

ORIGINAL



March 22, 2002

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

by overnight delivery

~~Re: Docket No. 000075~~ - Investigation into Appropriate Methods to Compensate
Carriers for Exchange of Traffic subject to Section 251 of the
Telecommunications Act of 1996 **(Phase II)**

Dear Ms. Bayó,

Please find enclosed for filing in the above docket an original and seven (7) copies of
Florida Digital Network, Inc.'s prefiled rebuttal testimony of John J. McCluskey.

If you have any questions regarding the enclosed, please call me at 407-835-0460.

Sincerely,

Matthew Feil
Florida Digital Network
General Counsel

- AUS _____
- CAF _____
- CMP _____
- COM Stacy
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC _____
- OTH _____

02 MAR 25 AM 9:41

DISTRIBUTION CENTER

LOCAL

LONG

DISTANCE

INTERNET

DOCUMENT NUMBER DATE
03400 MAR 25 02
FPSC-COMMISSION CLERK

1 **Q. Please state your name, employer and business address.**

2 A. My name is John J. McCluskey, V. I am Director of Network Planning
3 for Florida Digital Network, Inc. ("FDN"). My business address is 390 North
4 Orange Avenue, Suite 2000, Orlando, Florida, 32801.

5 **Q. Are you the same John McCluskey who testified on direct in Phase**
6 **IIA of this proceeding?**

7 A. Yes.

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. I will rebut certain aspects of the prefiled direct testimony of other
10 witnesses in this case, including Verizon witness Trimble, BellSouth witness
11 Shiroishi, and Sprint witnesses Ward and Hunsucker.

12 **Q. Verizon witness Mr. Trimble, on page 15 of his testimony, suggests**
13 **that a default LATA-wide reciprocal compensation mechanism would**
14 **confer an artificial cost advantage upon the ALECs because the ALEC,**
15 **unlike the IXC and the ILECs, would pay nothing to support universal**
16 **service. Is this correct?**

17 A. No, it is not. Currently the Universal Service Fund is funded by
18 telecommunication revenues obtained from telecommunication carriers that
19 provide Interstate and International telecommunications services. Because
20 IntraLATA toll and local services do not come under the same jurisdiction as
21 Interstate and International, creating a LATA-wide local Intercarrier
22 Compensation mechanism would have no effect on universal service funds.
23 Additionally, ALECs are not free from having to contribute to the Universal

1 Service Fund. FDN contributes to the Universal Service Fund a portion of its
2 revenue obtained from Interstate and International telecommunications
3 services, collected as an IXC, and from switched access services, collected as
4 an ALEC.

5 On pages 8, 9, 15 and 19, Mr. Trimble improperly equates a subsidy flow
6 with universal service. He goes so far as to state that in advancing goals of
7 universal service, Congress intended that ALECs should subsidize lower
8 rates to all ILEC customers by paying high Intrastate switched access charges
9 to ILECs. Mr. Trimble's argument cannot be accepted by this Commission
10 as fair or right and is without well-reasoned support.

11 **Q. Mr. Trimble shows a number of call compensation tables in his**
12 **testimony. Are these correct?**

13 A. Table 4 on pages 14 and 15 is incorrect. Mr. Trimble's example of
14 compensation between ILECs and ALECs when they collaborate to complete
15 IntraLATA toll calls assumes that the ALECs will continue to charge the end
16 user for a toll call. That is an incorrect assumption. Where FDN has a
17 LATA-wide local reciprocal compensation agreement with BellSouth, an
18 FDN end-user can subscribe to FDN's flat-rated Intra-LATA calling plan and
19 is not charged toll rates. This sort of calling plan in Sprint-Local or Verizon
20 territory does not work because FDN would have to pay Intra-LATA
21 switched access to those carriers making the plan price prohibitive.

1 **Q. Mr. Trimble and Sprint witness Ward also characterize IXCs as**
2 **being discriminated against if a default LATA-wide local intercarrier**
3 **compensation method were put in place. Is that true?**

4 A. No, I don't believe so. Mr. Trimble has included in his testimony as
5 Exhibit DBT-2 a Declaration of Mr. Howard A. Shelanski filed with the
6 FCC. Mr. Shelanski does not favor a disruption of the interstate access
7 regime, however, on pages two and three, he states, "[W]hen local carriers
8 pass traffic back and forth, they are performing equivalent termination
9 services for each other. Long-distance access differs. While local carriers
10 terminate calls that are handed-off to them by long-distance carriers, long
11 distance networks do not in turn perform reciprocal termination services for
12 local carriers. Long-distance carriers are instead providing calling services to
13 end users, for which local termination constitutes an essential input. Local
14 interconnection is thus a reciprocal relationship of termination services
15 between carriers, whereas long-distance service is a vertical relationship in
16 which local termination is just an input into the long-distance carrier's
17 provision of calling services to end users. There is no reason that the
18 economics of local interconnection should be assumed identical to those of
19 the very different relationship inherent in long-distance access."

20 When an IXC is involved in an IntraLATA toll call, it has none of its
21 own originating or terminating facilities, and, typically, the IXC picks up and
22 hands off the call at a tandem, often at the same tandem. By contrast, in the
23 proposal I made in my direct testimony, in a reciprocal arrangement, to

1 qualify for LATA-wide local, the originating carrier would bear the cost and
2 responsibility for delivering the call at least as far as the tandem serving the
3 end user. Therefore, the IXC as local toll provider and the LECs in the
4 LATA-wide local proposal are not providing equivalent services.

5 **Q. Mr. Trimble maintains that a LATA-wide local plan for reciprocal**
6 **compensation would not be competitively neutral because ILECs and**
7 **IXCs would be disadvantaged. Do you agree?**

8 A. No. As explained above, for IntraLATA calling, LECs with reciprocal
9 LATA-wide local arrangements and IXCs are not providing equivalent
10 services. Further, it is difficult to reconcile Verizon's position with the fact
11 that BellSouth already has LATA-wide local arrangements, for example, with
12 AT&T; yet neither asserts a competitive disadvantage or discrimination.

13 **Q. Sprint witness Hunsucker, on page 3 of his refiled direct, states that**
14 **using the ILECs local calling areas to define local calling scope for**
15 **reciprocal compensation purposes does not affect the ability of the**
16 **ALEC to designate its own flat rate calling areas. Do you agree?**

17 A. No. As I testified previously, high intrastate access charges are a cost
18 barrier to offering Florida consumers lower retail IntraLATA rates. Sprint
19 ignores that access charges present a cost barrier to reduced prices for retail
20 local toll services by arguing that ALECs are free to designate whatever retail
21 local calling areas the ALECs choose. Interestingly, Verizon argues it could
22 not reduce retail IntraLATA toll prices because Verizon has to price those

1 services to include access costs, in effect recognizing access costs as a barrier
2 to retail price reductions.

3 If the access charge barrier were lifted from IntraLATA services,
4 Florida consumers would benefit tremendously from the array of IntraLATA
5 calling plans that would become available.

6 **Q. BellSouth witness Ms. Shiroishi on page 9 of her testimony states that**
7 **BellSouth would actually owe money to the ALEC instead of receiving**
8 **access from the IXC if a default LATA-wide reciprocal compensation**
9 **method was established. Is that true?**

10 A. Her answer is partially true. Ms. Shiroishi did not identify in what
11 instance that scenario is true. BellSouth would become subject to reciprocal
12 compensation costs and lose originating switched access charges if BellSouth
13 were the carrier of choice for its end-user. In that case, however, BellSouth is
14 replacing access revenue with end-user revenue. If the end-user decided to
15 use an IXC instead of BellSouth to carry the IntraLATA call, then BellSouth
16 would continue to charge the IXC for originating access, but would not be
17 charged by the ALEC for terminating the call.

18 **Q. With regard to Issue No. 17, Ms. Shiroishi claims that the FCC**
19 **determined that “roughly balanced” was below a 3:1 ratio. Is that what**
20 **the FCC decided?**

21 A. I believe Ms. Shiroishi made an incorrect assessment of what the FCC
22 decided. In its ruling of Order on Remand and Report and Order in CC
23 Docket 99-68, released April 27, 2001, the FCC found the 3:1 ratio was a

1 good indicator of voice traffic versus ISP-bound traffic for the determination
2 of reciprocal compensation between LECs. The FCC did not rule on the
3 meaning of “roughly balanced,” it merely established the 3:1 ratio as a
4 surrogate to the impossible task of specifically tracking and identification of
5 ISP-bound traffic and a reasonable cut-off for eliminating the alleged
6 arbitrage opportunity.

7 **Q. On the subject of bill-and-keep, Verizon witness Mr. Trimble**
8 **suggests on page 32 that tandem facilities could be exhausted without**
9 **better interconnection architecture standards. Do you agree?**

10 A. Tandem exhaustion could possibly occur, but it would not seem likely
11 that it would occur given the depressed state of facilities-based competition.
12 FDN believes its proposal for handing off traffic at least as far as the tandem
13 serving the terminating end user is fair and reasonable. As I testified to
14 previously, where a LATA has multiple tandems, the originating carrier
15 would have to deliver the call to the tandem serving the terminating end user,
16 not the tandem closest to the ALEC’s switch. FDN’s proposal would
17 alleviate the tandem-to-tandem transmission utilization that Mr. Trimble may
18 be concerned with.

19 **Q. Does that conclude your rebuttal testimony?**

20 A. Yes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail this 22 day of March, 2002.

AT&T
Claudia Davant
101 North Monroe Street
Suite 700
Tallahassee, FL 32301-1549
Phone: (850) 425-6364
Fax: (850) 425-6361

AT & T Communications of
the Southern States, Inc. (GA)
Victoria Tate
1200 Peachtree Street
Suite 8017
Atlanta, GA 30309
Phone: (404) 810-7175

Ausley Law Firm
Jeffry Wahlen
PO Box 391
Tallahassee, FL 32302
Phone: (850) 224-9115
Fax: (850) 222-7560

Florida Cable Telecommunications Assoc., Inc.
Michael A. Gross
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303
Phone: (850) 681-1990
Fax: (850) 681-9676
Email: mgross@fcta.com

Beth Keating/Felicia Banks
Florida Public Service Comm.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Alltel Corporate Servies, Inc.
Stephen Refsell
One Allied Drive
Little Rock, AR 72203-2177
Phone: (501) 905-8330
Fax: (501) 905-6299

BellSouth Telecommunications
Nancy B. White/James Meza III
c/o Nancy H. Sims
150 South Monroe Street
Suite 400
Tallahassee, FL 32301-1556
Phone: (850) 224-7798
Fax: (850) 222-8640

MCI WorldCom
Ms. Donna McNulty
325 John Knox Road, Suite 105
Tallahassee, FL 32303-4131

Florida Competitive Carriers Assoc.
c/o McWhirter Law Firm
Joseph McGlothlin
Vicki Kaufman
117 S. Gadsden Street
Tallahassee, FL 32301
Phone: (850) 222-2525
Fax: (850) 222-5606
Email: jmcglothlin@mac-law.com, vkaufman@mac-law.com

Focal Communications Corporation
Mr Paul Rebey
200 North LaSalle Street
Suite 1100
Chicago, IL 60601-1914
Phone: (312) 895-8491
Fax: (312) 895-8403
Email: prebey@focal.com

Gerry Law Firm
Charles Hudak/Ronald V. Jackson
3 Ravinia Drive #1450
Atlanta, GA 30346-2117
Phone: (770) 399-9500
Fax: (770) 395-0000

Global NAPS, Inc.
10 Merrymount Road
Quincy, MA 02169
Phone: (617) 507-5100
Fax: (617) 507-5200

Hopping Law Firm
Richard Melson
PO Box 6526
Tallahassee, FL 32314
Phone: (850) 222-7500
Fax: (850) 224-8551

KMC Telecom, Inc.
Mr. John McLaughlin
1755 North Brown Road
Lawrenceville, GA 30043-8119
Phone: (678) 985-6262
Fax: (678) 985-6213
Email: jmclau@kmctelecom.com

Katz, Kutter Law Firm
Charles Pellegrini/Patrick Wiggins
12th Floor
106 East College Avenue
Tallahassee, FL 32301
Phone: (850) 224-9634
Fax: (850) 222-0103

Kelley Law Firm
Genevieve Morelli
1200 19th Street NW
Suite 500
Washington, DC 20036
Phone: (202) 887-1230
Fax: (202) 955-9792
Email: gmorelli@kelleydrye.com

Landers Law Firm
Scheffel Wright
PO Box 271
Tallahassee, FL 32302
Phone: (850) 681-0311
Fax: (850) 224-5595

Messer Law Firm
Norman Horton, Jr.
215 S. Monroe Street
Suite 701
Tallahassee, FL 32301-1876
Phone: (850) 222-0720
Fax: (850) 224-4359

Orlando Telephone Company
Herb Bornack
4558 SW 35th Street, Suite 100
Orlando, FL 32811-6541
Phone: (407) 996-8900
Fax: (407) 996-8901

Pennington Law Firm
Peter Dunbar/Karen Camechis
PO Box 10095
Tallahassee, FL 32302-2095
Phone: (850) 222-3533
Fax: (850) 222-2126
Email: Pete@penningtonlawfirm.com

Sprint-Florida, Incorporated
Charles J. Rehwinkel/Susan Masterto
PO Box 2214
MS: FLTLHO0107
Tallahassee, FL 32316-2
Phone: (850) 847-0244
Fax: (850) 878-0777

Level 3 Communications, LLC
Michael R. Romano, Esq.
1025 Eldorado Blvd.
Bloomfield, CO 80021-8869
Phone: (720) 888-7015
Fax: (720) 888-5134

Moyle Law Firm (Tall)
John Moyle/Cathy Sellers
The Perkins Hoiuse
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: jmoylejr@moylelaw.com

US LEC of Florida, Inc.
Ms. Wanda G. Montano
6801 Morrison Blvd.
Charlotte, NC 28211-3599

Rutledge Law Firm
Ken Hoffman
PO Box 551
Tallahassee, FL 32302-0551
Phone: (850) 681-6788
Fax: (850) 681-6515

Supra Telecom
Brian Chaiken
2620 SW 27th Avenue
Miami, FL 33133-3001
Phone: (305) 476-4248
Fax: (305) 443-1078
Email: bchaiken@stis.com

Time Warner Telecom of Florida, LP
Carolyn Marek
233 Bramerton Court
Franklin, TN 37069
Phone: (615) 376-6404
Fax: (615) 376-6405

Verizon Select Services Inc.
Kimberly Caswell
PO Box 110, FLTC0007
Tampa, FL 33601-0110
Phone: (813) 483-2617
Fax: (813) 223-4888

XO Florida, Inc.
Dana Shaffer
105 Molly Street
Suite 300
Nashville, TN 37201-2315
Phone: (615) 777-7700
Fax: (615) 345-1564



Matthew Feil