. Hunsucker, in your prefiled direct and**
8 **rebuttal testimony, you state that this Commission has**
9 **jurisdiction to adopt an intercarrier compensation**
10 **agreement for ISP-bound traffic; correct?**

11 **A** **Yes. And as I said in my summary, we believe**
12 **that while the D.C. Circuit Court vacated the FCC's**
13 **declaratory ruling, they did not preempt states from**
14 **setting intercarrier compensation mechanisms for ISP**
15 **traffic.**

16 **Q** **And have you familiarized yourself with the**
17 **prefiled testimony of Ms. Shiroishi with BellSouth?**

18 **A** **Yes, I have read that testimony.**

19 **Q** **And her testimony is that because the D.C.**
20 **Circuit remanded that case, there is no state**
21 **jurisdiction; correct?**

22 **A** **That's her opinion, yes.**

23 **Q** **And do you agree or disagree?**

24 **A** **No, we disagree with that opinion. The actual**
25 **excerpt that she used was from the last, I think,**

1 paragraph of the D.C. Circuit Court. She pulled the last
2 section of that which said that ILECs were free to seek
3 remedies from state commissions, but preceding that, there
4 is also a statement that says that the D.C. Circuit Court
5 did not reach the objection of the ILECs to preempt state
6 commissions.

7 Q In fact, other state commissions have addressed
8 this very issue, haven't they?

9 A Yes, they have.

10 Q Do you know approximately how many?

11 A I don't have the exact number, no.

12 Q And you're familiar with the bill-and-keep
13 arrangement?

14 A Yes, I'm familiar with bill-and-keep.

15 Q And as a CFR 51.713 -- as it requires a state
16 commission to determine whether the traffic is roughly
17 balanced or out of balance, do you have any experience in
18 Florida with the balance of traffic between an ILEC and an
19 ALEC for reciprocal compensation purposes?

20 A I don't know what the composite balance is
21 between Sprint's ILEC and all the ALECs in Florida. I do
22 know that there are individual ALECs for which we have
23 interconnection agreements where there are significant out
24 of balance conditions today.

25 Q And it's your position that this Commission

1 should adopt an intercarrier compensation mechanism that
2 entails both local voice traffic and ISP traffic; correct?

3 A Yes, that's correct.

4 Q Because you don't feel it's appropriate that ISP
5 traffic can be segregated out accurately?

6 A Yeah, it's very difficult to separate out the
7 traffic. I mean, the methodologies that I've seen -- for
8 example, one methodology that was proposed suggests that
9 all the ALECs and ILECs determine what the ISP numbers
10 are, create a database to share that information. They
11 used the analogy of the LNP database.

12 I've got to question the intent of doing that.
13 I think that would be very expensive. And in fact, I know
14 from personal experience that all the ILECs that
15 implemented LNP databases and LNP -- also implemented LNP
16 cost recovery charges that were passed on to consumers.
17 So, you know, there was no mention of how that cost was
18 going to be recovered.

19 COMMISSIONER JABER: From your testimony, I got
20 the impression that from a technology standpoint, it was
21 difficult to determine whether that traffic was roughly
22 balanced. What I hear you testify today is, it can be
23 done, but it's costly because it requires the companies to
24 create a database and report what the traffic is.

25 THE WITNESS: Yeah, that was one methodology

1 that was proposed. I think there were other methodologies
2 that were also proposed.

3 **COMMISSIONER JABER:** So it's not technologically
4 impossible, you just don't want to do it.

5 **THE WITNESS:** Well, I wouldn't say we don't want
6 to do it, I just -- the problem is going to be, you've got
7 to rely on every ALEC to give you those numbers. And if
8 they think they are not going to be compensated if they
9 share that number, you know, I wouldn't want to question
10 anyone's ethical values or any company's ethics here, but
11 there would be incentives to not properly report those
12 numbers. And it could be a daily type update that would
13 have to occur as new ISP numbers are created and taken out
14 of service potentially on a daily basis.

15 **COMMISSIONER JABER:** Now, if we made a finding
16 that traffic was not local and, therefore, bill-and-keep
17 was an appropriate mechanism, you wouldn't have to do that
18 reporting at all; right?

19 **THE WITNESS:** If bill-and-keep was an
20 appropriate mechanism, I think the answer would be yes.
21 We would still have to separate that traffic because we're
22 only going to know that it was a seven digit dialed. It's
23 going to look like local traffic. So if there's any
24 compensation mechanism other than one mechanism for all
25 traffic, even it's bill-and-keep, you've still got to

1 separate and track that usage.

2 COMMISSIONER DEASON: You lost me on that last
3 answer. Even if you are in bill-and-keep, you've still
4 got to separate it and keep track of the traffic. Can you
5 explain that?

6 THE WITNESS: Yes. Typically, the ISP traffic
7 and other local traffic are going to flow over the same
8 trunk groups. At this point, you're looking at trunk
9 group type measurements that's going to measure the total
10 traffic going across that trunk group. In some cases,
11 there are some systems out there -- Sprint hasn't deployed
12 those. We don't have those systems today -- where you can
13 actually do line type analysis. So all we're going to get
14 is trunk usage going to a CLEC. So even if it's
15 bill-and-keep, you've got to determine what percentage of
16 that traffic was ISP so that I don't -- there's no billing
17 taking place on that usage.

18 COMMISSIONER DEASON: Well, I guess that's my
19 problem. If it's bill-and-keep, you just -- as I
20 understand bill-and-keep, and maybe I don't understand it
21 correctly, is that you complete everyone's calls to you,
22 and they have an obligation to complete yours. And what
23 difference does it make what the traffic is, other than
24 you've got to make the initial finding that it's in
25 balance?

1 **THE WITNESS:** If you're looking at bill-and-keep
2 for all traffic, then I agree with you. You're exactly
3 right.

4 **COMMISSIONER DEASON:** Okay.

5 **THE WITNESS:** That's the key. If you're looking
6 for bill-and-keep on only ISP traffic, then you've still
7 got to be able to separate that traffic.

8 **COMMISSIONER DEASON:** Okay. Well, that was
9 my -- I thought we were talking about bill-and-keep for
10 all traffic. You were -- bill-and-keep for just ISP --

11 **THE WITNESS:** Just ISP traffic, yes.

12 **COMMISSIONER JABER:** Yeah. And for purposes of
13 the record, my question to you was bill-and-keep for ISP
14 traffic. But if I understood your testimony correctly,
15 you said that you would still have to do the separation
16 not necessarily for determining bill-and-keep for the ISP
17 traffic but to separate out the other kinds of calls that
18 you do receive compensation on.

19 **THE WITNESS:** Yes, it would be for both. To
20 really answer your question, to separate out the traffic I
21 do receive compensation and separate out the traffic for
22 which I would zero bill or do bill-and-keep. So you've
23 still got to have that traffic separation.

24 **COMMISSIONER DEASON:** And what traffic is that?

25 **THE WITNESS:** Again, if all traffic is placed

1 over the same trunk group and we have reciprocal
2 compensation in place for voice traffic but not ISP
3 traffic.

4 **COMMISSIONER DEASON:** Okay. Here again, let's
5 go back to the scenario of bill-and-keep for all traffic.
6 Is there any reason then to separate or keep track of what
7 type traffic that is? Because you mentioned something
8 about the traffic for which you get compensation.

9 **THE WITNESS:** If you adopt bill-and-keep for all
10 traffic --

11 **COMMISSIONER DEASON:** Then there's no problem;
12 right?

13 **THE WITNESS:** Then there's no problem with that
14 assuming you can do that under the FCC rules and it's in
15 balance, yes.

16 **COMMISSIONER DEASON:** And do you think we can do
17 that, or we don't have the authority?

18 **THE WITNESS:** I think you can do that if it's
19 consistent with the FCC rules, and that's the 51.713 that
20 you have to make a finding, a positive finding that the
21 traffic is roughly in balance.

22 **COMMISSIONER DEASON:** And it's your opinion that
23 it's not in balance at least for your company?

24 **THE WITNESS:** It is my opinion that for
25 particular ALECs -- from our ILEC perspective to typical

1 **ALECs, there are out of balance situations in our company**
2 **today.**

3 **COMMISSIONER DEASON: And what do you consider**
4 **to be out of balance?**

5 **THE WITNESS: Well, in the one case that I'm**
6 **familiar with, it's over 100 to 1. So I'm very**
7 **comfortable that that's an out of balance. Obviously, in**
8 **balance would mean it's exactly 50-50. It's one to one**
9 **for every minute they terminate to me, I terminate a**
10 **minute to them.**

11 **COMMISSIONER DEASON: Is 75-25 out of balance?**

12 **THE WITNESS: In my opinion, yes.**

13 **COMMISSIONER DEASON: Is 60-40 out of balance?**

14 **THE WITNESS: Yeah, I don't know what the right**
15 **number is.**

16 **COMMISSIONER DEASON: Has any state ever made a**
17 **decision as to what constitutes in balance or out of**
18 **balance?**

19 **THE WITNESS: I'm not aware of any percentages**
20 **that any state commission has decided is an appropriate**
21 **percentage for in balance versus out of balance.**

22 **COMMISSIONER DEASON: And you say there's a**
23 **situation where you have a relationship where it's 100 to**
24 **1?**

25 **THE WITNESS: It's greater than 100 to 1.**

1 **COMMISSIONER DEASON: Greater than 100 to 1.**

2 **THE WITNESS: Yes.**

3 **COMMISSIONER DEASON: Do you have an opinion as**
4 **to how that relationship was achieved?**

5 **THE WITNESS: Well, I think that the particular**
6 **carrier in this particular agreement serves a lot of ISPs,**
7 **so there's a lot of traffic that flows from us to his ISP**
8 **customers.**

9 **COMMISSIONER DEASON: And is that because of**
10 **improper pricing -- price signals?**

11 **THE WITNESS: You know, we have an agreement**
12 **with them to pay them at a rate that we thought was**
13 **reasonable, and we agreed to enter into that rate.**

14 **COMMISSIONER DEASON: Well, I understand you did**
15 **that. My question to you is your opinion. Is that an**
16 **improper price signal even though you agreed to it?**

17 **THE WITNESS: I think the answer is no, because**
18 **we felt like that rate probably approximated the costs**
19 **they were incurring to terminate that traffic.**

20 **COMMISSIONER JABER: All right. In answering**
21 **our questions, when you say "improperly balanced," are you**
22 **clumping all the calls together, the ISP calls and the**
23 **traditional local calls?**

24 **THE WITNESS: Yes.**

25 **COMMISSIONER JABER: Well, what creates the**

1 imbalance? Is it the ISP calls, or is there an imbalance
2 all the way?

3 **THE WITNESS:** It can be both. I think in this
4 particular example we're talking about it is ISP, but if
5 you also had a carrier that, you know, was a credit card
6 validation center that had a lot of terminating traffic
7 terminating to them, there's still the possibly there
8 could be an out of balance condition on that traffic as
9 well.

10 You know, I don't know what all these other
11 carriers are doing and what their business plans are, so I
12 can't really speculate on what might be driving the out of
13 balance. There could be legitimate and there are
14 legitimate reasons for that.

15 **COMMISSIONER JABER:** Do you envision a market
16 condition or can you speculate on competition that would
17 create an imbalance the other way?

18 **THE WITNESS:** Back to the ILEC?

19 **COMMISSIONER JABER:** Yes.

20 **THE WITNESS:** I think what happens, if the ILECs
21 really think that they are paying out too much reciprocal
22 compensation, I think they have a couple opportunities to
23 solve that problem. First off, they can try to win the
24 business of the ISP to locate in their office, so the
25 traffic is coming back the other way. Secondly, they can

1 be more aggressive on rolling out their DSL services,
2 because with DSL services, reciprocal compensation does
3 not apply to a DSL service. So the more DSL that they
4 proliferate in their market area, the less compensation
5 they will pay. So there are incentives for them to
6 promote advanced services to their own end users as well
7 as try to win the business of the ISPs.

8 COMMISSIONER DEASON: I'm sorry. We keep going
9 back and forth.

10 COMMISSIONER JABER: That's fine.

11 COMMISSIONER DEASON: When you say roll out DSL,
12 so that the customer that normally would use normal
13 dial-up to access their ISP, they would just be using DSL,
14 and so that traffic as we know it now would go away, and
15 it would go over the DSL. It would not become part of
16 reciprocal compensation.

17 THE WITNESS: It would not be dial-up switched
18 type traffic, so it is not part of reciprocal
19 compensation, yes.

20 COMMISSIONER JABER: That was it.

21 MR. McDONNELL: Thank you, Mr. Chairman.

22 BY MR. McDONNELL:

23 Q And you propose, Mr. Hunsucker, that there be a
24 cost-based reciprocal comp pricing; correct?

25 A Yes, that that cost-based rate would be set

1 consistent with the FCC rules, the 51.711 rules on
2 symmetrical compensation. Yes.

3 Q Okay. And that would -- the two components
4 would be a call setup, which would be "X" cents per call?

5 A That's correct.

6 Q And then a per minute of usage component, a
7 penny a minute, a third of a penny a minute, whatever that
8 would be; correct?

9 A Yes, that's correct.

10 Q And it's your idea to create a situation so that
11 those are the actual ILEC costs, so then it would be
12 benign for the ILEC whether they terminate the call or you
13 terminate the call or an ALEC would terminate the call
14 because their cost would be the same; correct?

15 A Well, it would properly reflect the ILEC's cost
16 to terminate the traffic, but, you know, in theory, the
17 fact that we have a blended rate today already reflects
18 that same cost recovery that we would get. What it would
19 translate into is that the CLEC would then be terminated
20 based on the way that they incur costs by using the ILEC's
21 rates under the FCC's rules.

22 Q And in your direct testimony, I believe you
23 stated that the rates that you propose already exist?

24 A I don't know if I said that or not. Can you
25 point me to a reference?

1 Q Page 11, Line 1, direct.

2 A The blended rates today already exist in the
3 interconnection agreements that we have, yes.

4 Q Okay.

5 A The rates for the new structure do not exist,
6 but the costs can be identified such that those rates
7 could be created very easily.

8 MR. McDONNELL: Okay. I don't have anything
9 further, Mr. Chairman.

10 CROSS EXAMINATION

11 BY MS. McNULTY:

12 Q Good afternoon, Mr. Hunsucker. I'm
13 Donna McNulty with WorldCom. Do you know whether ISPs
14 have telephone numbers assigned to them that are not for
15 Internet usage?

16 A You know, I would think based on however they
17 choose to use the numbers -- I don't know the answer to
18 that question specifically, but I would think if they're
19 an integrated carrier that's providing both local and ISP
20 services, then, yes, they could have numbers that are used
21 for more than just ISP purposes.

22 Q And could you think of any reasons what they
23 might use those numbers for?

24 A Well, again, if they are in the local market to
25 provide local service to end users, they could use it to

1 provide competitive local services. They could use them
2 for administrative lines. A lot of -- where they're
3 collocated, they may want one or two phones in their
4 collocation cage. They could use it for that purpose.

5 Q And if it's an ISP, it could also be for service
6 or for repair; is that true?

7 A That would be true, yes.

8 MS. McNULTY: Thank you. No further questions.

9 MR. MOYLE: Just a couple of quick questions.

10 **CROSS EXAMINATION**

11 **BY MR. MOYLE:**

12 Q In following up on a question I believe
13 Commissioner Deason asked you with respect to whether
14 you're aware of other findings of other states with
15 respect to bill-and-keep. Are you aware that this
16 Commission in the Global NAPS case, Docket Number 991220,
17 rejected bill-and-keep on the basis that the ISP-bound
18 traffic is inherently skewed?

19 A Yes, I have read that decision, and I'm familiar
20 with that. Yes.

21 Q And with respect to the authority to act in this
22 area, there's been some discussion, a lot of discussion
23 about the FCC and jurisdiction and whatnot. Would you
24 tend to agree with -- I believe the comment was made
25 earlier on, but that if there is failure to act in this

1 area by the FCC, that you could look to the state law and
2 the state legislature as vesting jurisdiction to this
3 Commission to act?

4 A Yes, I would think if there is -- in the absence
5 of an FCC rule that state law could come into play. You
6 know, the FCC was very clear in their declaratory ruling,
7 although it was vacated, to state that, you know, states
8 were free to do what they want in the absence of their
9 rule. And as long as it didn't conflict with an FCC rule,
10 that was okay.

11 MR. MOYLE: Thank you. I have nothing further.

12 COMMISSIONER JABER: In the Court's vacation of
13 the declaratory ruling, did the Court comment on what
14 states could do or couldn't do?

15 THE WITNESS: Yes. I was going to look here
16 real quick because I have the opinion -- the order here.

17 COMMISSIONER JABER: Please.

18 THE WITNESS: But again, in the last paragraph
19 of that order, they specifically said that we do not reach
20 the objections of incumbent LECs, that Section 251(b)(5)
21 preempts state commission authority to compel payments to
22 competitor LECs. So --

23 COMMISSIONER JABER: And what are you reading
24 from?

25 THE WITNESS: That's the D.C. Circuit Court

1 order.

2 MR. McDONNELL: I'm sorry, Mr. Chairman. Could
3 I just ask one more question for clarification?

4 MR. MOYLE: I had one quick little follow-up but
5 with respect to the --

6 CHAIRMAN JACOBS: Let me ask him -- I will allow
7 you one brief question that's narrow, I hope. But let
8 Mr. Moyle go.

9 FURTHER CROSS EXAMINATION

10 BY MR. MOYLE:

11 Q The question I asked you about the
12 bill-and-keep, would it be a fair statement to say based
13 on your expert testimony that you agree that in the state
14 of Florida ISP-bound traffic is inherently skewed as
15 previously found by this Commission?

16 A You may have to explain to me what you mean by
17 "inherently skewed."

18 Q That it's out of balance.

19 A I think based on some of the arrangements that
20 we have carriers that we know are ISP, there is out of
21 balance conditions, yes.

22 MR. MOYLE: Thank you.

23 FURTHER CROSS EXAMINATION

24 BY MR. McDONNELL:

25 Q Mr. Hunsucker, you testified that the numbers

1 are out there, and you are able to -- you have proposed
2 rates. You would just have to put numbers together. I'm
3 just trying to make sure I understand your testimony
4 correctly.

5 A We would have to go back to our underlying cost
6 studies, and I know in fact that we -- you know, Sprint's
7 ILEC is going to be filing new UNE rates, costs and rates,
8 in Florida. I think we've asked for an extension, but
9 it's in the upcoming few months. And so the underlying
10 cost is already there as part of the model that we use.
11 It's just a matter of going in and separating those out
12 and actually looking at those -- just showing those costs
13 separately.

14 Q Are you able to put those actual numbers in the
15 record today?

16 A No, I'm not because we're still in the process
17 of working through those studies.

18 Q Would you be in a position to do it before the
19 end of the hearing?

20 A No. Right now we're -- I think we're under
21 order to file April 2nd, and I think we've asked for an
22 extension until July. So I don't think that we will --
23 we're not in the position to do that for the state of
24 Florida.

25 COMMISSIONER PALECKI: Could you give us any

1 kind of a ballpark of what we're talking about as far as a
2 setup charge and a call duration charge? I don't want to
3 hold you to it, I just want a general idea.

4 **THE WITNESS:** You know, we have looked -- the
5 answer is no. I really don't know what those numbers are.
6 I can probably find out based on where we're at roughly
7 what those numbers are. I have looked at what we have
8 done in other states where we have said, if it was a
9 30-minute ISP hold time, what is the percentage reduction
10 that we would be talking about for reciprocal compensation
11 payments? And those have ranged anywhere from a low of
12 around 30 percent up to slightly in excess of 40 percent.
13 But we haven't done that specific analysis until we
14 complete these cost studies for Florida. So, I mean, it
15 is a significant amount if the hold times are actually --
16 you know, the 30-minute call versus a 3- to 5-minute call
17 for the typical ILEC call, average ILEC call.

18 **COMMISSIONER PALECKI:** Thank you.

19 **MR. McDONNELL:** Thank you.

20 **CHAIRMAN JACOBS:** Very well. That takes care of
21 cross. Redirect. I'm sorry. That takes care of that
22 cross. Now this cross.

23 **CROSS EXAMINATION**

24 **BY MR. MEZA:**

25 **Q** **Mr. Hunsucker, I'm Jim Meza with BellSouth.**

1 It's your opinion that this Commission has jurisdiction to
2 establish intercarrier compensation for ISP traffic as a
3 result of the FCC's declaratory ruling; is that correct?

4 A As a result of the FCC's declaratory ruling and
5 the D.C. Circuit Court order, yes.

6 Q Okay. And in that D.C. Circuit Court ruling,
7 that Court vacated the declaratory ruling; is that
8 correct?

9 A They vacated the declaratory ruling, but they
10 did not rule on the ILECs wanting to preempt the states
11 from implementing a compensation mechanism.

12 Q And you would agree with me, sir, that the D.C.
13 Circuit did not vacate in part the declaratory ruling, it
14 vacated the entire ruling; is that correct?

15 A I will agree that they vacated the entire ruling
16 as it related to the jurisdiction of the traffic, but
17 again, they did not, as the ILECs asked, say that --
18 preempt states from making decisions on compensation.

19 Q So it's your opinion, sir, that if a court
20 vacates an order, the entire order, for one reason but
21 fails to address another reason raised by a party, then
22 that second reason is still valid law?

23 A You know, I'm not a lawyer, so I can give you my
24 opinion. They vacated the whole ruling, I'll agree with
25 that. But they also said that 251(b)(5) of the Telecom

1 **Act does not preempt a state from making a decision. So,**
2 **you know, they can preempt the whole order, but they also**
3 **made a positive finding that said state commissions are**
4 **free to implement compensation mechanisms.**

5 **Q You have that order with you, don't you?**

6 **A Yes, I do.**

7 **Q Okay. And let's go to that last paragraph that**
8 **we've been talking about. And you just said on page -- I**
9 **have the WESTLAW copy. It's Page 8. You said that the**
10 **D.C. Circuit found that the incumbent LECs -- or the state**
11 **commissions had authority to compel payments to competitor**
12 **LECs, but what they really said is that we don't reach the**
13 **objections of the incumbent ILECs; is that correct?**

14 **A That's the exact wording, yes.**

15 **Q Other than the declaratory ruling, do you know**
16 **of any other authority that gives this Commission the**
17 **ability to set compensation rates for ISP traffic?**

18 **A Well, again, I think if the FCC has said in all**
19 **their report and orders that state commissions are free to**
20 **do anything as long as it doesn't conflict with an FCC**
21 **rule. If there is no FCC rule, then there is nothing that**
22 **would conflict with the FCC rule. So again, I think the**
23 **FCC gives them the authority to do this.**

24 **Q And what authority does that come from?**

25 **A It comes from the Telecom Act.**

1 **Q** **What authority does this Commission have to**
2 **implement an intercarrier compensation other than the**
3 **declaratory ruling?**

4 **A** **Again, it comes from the Telecom Act through the**
5 **D.C. Circuit Court opinion that says that 251(b)(5) does**
6 **not preempt states from setting compensation mechanisms.**

7 **Q** **But the D.C. Circuit Court didn't say that. The**
8 **D.C. Circuit Court said we don't reach that decision -- or**
9 **we don't reach that issue.**

10 **A** **Right. So there is no decision that says they**
11 **can't do that. And if you're trying to say that the FCC**
12 **ruling was vacated and that took away their authority, it**
13 **certainly didn't.**

14 **COMMISSIONER JABER: In your opinion, what does**
15 **the very last sentence mean of that order, of the Court's**
16 **order?**

17 **THE WITNESS: Are you talking about, "At present**
18 **we have"?**

19 **COMMISSIONER JABER: Yes. What does that mean?**

20 **THE WITNESS: Well, I think what the D.C.**
21 **Circuit Court said was -- or found was that they didn't**
22 **think the FCC had provided sufficient reason as to what**
23 **type of traffic this really was and how to classify this**
24 **traffic. Is it access? Is it local? Or is there some**
25 **other mechanism that should be in place?**

1 **And then they said in the interim that if**
2 **incumbent LECs think that they have been treated -- not**
3 **been treated appropriately at state commissions, they're**
4 **free to seek relief from compensation mechanisms they feel**
5 **have been wrongfully imposed.**

6 **COMMISSIONER JABER: By whom?**

7 **THE WITNESS: By state commissions, I would**
8 **assume.**

9 **COMMISSIONER JABER: Mr. Chairman, if I could**
10 **just ask the parties in their brief to include some**
11 **discussion of what the vacation of the FCC's declaratory**
12 **ruling meant, basically analyzing this case in the brief**
13 **and what the impact of the vacation --**

14 **CHAIRMAN JACOBS: Very well. To the extent that**
15 **I'm sure probably most would, but specifically that**
16 **request from Commissioner Jaber, too, in your briefs.**
17 **Thank you.**

18 **COMMISSIONER JABER: And I'm focussed on the**
19 **last paragraph. Just for the purposes of the parties**
20 **understanding what I'm looking for, it looks like the**
21 **Court did vacate the entire order, but it also comes back**
22 **and says in the interim there's nothing to prevent**
23 **incumbents -- at least they said incumbents, they didn't**
24 **say all parties -- to seek relief from a state commission,**
25 **and I'd like some legal analysis on all of that.**

1 **BY MR. MEZA:**

2 **Q This question may clarify or may give you some**
3 **additional information; that is, Mr. Hunsucker, in that**
4 **last sentence that Commissioner Jaber is talking about,**
5 **could that sentence also mean -- or could mean that the**
6 **incumbents have the opportunity to appeal any compensation**
7 **mechanism to the District Court?**

8 **A You know, that's a legal analysis. I'm not sure**
9 **I can render an opinion on that.**

10 **Q Well, you've done a pretty good job of rendering**
11 **a legal analysis already, so I don't think this**
12 **question will hurt you.**

13 **A And that's after consultation with my attorneys**
14 **as well.**

15 **Q Well, is it your opinion that that's one**
16 **possibility that that sentence means?**

17 **A Again, I don't have an opinion whether it is or**
18 **not.**

19 **Q You gave an opinion earlier to**
20 **Commissioner Jaber, though. You said that that meant**
21 **state commissions. So I'm asking you, is it also your**
22 **opinion that that sentence also means that you can appeal**
23 **to the District Court?**

24 **A Well, my opinion of what this says is that**
25 **incumbent LECs are free to seek whatever legal means they**

1 have if they feel something has been wrongfully -- if a
2 compensation's been wrongfully imposed. I don't know what
3 the legal mechanism is, I guess what I'm saying.

4 Q Thank you. It's your belief, sir, that any
5 compensation rate should reflect the cost of --

6 COMMISSIONER DEASON: Excuse me. Just a second.
7 Before you leave that last question there. If the Court
8 were speaking, just saying that, well, if they don't like
9 this decision, they can appeal it, I mean, it seems like
10 everybody knows that. If you don't like an opinion, you
11 appeal it. It seems to me that perhaps the Court was
12 trying to lay out that there is an avenue to go back to
13 the state commission and to get relief, and that's the way
14 you interpreted it; correct? I'm trying to understand the
15 way you interpreted it.

16 THE WITNESS: Yeah, because it -- well, it says
17 they have relief -- to seek relief from state-authorized
18 compensation.

19 COMMISSIONER DEASON: And it's your opinion that
20 what the Court was saying was that any aggrieved party can
21 go back to the state commission if they think that there
22 was a compensation rate or mechanism which was wrongfully
23 imposed.

24 THE WITNESS: Yes.

25 COMMISSIONER DEASON: And that's the way you

1 interpreted it, but apparently there's a different
2 viewpoint, and we'll get that in briefs.

3 **THE WITNESS:** Yeah. And again, I don't know
4 what -- you know, if you appeal the order, take what
5 district -- you'd take it to the U.S. District -- Federal
6 District Court, State District Court, I don't know
7 what the appropriate hierarchy that you would step through
8 to make that legal process.

9 **COMMISSIONER DEASON:** Okay.

10 **BY MR. MEZA:**

11 **Q** It's your opinion, sir, that any compensation
12 rate should reflect the cost of transporting and
13 terminating ISP traffic; is that correct?

14 **A** Ask that question again because I want to be
15 real clear what --

16 **Q** Okay. It's your opinion that any compensation
17 mechanism developed by this Commission should accurately
18 reflect the cost of terminating and transporting ISP
19 traffic?

20 **A** That the mechanism should be consistent with the
21 FCC rules for -- in 51.711 for local traffic.

22 **Q** All right. And what are those rules? And what
23 do those rules require?

24 **A** Those rules require that an ALEC can use the
25 rates of the ILEC, or if he thinks his cost is higher, he

1 can come before this Commission and file a cost study to
2 attempt to prove that his rates are higher than the
3 incumbent LEC's rates. And there was a lot of discussion
4 earlier about the paging scenario. That was one carve out
5 that the FCC was very specific on of requiring paging
6 carriers to file a cost study before there was any
7 compensation to be paid. But they in no way, shape, or
8 form in any of their orders have transposed that same
9 requirement to any other class of carriers.

10 Q Would you agree with me that the charges for
11 reciprocal -- or for ISP traffic should match the
12 underlying cost?

13 A That's a tough question to answer, but from an
14 ILEC perspective, the answer is yes. From an ALEC
15 perspective, the FCC rules have set forth a procedure for
16 them to follow for reciprocal compensation, and it does
17 not require a cost showing.

18 Q All right. Well, let's look on Page 14 of your
19 testimony where I think you state this. Lines 21 through
20 23, starting with the word "thus." If you could read
21 that, please.

22 A Starting on Line 20?

23 Q Line 21 with the word "thus."

24 A "Thus, regardless of the length of the call or
25 type of call, the charges match the underlying costs and

1 ensure that the costs are recovered appropriately."

2 Q And that's your opinion?

3 A And again, that was as it relates to the current
4 ILEC cost structure where we have a blended rate, and
5 we're asking for that to be bifurcated into two
6 components.

7 Q For this bifurcated rate structure, it's your
8 opinion that this Commission should look at call duration
9 to adequately reflect the amount of cost that's going into
10 the termination of the call; is that correct?

11 A Yes. The bifurcated rate structure will look at
12 the two distinct cost components.

13 Q Would you agree with me that there are some
14 additional costs that this Commission should also
15 consider?

16 A I don't know what additional costs you're
17 talking about, no.

18 Q For instance, if an ALEC is able to develop or
19 implement new technology that will enable it to have less
20 costly switches solely for ISP traffic, wouldn't that be
21 something that this Commission should consider?

22 A I think the answer is no. Under the FCC rules,
23 they are not required or allowed to consider that if it's
24 to be compensated under 51.711.

25 Q Well, isn't that entirely inconsistent with your

1 bifurcated rate plan?

2 A Again, my bifurcated rate plan was only a way to
3 structure the ILEC rates such that the cost -- that the
4 price matches the cost, and that that be applied on a
5 symmetrical basis to traffic that terminates to an ALEC.

6 Q So what you're saying is that you can bring down
7 the ILEC rate, but you can't bring down the ALEC rate?

8 A Under the current FCC rules, I think that's
9 true, yes.

10 Q It's also your opinion, sir, that intercarrier
11 compensation should be extended to noncircuit-switched
12 arrangement; is that correct?

13 A Yes. And I think there is a point of confusion
14 there. As I said earlier, if we're talking about DSL,
15 which is a packet service, then reciprocal compensation
16 does not apply to that. But there are also
17 circuit-switched technologies out there for call
18 completion that could be used for dial-up type services.
19 So in the event that there is a dial-up ISP that just
20 happens to terminate through a packet switch, that does
21 not preclude that from compensation. It's just a new
22 technology and a new architecture to complete the call
23 similar to it would -- to a traditional voice
24 circuit-switched network.

25 Q So it's your opinion that not all

1 noncircuit-switched traffic is subject to reciprocal comp;
2 is that correct?

3 A That's correct, yes. I mean, if it's dedicated
4 access -- for example, Sprint's CLEC has a product we call
5 ION, which is a DSL like product. We don't expect to
6 receive reciprocal compensation when we sell that local
7 service alternative to an end user because we're paying
8 for a DSL capable loop. It's our originating customer,
9 our originating service terminating to ourselves. I mean,
10 there is no reciprocal compensation in that scenario.

11 COMMISSIONER JABER: Help me put this in
12 perspective as it relates to Sprint being an ALEC and an
13 ILEC. As an ILEC, you're terminating ISP traffic calls;
14 correct?

15 THE WITNESS: As an ILEC, we're terminating
16 dial-up by ISP, yes.

17 COMMISSIONER JABER: And as an ALEC, you are
18 terminating ISP dial-up calls.

19 THE WITNESS: Yes, that's correct.

20 COMMISSIONER JABER: In your analysis of the
21 calls being terminated on your ILEC side, is that a lesser
22 amount of calls as it is on your ALEC side? Have you ever
23 done a comparison of how many calls Sprint as an ILEC
24 terminates and how many calls Sprint as an ALEC
25 terminates? Does that make sense?

1 **THE WITNESS:** Yeah, I think -- we have done that
2 analysis on a nationwide basis. We have tried to look at
3 all types of calls, what we terminate for voice, what we
4 terminate for ISP, what we terminate for wireless -- or
5 pass wireless to wire line. And we've looked at that in
6 total, and I'm trying to recall, but I think that we
7 probably terminate more to other carriers than is
8 terminated to us. But I don't recall the exact numbers.

9 **COMMISSIONER JABER:** Okay. Terminate more for
10 other carriers as you do to you. Since you as an ALEC and
11 an ILEC, can you be more specific for me?

12 **THE WITNESS:** Yeah. I think the big thing that
13 drives our numbers as a corporation is Sprint PCS, our
14 wireless company, and that traffic today is out of balance
15 in favor of the wire line LEC. So we -- Sprint PCS
16 originates more calls to a wire line network than the wire
17 line network originates back to Sprint PCS.

18 **COMMISSIONER JABER:** So in ILEC/ALEC
19 terminology, you are originating more calls as an ALEC
20 than you are as an ILEC?

21 **THE WITNESS:** Again, I don't recall those
22 particular individual business unit numbers. I just
23 remember in total, including the wireless, I think we
24 terminate more to other carriers than is terminated back
25 to us.

1 **COMMISSIONER JABER:** So in a bill-and-keep
2 hypothetical, to the degree there is an imbalance, it's an
3 imbalance on the ALEC side, isn't it?

4 **THE WITNESS:** To Sprint Corporation on a
5 nationwide basis, I think we would probably be better off
6 with bill-and-keep.

7 **COMMISSIONER PALECKI:** Is Sprint's position on
8 these issues consistent on a nationwide basis, or do you
9 make a decision on a state-by-state basis based upon your
10 traffic in the respective state?

11 **THE WITNESS:** We have been looking at this on a
12 nationwide basis. We have been very active at the FCC in
13 some of the -- in the proceedings that have been going on
14 up there. You know, we even made an ex parte last fall
15 that said you need to do bill-and-keep on a global basis
16 for all traffic.

17 But when you start looking at what we've done
18 here in Florida where we're looking at ISP only traffic,
19 we do not support bill-and-keep for ISP, and we believe
20 the FCC rules don't allow us -- don't allow the Florida
21 Commission to implement bill-and-keep specific in Florida
22 to that one class of traffic.

23 **COMMISSIONER PALECKI:** Thank you.

24 **COMMISSIONER DEASON:** And it's your opinion that
25 because traffic is out of balance, we cannot order

1 **bill-and-keep for all traffic?**

2 **THE WITNESS: That would be my opinion under the**
3 **current FCC rules, yes.**

4 **COMMISSIONER DEASON: But you think that it's**
5 **good policy for the FCC to do that.**

6 **THE WITNESS: At a national basis. I mean, they**
7 **are the ones that set the rules, so that's where we're**
8 **choosing to argue for a rule change.**

9 **COMMISSIONER DEASON: But under the present**
10 **situation, you don't think that we have that discretion as**
11 **a state entity because the FCC has said that we can't.**

12 **THE WITNESS: No -- that's correct, yes.**

13 **COMMISSIONER JABER: But the inconsistency in**
14 **your testimony in that regard is, you just got done**
15 **telling us that you believe a state commission has the**
16 **authority to go forward, and you believe that a**
17 **bill-and-keep methodology on a national level is**
18 **appropriate. But what are you saying to us, that the**
19 **state commission can go forward, we just can't do**
20 **bill-and-keep?**

21 **THE WITNESS: We think the state commission can**
22 **go forward and implement a compensation mechanism. We**
23 **don't think you can do bill-and-keep unless it's**
24 **consistent with the current FCC rules that requires an in**
25 **balance condition as kind of a precursor to doing**

1 **bill-and-keep.**

2 **CHAIRMAN JACOBS: Did we interrupt? Yes, we**
3 **interrupted you. Go ahead.**

4 **BY MR. MEZA:**

5 **Q Mr. Hunsucker, that requirement for roughly**
6 **balanced traffic for bill-and-keep, that's only if this**
7 **Commission finds that ISP traffic is local; is that**
8 **correct?**

9 **A If the Commission determines the traffic to be**
10 **local or determines to treat it as local and apply the**
11 **same rules, that is correct. Again, as I said in my**
12 **opening statement, in my summary, there is a huge dispute**
13 **over what's local and what other parties characterize as**
14 **interstate, including the FCC. And so you can't do**
15 **bill-and-keep on all of it.**

16 **And I'm not aware of any technical way to**
17 **separate out what would truly be local under BellSouth's**
18 **definition and what would be interstate under BellSouth's**
19 **definition. That's why we advocate to treat it all as**
20 **local.**

21 **Q All right. But I'm going to ask my question**
22 **again. Sprint's position that this Commission is**
23 **prohibited from instituting a bill-and-keep recovery**
24 **mechanism is based upon the fact that the FCC rule that**
25 **you're citing to only requires roughly balanced traffic**

1 when the traffic is local; is that correct?

2 A The FCC rule in 711 applies to local traffic,
3 yes.

4 Q Okay. So if this Commission finds that ISP
5 traffic is not local, the FCC rule does not apply; is that
6 correct?

7 A The mandate to use the FCC rule does not apply.

8 Q Now, you previously testified that some traffic
9 between ALECs and ILECs is imbalanced; is that correct?

10 A I think I testified that it could be in balance.
11 I was only aware of a couple -- of certain situations
12 where it is out of balance.

13 Q Would you agree with me that there are
14 situations where the traffic is, in fact, balanced between
15 the two?

16 A Again, I can't definitively agree with you that
17 there is situations where it's in balance. I don't know
18 the -- I don't know whether it is or not.

19 Q So you're saying that you only know of one
20 instance in where it is not balanced? Is that what you're
21 testifying?

22 A I know of that one instance that I quoted. I
23 know that I have been told there are other instances also
24 in the state of Florida, I just don't have all the
25 particulars on those carriers.

1 **Q** **Would you agree with me that it's a possibility**
2 **that traffic could be balanced between an ALEC and an**
3 **ILEC?**

4 **A** **If it's exactly one to one, probably not, but**
5 **roughly in balance whatever, you know, 60-40, 55-45, it is**
6 **a possibility.**

7 **Q** **And just for clarification because you're such a**
8 **long way from me, are saying roughly in balance or**
9 **imbalanced?**

10 **A** **In.**

11 **Q** **I-N?**

12 **A** **In balance, I-N, yes. I'm sorry.**

13 **MR. MOYLE: I guess just for the record, I**
14 **presume he's testifying as an expert, and these are**
15 **hypothetical questions.**

16 **MR. MEZA: No, I'm not --**

17 **MR. MOYLE: You're asking him factual questions**
18 **then.**

19 **MR. MEZA: Correct.**

20 **COMMISSIONER DEASON: Let me follow-up on a**
21 **question. If I understood the previous question or two,**
22 **it was that if we determine ISP traffic to not be local,**
23 **then we have the discretion to order bill-and-keep for**
24 **that traffic. I think that was the question. And did you**
25 **agree with that?**

1 **THE WITNESS:** Yes, I agreed with that, but
2 again, I believe that some portion of it is truly local.
3 **And the FCC has said it's predominately interstate. So I**
4 **think they believe some portion of the traffic is local.**

5 **COMMISSIONER DEASON:** Well, I guess my question
6 is this: If we say that ISP traffic is not local, don't
7 we lose all jurisdiction over it unless we put it into
8 that third bucket where it's neither fish nor fowl?

9 **THE WITNESS:** Yeah, you're probably right,
10 because if it's not local, then it's access, which is
11 still interstate subject to the FCC jurisdiction. So I
12 think you're right, you do lose jurisdiction unless you
13 create like you say some third bucket that says, hey, this
14 is not interstate or local. It's something else, and
15 we're going to take jurisdiction over the "something
16 else."

17 **BY MR. MEZA:**

18 **Q** Do you know if the FCC has given any guidance as
19 to how to define or determine whether traffic is in
20 balance?

21 **A** I'm personally not aware of anything that
22 defines whether it's in balance.

23 **Q** Could you go ALEC by ALEC, and if the majority
24 of ALECs have in balance traffic, then that would be
25 sufficient?

1 **A** Well, if the majority -- you know, I would
2 probably have -- I would look to the rule and see what the
3 rule says. And I think that the rule really addresses it
4 on a carrier-by-carrier basis. So if one carrier was in
5 balance, you could do bill-and-keep. If one carrier is
6 out of balance, then you couldn't do bill-and-keep. I
7 don't think it's a majority of the carriers. It's a
8 carrier-by-carrier analysis.

9 **Q** So are you saying that in this generic docket
10 that this Commission would have to do a
11 carrier-per-carrier determination before making a
12 decision?

13 **A** Yeah, I think that's what the rule would
14 require, yes, as to whether it's in balance or out of
15 balance.

16 **Q** Can this Commission aggregate all the CLECs?

17 **A** It would be my opinion, no, they couldn't
18 because this requires a carrier-specific analysis.

19 **MR. MEZA:** I have nothing further.

20 **COMMISSIONER DEASON:** Let me follow-up on that.
21 A carrier-specific analysis to determine whether traffic
22 is in balance or out of balance.

23 **THE WITNESS:** Yes. For example, Sprint ILEC,
24 you would have to look at every carrier we interconnect
25 with.

1 **COMMISSIONER DEASON:** And if you've got 100
2 carriers you interconnect with and 99 are in balance,
3 50-50, and one is not, well, then you cannot do
4 bill-and-keep for any of your carriers.

5 **THE WITNESS:** Well, I think you could do
6 bill-and-keep with the 99, but I don't think you could do
7 bill-and-keep with the 1.

8 **COMMISSIONER DEASON:** Okay. Has Sprint ever
9 conducted any type of a study to determine at least for
10 Sprint's system the additional costs which are imposed
11 upon you because of the reciprocal compensation
12 requirement; that is, trying to measure and bill
13 terminating minutes as opposed to just having a
14 bill-and-keep system?

15 **THE WITNESS:** No, I'm not aware of any study
16 we've done where we've tried to measure what the cost of
17 actually recording and actually billing that usage.

18 **COMMISSIONER DEASON:** Is that a significant
19 cost, or is it just built into the system now where it's
20 an easy thing to do?

21 **THE WITNESS:** I don't know that I have the
22 answer. I'm sorry.

23 **CHAIRMAN JACOBS:** I want to go back to the point
24 earlier that I said I wouldn't ask about. And that's your
25 point that an alternative to dealing with this whole

1 morass of -- and figuring out how to get the balances
2 right is to pursue other avenues of interconnection.
3 Specifically, I think what you said was that the community
4 of ALECs would very readily go after broadband DSL which
5 would eliminate this whole thing in favor of this dial-up.
6 Is that a correct assessment of your --

7 THE WITNESS: Yeah, and I think it's bigger than
8 the ALECs going after that. It's also the ILECs going
9 after DSL. I mean, as an ILEC one opportunity we've
10 looked at to try to limit our reciprocal compensation is
11 to try to market DSL services to our end users and get
12 them off dial-up ISP services.

13 CHAIRMAN JACOBS: Okay.

14 COMMISSIONER JABER: Then if we employ a
15 bill-and-keep methodology, might that get ALECs and ILECs
16 that much closer to relying on deploying DSL versus ISP
17 dial-up networking?

18 THE WITNESS: I'm --

19 COMMISSIONER JABER: Well, here's my point. If
20 the Commission issues an order that compensates fully for
21 costs associated with dial-up network ISP, what incentive
22 do you have to deploy DSL?

23 THE WITNESS: The fact that the majority -- or I
24 won't say the majority. Some portion of the ISPs are
25 placing -- are providing service through a CLEC. So my

1 incentive to do it is to end the reciprocal compensation
2 that I have to pay to a CLEC. As long as there is a
3 compensation mechanism I, as an ILEC, have an incentive to
4 deploy DSL so that I can reduce or eliminate that
5 compensation.

6 CHAIRMAN JACOBS: One important point for me on
7 this is that it takes care of the real -- what I think is
8 a real imperative here is that's what the cost drivers
9 are. If the driving factor in reciprocal comp should be
10 the recovered costs, then this would -- as I understand
11 it, it would be a more economic cost, if you will, because
12 you get a better service out of this strategy for
13 interconnection, but also, it sounds like the ILEC gets a
14 better deal as well in terms of not having to incur these
15 additional costs for these long duration calls.

16 THE WITNESS: If he migrates his customers to
17 DSL, I think that's correct, yes.

18 CHAIRMAN JACOBS: Okay. You're done with cross.
19 Staff.

20 MS. CASWELL: I do have a few questions.

21 CHAIRMAN JACOBS: I'm sorry.

22 MS. CASWELL: I'm sorry. It's just a couple of
23 questions.

24 CHAIRMAN JACOBS: No, no, no. I'm all confused
25 today, and I apologize for that. Go right ahead.

CROSS EXAMINATION

1

2 **BY MS. CASWELL:**

3 **Q Mr. Hunsucker, I just have a few questions. I**
4 **think you said earlier that you don't know at this point**
5 **what the call setup and duration costs or rates would**
6 **necessarily be under your approach; is that right?**

7 **A Not specific to Florida. Again, we have looked**
8 **at that in other states.**

9 **Q Would you contemplate then a follow-up**
10 **proceeding to determine the actual rates that each of the**
11 **ALECs should use under your proposal?**

12 **A Well, I think what could happen, because I know**
13 **BellSouth has filed their UNE cost studies, Sprint is**
14 **scheduled to file theirs, and I believe Verizon also has**
15 **to file theirs at some point. I'm not sure that you have**
16 **to have a full follow-up proceeding. I think there could**
17 **be a commission order requiring the ILEC to separate out**
18 **those cost components based on the cost studies that are**
19 **approved by the state commission, finally approved by the**
20 **state commission. It's not a major task to do that. It's**
21 **something that can be done fairly, fairly easily.**

22 **Q But do you think there might be some contention**
23 **about what the ILECs' conclusions were about the cost of**
24 **the setup and duration, or would you expect the ALECs to**
25 **simply accept those conclusions?**

1 **A** **I guess there could be some contention. I don't**
2 **know.**

3 **Q** **Okay. I'd like to --**

4 **COMMISSIONER PALECKI: Before you move on, I'd**
5 **like to just follow-up on that.**

6 **MS. CASWELL: Sure.**

7 **COMMISSIONER PALECKI: What have you seen in**
8 **other states what regard to the call setup charge and the**
9 **call duration charge?**

10 **THE WITNESS: Again, the only thing that I have**
11 **seen personally is the fact that when we do this, that**
12 **compensation could go down, you know, 30, 25 to**
13 **40 percent. I have seen the numbers that the Texas**
14 **Commission ordered, and the cost setup was about -- as I**
15 **recall was about a tenth of a cent; the call duration was**
16 **about a tenth of a cent for Southwestern Bell. And that's**
17 **what they implemented, was a bifurcated structure that --**
18 **that number is the same, but again, you're not recovering**
19 **it five times -- or six times on a 30-minute call versus a**
20 **5-minute call.**

21 **COMMISSIONER PALECKI: And that call duration**
22 **charge of a tenth of a cent was a tenth of a cent per**
23 **minute?**

24 **THE WITNESS: Per minute of use, yes.**

25 **COMMISSIONER PALECKI: Per minute of use.**

1 **THE WITNESS:** And the other one was a tenth of a
2 cent per call. And those are rounded numbers. I know
3 that in one of my daily requests, we supplied that Texas
4 decision. So it's in record, and the numbers are in that
5 decision, the actual numbers.

6 **COMMISSIONER PALECKI:** Thank you.

7 **BY MS. CASWELL:**

8 **Q** Mr. Hunsucker, I think you've agreed that the FCC
9 found in its declaratory ruling that ISP-bound traffic was
10 primarily interstate; is that correct?

11 **A** Was predominantly interstate, yes.

12 **Q** And despite that fact, despite that
13 jurisdictional finding, the FCC said, nevertheless, that
14 the states were free to determine reciprocal compensation
15 mechanisms at least until the FCC ruled on those -- on
16 that specific matter; is that right?

17 **A** That's correct, yes.

18 **Q** So at least in the FCC's eyes, and this is not
19 necessarily our view, but at least in the FCC's eyes, the
20 fact that the traffic is not necessarily local does not
21 preclude the Commission, the state commission, from
22 establishing a reciprocal compensation method for that
23 traffic at least in the absence of a federal rule; isn't
24 that right?

25 **A** Could you repeat that, please.

1 **Q** **Yeah. And let me tell you where I'm going.**
2 **Commissioner Deason earlier asked -- he sort of made the**
3 **statement that they would lose all jurisdiction over the**
4 **traffic if they didn't declare it to be local. And what**
5 **I'm asking you is, in the FCC's eyes, they have let the**
6 **states determine a reciprocal compensation mechanism even**
7 **though they found the traffic to be interstate; isn't that**
8 **right?**

9 **A** **That's what they said in the declaratory ruling**
10 **that was vacated, and it will depend upon what they say in**
11 **the order that results from their most recent notice --**

12 **Q** **Right. I understand. But at least in their**
13 **view and the order that was vacated, the fact that the**
14 **traffic was interstate does not preclude the Commission**
15 **from acting with regard to a reciprocal compensation**
16 **mechanism at least in the context of an arbitration.**

17 **A** **It does not preclude the FCC from --**

18 **Q** **It doesn't preclude this Commission from setting**
19 **a mechanism despite the fact that that traffic is**
20 **interstate in the FCC's eyes.**

21 **A** **Well, again --**

22 **Q** **And I know it's been vacated, but that's what**
23 **the order said; right?**

24 **A** **That's what the order said, yes.**

25 **MS. CASWELL: Okay. Thank you. That's all I**

1 have.

2 **COMMISSIONER DEASON:** Is it possible the FCC is
3 wanting us -- is baiting us to make that determination,
4 and they just take all jurisdiction away?

5 **THE WITNESS:** They could be, I'll answer it that
6 way.

7 **CHAIRMAN JACOBS:** Now, you're the one we go to
8 for redirect.

9 **MS. MASTERTON:** Right.

10 **CHAIRMAN JACOBS:** So we're not there yet. I'm
11 getting it straight. Now, all done on this side, all done
12 on this side. Staff.

13 **MS. BANKS:** Yes, Mr. Chairman, Staff has some
14 questions.

15 **CHAIRMAN JACOBS:** Okay.

16 **CROSS EXAMINATION**

17 **BY MS. BANKS:**

18 **Q** Good afternoon, Mr. Hunsucker.

19 **A** Good afternoon.

20 **Q** I'm Felicia Banks on behalf of PSC Staff. One
21 of the first, I guess, line of questioning I have deals
22 with the contention by BellSouth that ISPs should provide
23 a list of phone numbers used for Internet access. Does
24 Sprint -- Sprint does not currently have a billing system
25 that would capture minutes terminating to specific line

1 numbers; is that true?

2 A That's correct, we do not have any mechanized
3 way of tracking this.

4 Q Could any fully automated means of tracking ISP
5 traffic be developed?

6 A Yes, I would think something could be developed.
7 I don't know -- you know, trying to sit here and speculate
8 on whether it's physically automated or require some
9 manual intervention, I don't know that I could answer that
10 with any specificity.

11 Q Could you please define CPNI for me.

12 A Let me look at my testimony and make sure I get
13 the acronym --

14 Q Direct on Page 20, Line 12.

15 A Customer proprietary network information.

16 Q Okay. Isn't it your position that CPNI
17 restrictions could preclude an ILEC from providing
18 customer-sensitive usage information to the LEC in the
19 manner suggested by BellSouth, or to anyone else, for that
20 matter?

21 A It is true that it could preclude us -- it would
22 preclude us from providing certain information. I'm not
23 sure under BellSouth's proposal whether that type of
24 information would be required to be provided at a customer
25 line detail or whether it would be done at some aggregate

1 level. I'm not familiar enough with their proposal to
2 know whether what they're actually asking for would have
3 CPNI restrictions.

4 Q Would it preclude an ALEC?

5 A I would think CPNI restrictions would apply to
6 an ALEC too. I don't know that for certain.

7 Q Okay. What are those restrictions?

8 A You can't provide – and I'm trying to recall
9 here. You cannot provide information about the services
10 they have, the amount of usage that they are sending over
11 those services. Those are a couple of examples. I don't
12 know that I know what they all are.

13 Q Okay. So if an ISP were to provide a list of
14 phone numbers to the ALEC, are you saying that the
15 information cannot be provided to a LEC because the ISP is
16 not a customer of the LEC?

17 A Again, it would depend upon what's being
18 provided. If it's just the phone number and you're
19 looking at total usage to that phone number, it may be
20 okay, but if you start providing specific customer
21 information or carrier-restricted information, then there
22 may be a problem.

23 Q Okay. If a customer of an IXC makes a
24 long-distance call, a LEC that bills for that IXC would
25 have access to the kind of information you find in the

1 federal law such as destination and amount of use of a
2 telecommunications service; isn't that true?

3 A That would be true, yes.

4 Q And in that case of the IXC and the LEC, the
5 customer is a customer of both carriers; is that correct?

6 A They would be a local customer of the LEC and a
7 long-distance customer of the IXC.

8 Q Okay. However, in the contrast, in the case of
9 an ISP customer of an ALEC, the ISP is not the customer of
10 the LEC; isn't that true?

11 A The ISP itself probably is not a customer of the
12 ILEC. They could have some local services from the ILEC,
13 but not for the ISP traffic.

14 Q Okay. So is the reason you believe the federal
15 law applies to the provision of the ISP telephone numbers
16 to the LEC because the ISP is not the customer of the LEC?

17 A They are not the customer of LEC, and the reason
18 I say it could apply is, again, if any of that CPNI
19 information is required to be passed in order to implement
20 this mechanism, then there could be restrictions on that
21 information.

22 Q Okay. If this Commission decided that ISP
23 traffic must be separated from voice traffic for
24 compensation purposes, would it be more efficient to
25 develop a factor similar to a PIU or a PLU factor for this

1 purpose?

2 A I don't know if it would be more efficient or
3 not. We've never looked into what it may cost to come up
4 with a PISPU factor to be put into the billing system and
5 what kind of billing modifications may be required to
6 handle that.

7 Q Okay. Changing gears just a little bit,
8 Mr. Hunsucker, regarding reciprocal compensation for
9 noncircuit-switched technologies. Does Sprint presently
10 receive intercarrier compensation for noncircuit-switched
11 traffic?

12 A I'm trying to think how to answer this question.
13 Do we receive compensation for noncircuit-switched
14 traffic? Sprint as an ILEC does not have any packet
15 switches in its network today, so we do not receive any
16 compensation for noncircuit-switched termination of ISP.

17 Q Okay. Does Sprint presently pay intercarrier
18 compensation for noncircuit-switched traffic?

19 A If we are talking about our end user using
20 dial-up ISP and if a carrier is using a new technology
21 that's not noncircuit-switched, we could be paying. I'm
22 not aware of what technologies all of our connecting
23 carriers have in their network.

24 Q Okay. How does Sprint identify traffic that is
25 terminated by another carrier utilizing the

1 **noncircuit-switched technology?**

2 **A Can you repeat that question? I want to be --**

3 **Q How does Sprint identify traffic that is**
4 **terminated by another carrier using noncircuit-switched**
5 **technology?**

6 **A I don't know that we do separate -- recognize**
7 **that traffic any differently than we would recognize any**
8 **other type of dial-up type ISP traffic.**

9 **Q You indicated earlier you weren't sure if Sprint**
10 **was currently paying intercarrier compensation for**
11 **nonswitched traffic. If Sprint were to pay reciprocal**
12 **compensation for local traffic for -- over nonswitched**
13 **circuit technology, what elements included in reciprocal**
14 **compensation for this traffic over circuit-switched**
15 **technology would not be included when reciprocal**
16 **compensation for traffic over the noncircuit-switched**
17 **technology?**

18 **A I would assume that we would pay all the**
19 **elements that would be appropriate, end office switching,**
20 **transport, or tandem on a symmetrical and reciprocal basis**
21 **consistent with the FCC rules. And I will tell you that**
22 **what we have done in a lot of cases is, we have negotiated**
23 **at least to date just a flat rate that the other carriers**
24 **bill us on a per minute of use basis. So there's no**
25 **distinction made whether it's tandem or transport or end**

1 office is incurred. It's just the flat rate similar to
2 what BellSouth has done with some of the ISPs that they've
3 signed agreements with.

4 MS. BANKS: Okay. That concludes Staff's cross.

5 CHAIRMAN JACOBS: Any other questions,
6 Commissioners?

7 COMMISSIONER JABER: Just one. Mr. Hunsucker,
8 does bill-and-keep, in your opinion, have any downside
9 with respect to competition? Differently stated, can a
10 bill-and-keep methodology discourage or have a negative
11 effect on competition?

12 THE WITNESS: I've never really thought a lot
13 about that question, but thinking -- if we implement
14 bill-and-keep, there are -- there could be -- it would
15 force obviously some changed potentially market entry
16 strategies. Now, what impact that may have, you know, I'm
17 not clear as to what negative impact that could possibly
18 have on the market.

19 COMMISSIONER JABER: Do you have a copy of Staff
20 Witness Fogleman's testimony?

21 THE WITNESS: I don't have it up here with me.
22 I do have a copy.

23 COMMISSIONER JABER: On Page 14 of his
24 testimony, if you'll read Lines 12 through 18 to yourself
25 will be fine.

1 **THE WITNESS:** Yes. And I think I would agree
2 with that statement, that if we switch -- if we pass all
3 the terminating costs on to the terminating carriers,
4 obviously they are going to have to recover their costs
5 from their customers. And there's a lot of economic
6 discussion over who's the cost causer in this situation,
7 but, you know, our opinion is that the fact that the end
8 user of an ILEC places a call to an ISP using a local
9 number, that he's the one that caused that cost to be
10 incurred, not that ISP who decides to go into service.

11 **If Sears opens a new department store in town,**
12 **the fact that they get a number doesn't mean that they're**
13 **the cost causer when I decided to call Sears because I**
14 **want to check on a part. I think that's the same analogy**
15 **that should be placed here.**

16 **COMMISSIONER JABER:** But Sears wants your
17 business similar to the fashion that the ISP wants that
18 customer to dial in and access the Internet; right?

19 **THE WITNESS:** Yes.

20 **COMMISSIONER JABER:** So who is the real cost
21 causer?

22 **THE WITNESS:** Again, if I'm the end user, I'm
23 the one that makes that call and places that call through
24 the network.

25 **COMMISSIONER JABER:** So the crux of your

1 response to me is, you would agree with Mr. Fogleman's
2 testimony on Page 14?

3 THE WITNESS: Yeah, I believe that's a potential
4 outcome. I don't know that that's what actually happened.

5 CHAIRMAN JACOBS: Redirect.

6 MS. MASTERTON: No redirect.

7 CHAIRMAN JACOBS: No exhibits either. Very
8 well. There's no other questions. Thank you. You're
9 excused, Mr. Hunsucker.

10 (Witness excused.)

11 CHAIRMAN JACOBS: My sense of things is that we
12 won't finish tonight, just a guess. That being the case,
13 I don't see a need to put anyone else on at this hour.
14 How about starting at 9:00 in the morning? Sounds
15 wonderful. Okay. We'll start at 9:00 with the next
16 witness. Thank you.

17 (Hearing adjourned at 4:40 p.m. to reconvene at
18 9:00 a.m., on March 8th, 2001, at the same address.)

19 -----

20 (Transcript continues in sequence in Volume 4.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, TRICIA DeMARTE, Official Commission Reporter,
6 do hereby certify that the Hearing in Docket No. 000075-TP was
heard by the Florida Public Service Commission at the time and
place herein stated.

7

8 IT IS FURTHER CERTIFIED that I stenographically
reported the said proceedings; that the same has been transcribed
under my direct supervision; and that this transcript, consisting
of 92 pages, Volume 3 constitutes a true transcription of my notes
of said proceedings.

10

11 I FURTHER CERTIFY that I am not a relative, employee,
attorney or counsel of any of the parties, nor am I a relative or
employee of any of the parties' attorneys or counsel connected
with the action, nor am I financially interested in the action.

12

DATED THIS 21st DAY OF MARCH, 2001.

13

14

Tricia DeMarte

15

TRICIA DeMARTE

16

FPSC Official Commission Reporter
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