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March 28, 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 Prehearing Statement.

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

Sincerely,

Matthew Feil
Florida Digital Network
General Counsel

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Appropriate)
Methods to Compensate Carriers)
for Exchange of Traffic Subject to)
Section 251 of the Telecommun-)
ications Act of 1996)
_____)

Docket No. 000075-TP

PREHEARING STATEMENT OF FLORIDA DIGITAL NETWORK, INC.

Pursuant to Order No. PSC-02-0139-PCO-TP, issued January 31, 2002, ("Second Order on Procedure"), Florida Digital Network, Inc., ("FDN") hereby files its Prehearing Statement in the captioned docket as follows:

A. Known Witnesses

FDN intends to call as a witness John J. McCluskey, FDN's Director of Network Planning. FDN has prefiled the direct and rebuttal testimony of Mr. McCluskey, addressing both Issues Nos. 13 and 17 in this case. At this time, FDN does not intend to call any other witnesses, but does reserve the right to call agents, officers and employees of other parties as adverse party witnesses, pending review of those parties' prehearing statements, rebuttal testimony and depositions, if any.

B. Known Exhibits

FDN intends to introduce into evidence the exhibit(s) attached to the prefiled testimony of Mr. John J. McCluskey as follows:

**Exhibit
Identification**

**Exhibit
Description**

Direct Prefiled

JJM-1

Segment – LATA 460
ILEC Retail Calling Areas

FDN reserves the right to identify and introduce additional exhibits during cross-examination of other parties' witnesses and re-direct of its own and, to the extent permitted by Commission rules and the Florida Rules of Civil Procedure, to identify and introduce the depositions of other parties' agents, officers and employees.

C. Statement of Basic Position

Florida consumers would receive a tremendous benefit from competitive pricing for IntraLATA calling services. Today, lower retail IntraLATA rates are not possible because the high intrastate access charges assessed on IntraLATA calls pose a cost barrier to those who would offer such rates. Therefore, the Commission should order a default reciprocal compensation mechanism whereby calls within the LATA will be deemed "local" calls for reciprocal compensation purposes, provided the originating carrier delivers calls to the terminating carrier at least as far as the tandem switch serving the end user. This proposal would promote both competitive pricing for IntraLATA services and facilities-based competition, whereas a default definition of "local" that mirrors the ILEC's local calling area only serves to protect the ILECs' control and definition of the market.

The Commission should also approve a default bill and keep mechanism for reciprocal compensation for those cases where (1) each party's traffic exchanged exceeds a minimum monthly threshold (2) the parties' traffic exchanges are roughly balanced

(within 10%) and (3) the originating carrier delivers calls to the terminating carrier at least as far as the tandem switch serving the end user. Otherwise, a reciprocal rate should apply.

D – F. Statement of Issues and Positions

Below is a list of issues, as identified in the Commission's Second Order on Procedure and FDN's positions on those issues:

Issue No. 13: How should a "local calling area" be defined, for purposes of determining the applicability of reciprocal compensation?

FDN: FDN proposes that "local calling area" be defined as calls within the LATA, where the originating carrier delivers such calls are at least as far as the tandem switch serving the end user. (McCluskey)

Issue No. 13 (a): What is the Commission's jurisdiction in this matter?

FDN: The Commission has jurisdiction to decide this matter. Section 364.01(4), Florida Statutes, directs the Commission to exercise its exclusive jurisdiction to encourage and promote competition and to ensure the widest possible range of consumer choices in the provision of all telecommunications services. FDN's proposal for LATA-wide local is unquestionably pro-competitive. Further, based on the facts of this case, nothing in Chapter 364, Florida Statutes, the Federal Telecommunications Act of 1996, the FPSC's rules, or the FCC's rules restricts the ability of the Commission to approve FDN's proposal.

Issue No. 13 (b): Should the Commission establish a default definition of local calling area for the purpose of intercarrier compensation, to apply in the event parties cannot reach a negotiated agreement?

FDN: Yes. A fair and reasonable default mechanism would promote efficiencies in negotiations, administration and arbitration of interconnection matters. (McCluskey)

Issue No. 13 (c): If so, should the default definition of local calling area for purposes of intercarrier compensation be: 1) LATA-wide local calling, 2) based upon the originating carrier's retail local calling area, or 3) some other default definition/mechanism?

FDN: FDN proposes a default definition whereby calls within the LATA are exchanged at reciprocal compensation rates, not access rates, provided the originating carrier delivers such calls at least as far as the tandem switch serving the end user.
(McCluskey)

Issue No. 17: 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?

FDN: Yes. A fair and reasonable default mechanism would promote efficiencies in negotiations, administration and arbitration of interconnection matters. The default mechanism should be bill and keep, provided (1) each party's traffic exchanged exceeds a minimum monthly threshold (499,999 minutes per month), (2) the parties' traffic exchanges are roughly balanced (within 10%) and (3) the originating carrier delivers calls to the terminating carrier at least as far as the tandem switch serving the end user. Otherwise, a reciprocal rate should apply.
(McCluskey)

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

FDN: Yes, aside from state law authority, 47 C.F.R. § 51.713 grants the Commission authority to establish bill and keep arrangements and authority to presume traffic exchanges are roughly in balance.

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

FDN: Assuming that the traffic exchange conditions FDN proposes are approved, facilities based competition will be promoted, LEC expenses for the monitoring, billing and collection of intercarrier compensation will be reduced, and ALECs may be able to reallocate resources to end-user focused, competitive activities.
(McCluskey)

Issue No. 17 (c): 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?"

FDN: If bill and keep is the approved default mechanism, the Commission will need to define “roughly balanced.” The evaluation should be on a per LATA basis where “roughly balanced” means there is a 10% or less variation in the volume of traffic exchanged between carriers over a reasonable period. (McCluskey)

Issue No. 17 (d): 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?

FDN: The disadvantages to a bill and keep regime would only result where traffic is not over a minimum threshold and/or not roughly in balanced or where there are unfair or unreasonable rules on interconnection architecture. The advantages to a properly established bill and keep regime, such as that FDN proposes, are as stated in FDN’s position to Issue No. 17(b) above. (McCluskey).

G. Stipulated Issues

FDN is unaware of any stipulated issues at the time of serving this filing.

H. Pending Motions

FDN has no pending motions at the time of serving this filing.

I. Pending Confidentiality Issues

FDN is not aware of any pending confidentiality issues at the time of serving this filing.

J. Order Establishing Procedure Requirements

To FDN’s knowledge, at the time of serving this filing, there are no requirements of the Second Order on Procedure that cannot be complied with.

K. Decisions or Pending Decisions

At the time of serving this filing, FDN is not aware of any decision or pending FCC or court decision that has or may preempt or otherwise impact the Commission’s

ability to resolve any of the above issues. FDN acknowledges that the FCC has an open proceeding to consider changes to inter-carrier compensation schemes. No decision has been announced in that proceeding, and FDN does not believe a decision in that case will be forthcoming in the near future. Additionally, FDN notes that the FCC's ISP Remand Order is on appeal before the D.C. Circuit Court of Appeals. Though a decision in that case is expected soon, it is unknown if that decision will have any impact on the two issues addressed in this matter, since the focus of that appeal was the treatment of ISP-bound traffic.

RESPECTFULLY SUBMITTED, this 28 day of March, 2002.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail this 28 day of March, 2002.

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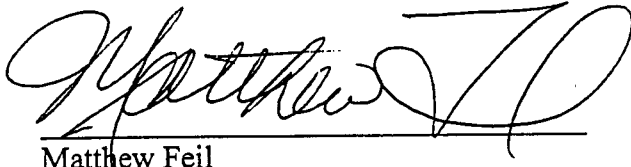
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