ORIGINAL

Florida Cable Telecommunications Association

Steve Wilkerson, President

VIA HAND DELIVERY

March 1, 2002

RECEIVED-FPSC
02 MAR -1 PM 4:32
COMMISSION
CLERK

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

RE: Docket No. 000075-TP

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and 15 copies of the Florida Cable Telecommunications Association's Direct Testimony of William J. Barta with Exhibit WJB-1 attached.

Copies of the Direct Testimony have been served on the parties of record pursuant to the attached certificate of service. Please acknowledge receipt of filing of the above by stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing. Please contact me with any questions.

Sincerely,

Michael A. Gross
Vice President, Regulatory Affairs &
Regulatory Counsel

MAG/mj

Enclosure

cc: All Parties of Record

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC
OTH

DOCUMENT NUMBER-DATE
02399 MAR-1 8
FPSC-COMMISSION CLERK

246 East 6th Avenue • Tallahassee, Florida 32303 • (850) 681-1990 • FAX (850) 681-9676 • www.fcta.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Cable Telecommunications Association's Direct Testimony of William J. Barta in Docket 000075-TP has been furnished by U.S. Mail delivery this 1st day of March, 2002:

ALLTEL
Stephen Refsell/Bettye Willis
One Allied Drive
Little Rock, AR 72203-2177

AT&T Communications
Virginia C. Tate
1200 Peachtree St.,
Suite 8100
Atlanta, GA 30309

Allegiance Telecom, Inc.
Elizabeth Howland, Esq.
1950 Stemmons Freeway
Suite 3026
Dallas, TX 75207-3118

Ausley Law Firm
Jeffry Wahlen
P.O. Box 391
Tallahassee, FL 32302

Broadband Office Communications, Inc.
Julian Chang
951 Mariner's Island Blvd, Suite 700
San Mateo, CA 94404-3238

Kimberly Caswell, Esquire
Verizon Select Services, Inc.
P.O. Box 110, FLTC0007
Tampa, FL 33601

Peter M. Dunbar, Esquire
Marc W. Dunbar, Esquire
Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
P.O. Box 10095
Tallahassee, FL 32302-2095

Carolyn Marek
Vice President of Regulatory Affairs
Southeast Region
Time Warner Communications
2333 Bramerton Court
Franklin, Tennessee 37069

Kenneth A. Hoffman
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551

Messer Law Firm
Norman Horton, Jr.
215 S. Monroe Street, Suite 701
Tallahassee, FL 32301

Nancy H. Sims
BellSouth Telecommunications, Inc.
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301-1556

Marsha Rule
AT&T Communications of the Southern States, Inc.
101 N. Monroe St., Suite 700
Tallahassee, FL 32301-1549

Donna Canzano McNulty
MCI WorldCom
325 John Knox Road, Suite 105
Tallahassee, FL 32301

Intermedia Communications, Inc.
c/o Kelley Law Firm
Jonathan Canis
1200 19th Street NW, Fifth Floor
Washington, DC 20036

Nanette Edwards
ITC DeltaCom
4092 S. Memorial Parkway
Huntsville, Alabama 35802

Supra Telecom
Doris Franklin/Mark Buechele
1311 Executive Center Drive, Suite 200
Tallahassee, FL 32301

US LEC of Florida, Inc.
Wanda Montano
401 N. Tryon Street, Suite 1000
Charlotte, NC 28202

Wiggins Law Firm
Charlie Pellegrini/Patrick Wiggins
P.O. Drawer 1657
Tallahassee, FL 32302

e.spire Communications, Inc.
James C. Falvey, Esq.
133 National Business Parkway, Suite 200
Annapolis Junction, MD 20701

Global NAPS, Inc.
10 Merrymount Road
Quincy, MA 02169

Moyle Law Firm
Jon Moyle/Cathy Sellers
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

Sprint-Florida, Inc.
Charles J. Rehwinkel/Susan Masterton
P.O. Box 2214
MS: FLTLH00107
Tallahassee, FL 32316-2214

Mr. Woody/Traylor
Broadband Office
Communications, Inc.
2900 Telestar Court
Falls Church, VA 22042-1206

Jill Butler
Cox Communications
4585 Village Avenue
Norfolk, VA 23502-2035

Felicia Banks, Staff Counsel
FPSC
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Charles Hudak
Ronald V. Jackson
Gerry Law Firm
3 Ravinia Dr., #1450
Atlanta, GA 30346-2131

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

Genevieve Morelli
Kelley Law Firm
1200 19th St., NW, Suite 500
Washington, DC 20036

Scheffel Wright
Landers Law Firm
P.O. Box 271
Tallahassee, FL 32302

John McLaughlin
KMC Telecom, Inc.
1755 North Brown Road
Lawrenceville, GA 33096

Michael R. Romano
Level 3 Communications, LLC
1025 Eldorado Blvd
Bloomfield, CO 80021-8869

Dana Shaffer
XO Communications, Inc.
105 Molly Street
Suite 300
Nashville, TN 37201-2315

FCCA
McWhirter Law Firm
Joseph McGlothlin/Vicki Kaufman
117 S. Gadsden St.
Tallahassee, FL 32301

Florida Digital Network, Inc.
Matthew Feil
390 N. Orange Avenue, Suite 2000
Orlando, FL 32801-1640

Focal Communications Corp. of FL
Paul Rebey
200 N. LaSalle St., Suite 1100
Chicago, IL 60601-1914

Gerry Law Firm
Charles Hudak/Ronald V. Jackson
3 Ravinia Dr., #1450
Atlanta, GA 30346-9500

Hopping Law Firm
Richard Melson
P.O. Box 6526
Tallahassee, FL 32314

Landers Law Firm
Scheffel Wright
P.O. Box 271
Tallahassee, FL 32302

MCI WorldCom, Inc.
Brian Sulmonetti
Concourse Corporate Center Six
Six Concourse Parkway, Suite 3200
Atlanta, GA 30328

MediaOne
101 N. Monroe Street, Suite 700
Tallahassee, FL 32301

Northeast Florida Telephone Company
Jim Boykin
P.O. Box 544
Macclenny, FL 2063-0544

Orlando Telephone Company
Herb Bornack
4558 SW 35th Street,
Suite 100
Orlando, FL 32811-6541

Rutledge Law Firm
Ken Hoffman
P.O. Box 551
Tallahassee, FL 32302-0551

TCG South Florida
Lisa Riley
1200 Peachtree Street, NE, Suite 8066
Atlanta, GA 30309-3523

Michael A. Gross

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

TALLAHASSEE, FLORIDA

DIRECT TESTIMONY OF

WILLIAM J. BARTA

MARCH 1, 2002

DOCKET NO. 000075-TP

Q. Please state your name and business address.

A. My name is William Barta, and my business address is 7170 Meadow Brook Court, Cumming, Georgia 30040.

Q. What is your occupation?

A. I am the founder of Henderson Ridge Consulting, Inc., a regulatory consulting firm. The firm's practice focuses on the technical and policy issues confronting the regulatory authorities overseeing the competitive developments occurring within the telecommunications and electric utility industries.

Q. Please provide a summary of your education and professional experience.

A. I graduated in 1978 from The Lindenwood Colleges where I received a Bachelor of Arts degree, cum laude, with a study emphasis in accounting. After working for nearly two years as a staff accountant in private industry, I enrolled in the graduate business program at Emory University and, in 1982, received my Masters of Business Administration with concentrations in finance and marketing.

After graduating from Emory University in 1982, I joined the Bell System as an Account Executive. In 1983, I transferred to AT&T Communications where I provided a broad range of accounting regulatory support functions to the nine state Southern Region.

From 1986 through 1988, I held various positions in the regulatory departments of Contel Corporation, an independent local exchange carrier. My responsibilities ranged from tariff support to ratemaking and rate design issues to line of business feasibility studies.

In April 1988, I joined the firm of J. Kennedy and Associates, Inc., a regulatory and economic consulting firm. As a Manager at Kennedy and Associates, I directed or supported the ratemaking investigations of major telecommunications and electric utilities. My work covered rate design, revenue requirements analysis, and the determination of the appropriate cost of capital and other issues associated with traditional rate base/rate of return regulation.

Since the passage of The Telecommunications Act of 1996, I have participated in numerous regulatory proceedings initiated in response to the Act's pro-competitive mandates. The policy and technical issues addressed in these proceedings include universal service and access charge reform, interim and permanent pricing for local interconnection and unbundled network elements, avoided retail cost studies for resale purposes, evaluation of local number portability cost studies, assessment of Contract Service Arrangements, collocation cost analysis, reciprocal compensation for intercarrier local exchange traffic, and the mediation of joint use pole disputes.

Q. Do you hold any professional certifications?

A. Yes. I am a Certified Public Accountant with an active license to practice in the State of Georgia. Exhibit No. WJB-1 provides more detailed information on my experience.

Q. On whose behalf are you testifying in this proceeding?

A. I am testifying on behalf of the Florida Cable Telecommunications Association ("the FCTA").

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to address the questions raised by the Commission in Issue No. 17 in its January 31, 2002 Second Order on Procedure, Schedule and Issues for Phase II of the instant docket. The questions posed in Issue No. 17 deal with the Commission's concerns over intercarrier compensation.

Q. Please summarize your testimony.

A. The Order on Remand and Report and Order ("ISP Remand Order") released by the Federal Communications Commission ("the FCC") on April 27, 2001 raises a cloud of regulatory uncertainty in this proceeding. In the ISP Remand Order, the FCC asserted its jurisdiction over ISP-bound traffic by declaring such traffic to be interstate information access traffic under Section 251(g). The FCC promulgated rules to implement a three-year phase-out of the existing reciprocal compensation arrangements for ISP-bound traffic using rate and volume caps. Since the ISP Remand Order is currently on appeal at the U.S. District Court for the District of Columbia, the Florida Public Service Commission ("the Commission" or "the Florida Commission") does not need to address the issue of the appropriate compensation mechanism for ISP-bound traffic at this time.

The Commission should require that a reciprocal compensation mechanism be used to govern intercarrier compensation of the local exchange traffic that remains under its jurisdiction. The reciprocal compensation arrangement should be based upon symmetrical rates that reflect the incumbent local exchange carriers' ("ILECs") Total Element Long Run Incremental Costs ("TELRIC") as approved by the Commission.

The Commission's interest in adopting a bill and keep arrangement as a default mechanism should be tempered by the narrow situations in which the arrangement may be effective. Bill and keep arrangements may hold the advantage of reduced transactions costs for the interconnecting carriers over other compensation regimes in limited circumstances; namely, where the traffic flow between the carriers is approximately equal and their cost structures are essentially the same. But even where interconnecting carriers have expected these unique traffic and cost conditions to prevail, experience has proven that the administrative burdens of bill and keep are excessive.

The potential disadvantages of bill and keep far outweigh the possible benefit of lower carrier transaction costs. Both the ILECs and the alternative local exchange carriers ("ALECs") will incur new administrative and marketing costs if the Commission decides to move to a bill and keep arrangement. Bill and keep will also foster market uncertainty as its financial impact on ALECs remains unknown until it is in effect. Bill and keep could potentially spawn new incentives to engage in regulatory gamesmanship as carriers attempt to design their networks to unload the traffic originating on their networks as quickly as possible and to accept terminating traffic as late as possible.

But most importantly, bill and keep allows the incumbent LECs the opportunity to exercise their superior bargaining strength. BellSouth and Verizon overwhelmingly support the move to a bill and keep regime. Based upon these dominant firms' preference for a bill and keep arrangement, the Commission's proposed default mechanism would cast a certain chill on the give and take that typically characterizes arms-length negotiations. Indeed, it is highly likely that the incumbent LECs will be tough "negotiators," secure in the knowledge that a bill and keep regime is the ultimate regulatory remedy to resolve any impasse between the parties.

Q. Should the Commission establish compensation mechanisms governing the transport and delivery or termination of traffic subject to Section 251 of the Act to be used in the absence of the parties reaching agreement or negotiating a compensation mechanism? If so, what should be the mechanism (Issue No. 17)?

A. Yes. The Commission should continue its policy of requiring reciprocal compensation for the local traffic (i.e. non-ISP-bound traffic) that remains under its jurisdiction. The current Commission's rules require that symmetrical rates, based upon the ILECs' Commission-approved unbundled network element rates, serve as the default reciprocal compensation mechanism.

The response to this question should also make note of the provisions of the FCC's ISP Remand Order that is currently under appeal before the U.S. District Court for the District of Columbia. As of June 14, 2001, the effective date of the ISP Remand Order, State regulatory authorities, including the Florida Commission, no longer have

jurisdiction to establish any form of intercarrier compensation for ISP-bound traffic. The FCC asserted its jurisdiction over ISP-bound traffic by declaring such traffic to be interstate information access traffic under Section 251(g) of the 1996 Act.

Q. What rules govern intercarrier compensation for ISP-bound traffic under the FCC's ISP Remand Order?

A. The FCC has implemented a transitional cost recovery mechanism based upon declining rate caps and volume caps. For the first six months following the effective date of its Order, intercarrier compensation of ISP-bound traffic is capped at a rate of $.0015 per minute-of-use. For the subsequent eighteen months, the rate is capped at $.0010 per minute-of-use. Starting in the twenty-fifth month and continuing through the thirty-sixth month, the rate will be capped at $.0007 per minute-of-use.

A volume cap will also be imposed on total ISP-bound minutes for which a local exchange carrier may receive the transitional compensation levels. The FCC established a ceiling for 2002 on the ISP-bound minutes-of-use eligible for compensation. The ceiling reflects a ten-percent growth factor based upon the number of ISP-bound minutes recorded by the carrier during the first quarter of 2001. In 2003, a carrier may receive compensation for ISP-bound minutes up to the level of the 2002 minutes-of-use ceiling.

Q. How does the FCC distinguish ISP-bound traffic from the rest of a carrier's local exchange traffic?

A. The FCC arbitrarily defined ISP-bound traffic under the rebuttable presumption where any traffic exchanged between carriers that exceeds a 3:1 ratio of terminating to originating traffic is ISP-bound traffic subject to the transitional compensation scheme.

Q. What initiatives should the Florida Commission take in this docket in light of the provisions of the ISP Remand Order?

A. The Florida Commission need not take any further action in this docket to establish a compensation mechanism for ISP-bound traffic.

Q. What form of intercarrier compensation should the Florida Commission establish for all other (i.e. non-ISP-bound) local traffic?

A. The Commission should require that a reciprocal compensation mechanism be used to govern intercarrier compensation of the local exchange traffic that remains under its jurisdiction in the event carriers do not successfully negotiate an agreement for the transport and termination of such traffic. The reciprocal compensation arrangement should be based upon symmetrical rates that reflect the incumbent LEC's costs; specifically, the rates found in the Total Element Long Run Incremental Cost studies approved by the Commission.

Q. Does the Commission have jurisdiction to establish bill and keep (Issue No. 17a)?

A. Yes, but only with respect to non-ISP-bound local traffic. State regulatory authorities may order a bill and keep arrangement under certain circumstances for non-ISP-bound local traffic. The Commission can establish bill and keep if neither carrier has rebutted the presumption of symmetrical rates and if the flow of traffic between the carriers' networks is approximately equal (and is expected to remain so). It is noteworthy that under a State imposed bill and keep regime, compensation obligations of the parties must be revisited and imposed in the event the flow of traffic between the carriers' networks becomes significantly out of balance. Thus, the Commission's authority to implement

a bill and keep arrangement does not appear to extend to those circumstances where the exchange of traffic is not balanced between the interconnecting carriers' networks.

Q. What is the potential financial impact, if any, on ILECs and ALECs of bill and keep arrangements (Issue No. 17b)?

A. Aside from the unnecessary additional administrative and marketing costs that the change to a bill and keep arrangement would likely introduce, such a compensation mechanism fails to recognize that the costs an ALEC incurs to transport and terminate a call are very real. The shift to a bill and keep arrangement will not relieve the ALEC of the responsibility to terminate the call that the ILEC's customer originates. More importantly, the shift to a bill and keep arrangement does not mean the ALEC's cost of terminating the traffic that has been originated on the ILEC's network has decreased or disappears simply because there is no explicit compensation for the carriage of traffic between the carriers.

As long as the cost of terminating traffic is positive, a bill and keep arrangement will not adequately provide for the recovery of an ALEC's costs unless the flow of traffic between the carriers' networks is approximately equal. The potential financial impact upon an ALEC could be materially detrimental, as it will no longer receive the revenue earned for transporting and terminating the local traffic originated by the ILEC's customer.

Q. You mentioned additional administrative and marketing costs in your response. Why will a shift to bill and keep cause carriers to incur these extra costs?

A. The move from a reciprocal compensation arrangement to a bill and keep mechanism poses a major change in intercarrier compensation rules for both the ILECs and the ALECs. One should expect such a change to be accompanied by a new set of costs. These costs may very well include, but are not limited to, the expense of participating in more intercarrier compensation proceedings, the need to renegotiate (and possibly arbitrate) interconnection agreements, and the effort to develop and implement new retail pricing programs that are in response to regulatory, not competitive market, forces.

Q. What potential financial impact may the ILECs anticipate under a bill and keep regime?

A. The ILECs can expect to enjoy an immediate stream of cash flow because they no longer have the obligation to compensate the ALECs for terminating calls that are originated on their networks. Depending upon the magnitude of the terminating traffic imbalance, the savings realized by the ILEC could be substantial. This is certainly true in view of the FCC's decision to phase-out payments under the reciprocal compensation for ISP-bound traffic.

Q. If the Commission imposes bill and keep as a default mechanism, will the Commission need to define generically "roughly balanced?" If so, how should the Commission define "roughly balanced?" (Issue No. 17c)

A. The provisions of the ISP Remand Order have complicated the task of determining traffic flow balances or imbalances between interconnecting carriers. Notwithstanding that it is not currently possible to reliably or accurately identify ISP-bound calls from other forms of local traffic, the FCC has arbitrarily defined the ISP-bound calls that are to be compensated for under its transitional reciprocal compensation scheme. It is the

carriers' remaining non-ISP-bound local traffic that the Florida Commission must measure for "roughly balanced" traffic loads.

One approach to defining a "roughly balanced" exchange of traffic between interconnecting carriers is to place a percentage threshold on the difference in traffic flows in the two directions. An alternative approach would be to establish a dollar threshold where a carrier would not be obligated to compensate the interconnecting carrier unless the net minutes-of-use for terminating traffic resulted in a dollar amount that exceeded the prescribed threshold.

But working with a materiality threshold has proven to be a daunting challenge in practice. Some interconnecting ALECs and ILECs have entered into bill and keep arrangements that included a percentage or dollar threshold as part of the agreement. Experience has shown that the administrative burden of keeping up with the flow of traffic and calculating offsetting payments has outweighed the costs of each carrier billing for actual minutes-of-use.

Furthermore, in response to the FCC's rules and the ILECs' preference for a reciprocal compensation regime, most ALECs have invested in and implemented billing systems in order to track and bill for actual minutes-of-use. Since sophisticated billing systems are already in existence, it would seem to make little sense now to abandon their capability.

Q. How frequently should the traffic flow between the carriers be reviewed to ensure the exchange of traffic remains "roughly balanced?"

A. In the event that the Florida Commission elects to adopt a bill and keep arrangement, the non-ISP-bound local traffic flows between interconnecting carriers should be measured as accurately as possible for each six month period the interconnection agreement remains in effect. If large traffic imbalances between the carriers persist, the Commission may wish to reconsider its decision to adopt a bill and keep regime or implement a true-up mechanism to alleviate the financial burden of the disadvantaged carrier.

Q. What potential advantages or disadvantages would result from the imposition of bill and keep arrangements as a default mechanism, particularly in comparison to other mechanisms already presented in Phase II of this docket (Issue No. 17d)?

A. The advantages of a bill and keep regime are limited to those circumstances where payments between the interconnecting carriers are expected to be offset as a result of a balance in the exchange of traffic and/or the respective costs that the carriers incur in transporting and terminating traffic. That is, if the carriers exhibit the same cost structures (an unlikely occurrence), then a balanced traffic flow between the interconnecting networks should result in an offset of payments from one party to the other. An uneven flow of traffic can still result in an offset of payments provided it happens that just the exact differential between the carriers' costs exists (yet another unlikely coincidence). Bill and keep arrangements, under these limited circumstances, may reduce each carrier's transaction costs. The probability of maintaining such a perfect balance between each carrier's traffic patterns and cost structures for any duration is most likely remote.

One would expect that the carriers would recognize where a bill and keep arrangement is more efficient and would reach such an agreement without the need for regulatory intervention. Therefore, it seems that the most logical default intercarrier compensation mechanism continues to be reciprocal compensation.

Q. What are some of the potential disadvantages you foresee with a decision to implement a bill and keep arrangement as a default mechanism?

A. Several disadvantages are likely to stem from a Commission decision to rely upon a bill and keep arrangement as a default mechanism. As noted in an earlier response, there will be new administrative and marketing costs for the ILECs and ALECs. A shift to a bill and keep regime will also foster market uncertainty that carries its own set of cost burdens. In addition, a bill and keep arrangement creates a new incentive to engage in regulatory gamesmanship in the form of inefficient network design. But most importantly, bill and keep arrangements play right into the hands of the superior bargaining power that the dominant industry players – the incumbent LECs -- hold.

Q. What are your concerns with respect to heightened market uncertainty if the Commission should adopt a bill and keep arrangement as a default mechanism?

A. The move to a bill and keep arrangement can contribute to market uncertainty because the magnitude of the decision's impact upon the ALECs' financial viability cannot be determined until the regime is in effect. If competitive carriers are unable to timely and successfully react to a regulatory mandated change in the traditional form of compensation for the exchange of traffic, then there will be fewer competitors left to participate in this segment of the market. Although there are no guarantees of financial

success in the competitive telecommunications markets, the strength and versatility of the competition emerging in these markets depends upon regulators to consistently send the right pricing and investment signals to the industry participants.

Q. What compensation mechanism sends the right pricing and compensation signals to incumbent carriers and new market entrants?

A. A reciprocal compensation mechanism using symmetrical rates based upon the incumbent LECs' forward-looking costs is the appropriate regulatory tool to encourage competition and innovation. The FCC recognized the merits of this pricing standard and wisely adopted it to establish the rates for interconnection and unbundled elements:

> **"Because a pricing methodology based on forward-looking costs simulates the conditions in a competitive marketplace, it allows the requesting carrier to produce efficiently and to compete effectively, which should drive retail prices to their competitive levels. We believe that our adoption of a forward-looking cost-based pricing methodology should facilitate competition on a reasonable and efficient basis by all firms in the industry by establishing prices for interconnection and unbundled elements based on costs similar to those incurred by the incumbents, which may be expected to reduce the regulatory burdens and economic impact of our decision for many parties, including both small entities seeking to enter the local exchange market and small incumbent LECs"** (Local Competition Order, paragraph 679).

The competitive philosophy embraced in the FCC's TELRIC pricing standards have been borne out as ALECs have introduced efficient network designs to lower the costs of terminating traffic and have found innovative ways to satisfy the communications needs of customers. This competitive outcome should be applauded as a marketplace success and not held out as an example of inefficient regulatory arbitrage. The Florida Commission should continue its sound reasoning to implement a reciprocal compensation mechanism for interconnection using symmetrical rates based upon the ILECs' forward-looking costs.

Q. What forms of regulatory gamesmanship does a bill and keep arrangement encourage?

A. Under a bill and keep arrangement, carriers will search for ways to unload the traffic originating on their networks as quickly as possible and to accept terminating traffic as late as possible. For instance, the strategic placement of central offices further out in the network can affect a carrier's costs under bill and keep regardless of whether it represents efficient network design practices. In addition, the concern over regulatory arbitrage may shift from carriers seeking an imbalance in terminating traffic to one where carriers target large net originators of traffic. Not only may bill and keep influence the carrier to base its network strategy upon concerns for regulatory treatment rather than concerns for the most economically efficient configuration, such an arrangement may invite new opportunities for regulatory arbitrage.

Q. Why do you believe that adopting a bill and keep arrangement as a default mechanism can tip the bargaining position in favor of the incumbent LEC

if carriers engage at the outset among themselves to negotiate the rates for interconnection?

A. There should be little argument that arms-length contracts negotiated between two private parties offer far greater benefits and advantages than commercial relationships mandated through government regulation. In fact, key sections of the 1996 Act are geared towards encouraging negotiations between private parties over State and/or federal rate regulation.

But the ALECs' ability to fairly negotiate rates for the exchange of local traffic with the incumbent carriers is compromised because of the ILECs' status as the dominant player in the industry. These concerns over the ILECs' bargaining strength cannot simply be dismissed as the unfounded fears of a group of small carriers seeking regulatory relief for their own competitive shortcomings.

Indeed, the FCC recognized the incumbent LECs' superior bargaining power in the Local Competition Order when it comes to the matter of establishing rates for interconnection with competitive carriers:

> **"Negotiations between incumbent LECs and new entrants are not analogous to traditional commercial negotiations in which each party owns or controls something the other party desires. Under section 251, monopoly providers are required to make available their facilities and services to requesting carriers that intend to compete directly with the incumbent LEC for its customers and its control of the local market. Therefore, although the 1996 Act requires incumbent LECs, for example, to provide interconnection and access**

to unbundled elements on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, incumbent LECs have strong incentives to resist such obligations. The inequality of bargaining power between incumbents and new entrants militates in favor of rules that have the effect of equalizing bargaining power in part because many new entrants seek to enter national or regional markets" (Local Competition Order, paragraph 55).

In order to deter the ability of the ILECs from engaging in anti-competitive behavior by exercising their superior bargaining position in their negotiations with ALECs, the Commission should adopt an equitable reciprocal compensation mechanism based upon symmetrical rates.

Q. What outcome would you expect to result from the carriers' interconnection negotiations should the Commission adopt bill and keep as a default mechanism?

A. BellSouth and Verizon overwhelmingly support the change from reciprocal compensation to a bill and keep arrangement for the exchange of local traffic. Based upon the dominant firms' preference for a bill and keep arrangement, any characterization that the mechanism is merely a "default" regime ignores the reality of negotiations where the parties' objectives are clearly conflicting. In the end, I would expect the incumbent LECs to be tough "negotiators" and resist the offers of the ALECs to craft more equitable and efficient interconnection agreements based upon the knowledge that a default bill and keep arrangement is the regulatory remedy to resolve the impasse.

Q. Does this conclude your testimony?

A. Yes.

WILLIAM J. BARTA

President, Henderson Ridge Consulting, Inc.

EDUCATION

Emory University M.B.A. (1982)
Marketing and Finance
The Lindenwood Colleges B.A. with Honors (1978)
Business Administration and Accounting

PROFESSIONAL CERTIFICATION

Certified Public Accountant

PROFESSIONAL AFFILIATIONS

American Institute of Certified Public Accountants
Georgia Society of Certified Public Accountants

EMPLOYMENT HISTORY

1996 - present	Henderson Ridge Consulting	President and Founder
1988 - 1995:	J. Kennedy and Associates	Manager
1986 - 1988:	Contel Corporation	Financial Planning Coordinator
1982 - 1986:	AT&T	Financial Analyst and Account Executive
1981	Simmons, U.S.A.	Special Projects Staff (summer internship)
1979 - 1980:	Gould, Inc.	Senior Accountant
1978 - 1979:	SCNO Barge Lines, Inc.	Staff Accountant

REPRESENTATIVE EXPERIENCE

The Telecommunications Act of 1996:

Addressed policy and technical issues in regulatory proceedings initiated in response to the pro-competitive mandates of the 1996 Act. Subject areas include universal service and access charge reform, interim and permanent pricing for local interconnection and unbundled network elements, avoided retail cost studies for resale purposes, evaluation of local number portability cost studies, assessment of Contract Service Arrangements, and mediation of joint use pole disputes.

Management Audits:
Conducted comprehensive and focused management audits of a major electric investor owned utility, a generation and transmission electric cooperative, distribution electric cooperatives, a Bell Operating Company, and independent local exchange carriers.

Merger Evaluations:
Evaluated the administrative and operational synergies projected in a merger between two electric investor owned utilities and the level of savings and operational efficiency to be achieved from the combination of separate subsidiaries within a Bell Regional Holding Company.

Demand Side Management Program Analyses:
Performed a comprehensive review of the assumptions used in the development of proposed Demand Side Management ("DSM") programs and the benefit/cost ratios of implementing proposed DSM programs as determined by standard regulatory tests. Of particular interest was the nonregulated revenue potential resulting from a load management program designed to achieve spinning reserve status by providing real time communications between the residential customer and the operating dispatch center.

Affiliate Transactions Reviews:
Conducted extensive cost allocation studies and transaction audits of a Bell Regional Holding Company's and independent telephone companies' affiliate transactions, the sale of an electric utility's generating facilities to (and subsequent participation in) a joint venture between the utility and three of its largest industrial customers, the integrated sale of an electric utility's mining operation and long-term coal purchase agreement, the provisions under which a nonregulated subsidiary of an electric utility would market the excess telecommunications capacity of a Demand Side Management program, and the potential cross-subsidy of a regulated electric utility's non-regulated telecommunications operations.

Accounting and Finance Investigations:
Performed comprehensive earnings investigations and revenue requirements studies of AT&T, a Bell Operating Company, independent local exchange carriers, electric investor owned utilities, a generation and transmission electric cooperative, and electric distribution cooperatives.

Expert Testimony Appearances

Date	Case No.	Jurisdiction	Company	Subject Matter
July 1989	333-272	Louisiana	South Central Bell Telephone & Telegraph	Realized and projected rates of return.
August 1989	U-17970	Louisiana	AT&T Communications	Earnings investigation, network modernization, and alternative regulation.
October 1989	U-17282	Louisiana	Gulf States Utilities	Operating expense analysis and nonregulated joint venture evaluation.
January 1990	U-17282	Louisiana	Gulf State Utilities	Regulatory treatment of gain on sale of utility property.
July 1991	4004-U	Georgia	GTE Telephone	Network modernization and depreciation represcription.
October 1991	U-17282	Louisiana	Gulf States Utilities	Results of comprehensive management audit.
Dec. 1992	U-17949 Subdocket A	Louisiana	South Central Bell Telephone and Telegraph	Network technology and modernization and construction program evaluation.
Dec. 1992	U-19904	Louisiana	Entergy/Gulf States	Non-fuel O&M merger related synergies.
March 1993	93-01-E1 EFC	Ohio	Ohio Power Company	Accounting and regulatory treatment of the sale of an affiliate's investment.

Expert Testimony Appearances - continued

Date	Case No.	Jurisdiction	Company	Subject Matter
March 1993	U-19994	Louisiana	Entergy/Gulf States	Merger related synergies.
August 1993	U-19972	Louisiana	Ringgold Telephone Company	Earnings investigation, network modernization, and construction program.
October 1993	U-17735	Louisiana	Cajun Electric Power	Earnings investigation.
May 1994	U-20178	Louisiana	Louisiana Power & Light Company	Analysis of Least Cost Integrated Resource Plan and Demand Side Management programs.
October 1994	5258-U	Georgia	Southern Bell Telephone & Telegraph	Price regulation and incentive rate plan review.
June 1995	3905-U	Georgia	Southern Bell Telephone & Telegraph	Rate design and alternative regulation.
June 1996	96-02-002	California	Pacific Bell Telephone & Telegraph	ISDN TSLRIC study evaluation
August 1996	U-22020 (Direct)	Louisiana	BellSouth Telecomm. Inc.	Avoided retail cost study
Sep. 1996	U-22020 (Rebuttal)	Louisiana	BellSouth Telecomm. Inc.	Avoided retail cost study
Oct. 1997	97-01262 (Direct)	Tennessee	BellSouth Telecomm. Inc.	Permanent pricing for local interconnection and UNEs
Oct. 1997	97-01262 (Rebuttal)	Tennessee	BellSouth Telecomm. Inc.	Permanent pricing for local interconnection and UNEs

Expert Testimony Appearances - continued

Nov. 1997	97-00888	Tennessee		Universal service policy issues
Dec. 1997	P-100, Sub 133b	North Carolina		Universal service FLEC models
Dec. 1997	P-100, Sub 133d	North Carolina		Permanent pricing for local interconnection and UNEs
Jan. 1998	P-100, Sub 133b (Rebuttal)	North Carolina		Universal service FLEC models
Mar. 1998	P-100, Sub 133d (Rebuttal)	North Carolina		Permanent pricing for local interconnection and UNEs
Mar. 1998	P-100, Sub 133g	North Carolina		Universal service policy issues
Mar. 1998	97-07488 (Direct)	Tennessee	Electric Power Board of Chattanooga	Affiliate transactions
Aug. 1998	980696-TP (Direct)	Florida		Universal service FLEC models
Sep. 1998	980696-TP (Rebuttal)	Florida		Universal service FLEC models
Sep. 1998	U-22252, Subdocket D (Initial)	Louisiana		Avoided retail cost study for CSAs/SBAs
Sep. 1998	97-07488 (Rebuttal)	Tennessee	Electric Power Board of Chattanooga	Affiliate transactions

Expert Testimony Appearances - continued

Sep. 1998	U-22252 Subdocket D (Final)	Louisiana	BellSouth	Avoided retail cost study for CSAs/SBAs
July 1999	10288-U	Georgia	Accucomm Telecomm, Inc.	Compliance audit results and affiliate transactions
August 1999	990649-TP	Florida (Direct)		Unbundled network element policy issues
Sep. 1999	990649-TP	Florida (Rebuttal)		Unbundled network element policy issues
March 2000	99-00909	Tennessee (Direct)	Memphis Light, Gas & Water	Affiliate transactions
March 2000	U-24714	Louisiana (Direct)	BellSouth	Interim, deaveraged rates for unbundled network elements
June 2000	990649-TP	Florida (Direct)		Unbundled network element technical issues
July 2000	990649-TP	Florida (Rebuttal)		Unbundled network element technical issues
August 2000	P-100, Sub 133d	North Carolina		Unbundled network element policy and technical issues
August 2000	990649-TP	Florida (Supplemental Rebuttal)		Unbundled network element technical issues
Nov 2000	00-00523	Tennessee (Direct)		Rural universal service policy and technical issues
Nov 2000	00-00523	Tennessee (Rebuttal)		Rural universal service policy and technical issues

Expert Testimony Appearances – continued

Dec 2000	99-11035	Nevada (Direct)		Collocation rates
March 2001	99-00909	Tennessee (Rebuttal)	Memphis Light, Gas & Water	Affiliate transactions
April 2001	99-11035	Nevada (Supplemental)		Collocation rates