

ORIGINAL

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SPEAKER



November 19, 2003

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

NOV 19 PM 3:04  
COMMISSION  
CLERK

Re: Docket Nos. 030867-TL, 030868-TL & 030868-TL

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are original and 15 copies of the Rebuttal Testimony of Bion C. Ostrander.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck  
Deputy Public Counsel

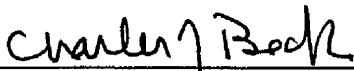
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DOCKET NOS. 030961-TI, 030869-TL, 030868-TL and 030867-TL

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Rebuttal Testimony of Bion C. Ostrander has been furnished by U.S. Mail, hand-delivery and/or overnight delivery to the following parties on this 19th day of November, 2003.

  
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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF  
THE PETITIONS OF VERIZON FLORIDA INC.,  
BELLSOUTH TELECOMMUNICATIONS INC., AND SPRINT-FLORIDA INC.  
TO REFORM THEIR INTRASTATE NETWORK ACCESS  
AND BASIC LOCAL TELECOMMUNICATIONS RATES  
IN ACCORDANCE WITH FLORIDA STATUTES, SECTION 364.164**

**DOCKET NOS. 030867-TL, 030868-TL, 030869-TL**

**REBUTTAL TESTIMONY OF  
BION C. OSTRANDER**

**ON BEHALF OF  
THE OFFICE OF PUBLIC COUNSEL (OPC)**

**NOVEMBER 19, 2003**

**DOCUMENT NUMBER-DATE  
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1

2 **Q. WOULD YOU STATE YOUR NAME, TITLE AND BUSINESS**  
3 **ADDRESS?**

4 A. My name is Bion C. Ostrander. I am the President of Ostrander  
5 Consulting. My business address is 1121 S.W. Chetopa Trail, Topeka,  
6 Kansas.

7

8 **Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS**  
9 **PROCEEDING ON BEHALF OF THE OFFICE OF PUBLIC COUNSEL?**

10 A. Yes, I filed direct testimony on October 31, 2003.

11

12 **Q. WOULD YOU DESCRIBE THE PURPOSE OF YOUR REBUTTAL**  
13 **TESTIMONY?**

14 A. I will rebut certain issues raised by Florida Public Service Commission  
15 Staff witness Mr. Shafer.

16

17 **Q. WOULD YOU SUMMARIZE YOUR REBUTTAL TESTIMONY?**

18 A. Mr. Shafer's testimony does not include any analysis or documentation to  
19 support the conclusions he reaches on numerous issues, including:

- 20 • There is documentation to support his conclusion that the LEC  
21 Petitions will cause "enhanced market entry." Also it appears that  
22 Mr. Shafer's recommendation would evaluate LEC Petitions "after-  
23 the-fact" to see if enhanced market entry is achieved, but no

1 remedy is available to consumers after Petitions are approved and  
2 enhanced market entry fails to occur.

3 • There is no documentation to support his conclusion that cellular  
4 carriers will reduce their access rates on a state-specific basis for  
5 Florida intrastate access charges.

6 • There is no documentation to support his conclusion that rate  
7 rebalancing will result in a significant number of residential  
8 consumers receiving benefits of expanded choice and new and  
9 innovative services.

10

11 **Q. DOES MR. SHAFER PROVIDE INFORMATION TO SHOW THAT THE**  
12 **LEC PETITIONS WILL CAUSE “ENHANCED MARKET ENTRY”?**

13

14 A. No. Mr. Shafer’s recommendation is troublesome because it appears to  
15 place the “cart before the horse” by suggesting that the LEC Petitions be  
16 approved first, and then evaluated secondly, to see if they cause the  
17 statutory requirement of “enhanced market entry.” If Mr. Shafer or the  
18 ILECs cannot affirmatively show at this time that the LEC Petitions will  
19 result in “enhanced market entry”, then the Petitions should be denied. Of  
20 course, violations of any other single criteria also qualifies for denying the  
21 Petitions. If “enhanced market entry” is evaluated after the LEC Petitions  
22 are approved, as suggested by Mr. Shafer, then there is no reasonable

1 remedy for consumers if enhanced market entry does not occur since it  
2 would not be possible to reverse the LEC Petitions after-the-fact.

3

4 **Q. CAN YOU CITE THE LANGUAGE IN MR. SHAFER'S TESTIMONY**  
5 **THAT CAUSES YOUR CONCERNS?**

6 A. Yes. Mr. Shafer's position appears to suggest that LEC Petitions be  
7 approved first, and then evaluated secondly to see if they result in  
8 "enhanced market entry." Mr. Shafer states:

9 "I believe there are a number of ways to evaluate whether  
10 the petitions filed by BellSouth, Sprint, and Verizon will lead  
11 to enhanced market entry. The obvious first indication of  
12 induced market entry would be an increase in the number of  
13 market participants in any given market area. Another  
14 possible standard would be an expansion of consumer  
15 choice."<sup>1</sup>

16

17 **Q. DOES THE INITIAL PART OF MR. SHAFER'S RECOMMENDATION**  
18 **APPEAR PROPER, PRIOR TO THE PROBLEMATIC CONCLUSION?**

19 A. Yes. Mr. Shafer appears to be headed in the proper direction when he  
20 states that, "there are a number of ways to evaluate whether the petitions  
21 filed by BellSouth, Sprint, and Verizon will lead to enhanced market entry."  
22 Emphasis.

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<sup>1</sup> Gregory L. Shafer, direct testimony, page 6, lines 22 to 25, and page 7, lines 1 to 2.

1 Then the problematic conclusion occurs, because Mr. Shafer does not  
2 affirmatively state or show that the LEC Petitions will lead to “enhanced  
3 market entry” based on his current evaluation. Instead, he says, “The  
4 obvious first indication of induced market entry would be an increase in  
5 the number of market participants in any given market area.”

6 According to the criteria that Mr. Shafer establishes, it will not be possible  
7 to see if there is an increase in market participants until after the LEC  
8 Petitions are approved, since he never affirmatively states or shows that  
9 the LEC Petitions will cause “enhanced market entry.”

10

11 **Q. SHOULD MR. SHAFER’S POSITION BE REJECTED AS**  
12 **UNWORKABLE AND INCONSISTENT WITH THE STATUTE?**

13 A. Yes. For those parties that recommend approval of the LEC Petitions, I  
14 believe the burden rests with these parties to provide some reasonable  
15 supporting documentation that the statute criteria of “enhanced market  
16 entry” will occur if the LEC Petitions are approved. I don’t believe the  
17 statute contemplated that LEC Petitions be approved first, and evaluated  
18 secondly to determine compliance with the statute. Since Mr. Shafer has  
19 not shown that “enhanced market entry” will occur because of the LEC  
20 Petitions, this position does not favor approval of the LEC Petitions.

21



1 Q. IS THE POSITION THAT MR. SHAFER TAKES ON ALLEGED BASIC  
2 LOCAL SERVICE SUBSIDIES IN LESS DENSELY POPULATED  
3 AREAS CLEAR TO YOU?

4 A. No. For these reasons I will raise some concerns with the possible  
5 interpretations of Mr. Shafer's testimony. Mr. Shafer's testimony states:

6 "I would not view the petitions as deficient or necessarily  
7 ineffective on the basis that the entire alleged subsidy of  
8 basic local service has not been eliminated by the  
9 proposals."<sup>2</sup>

10 Also, Mr. Shafer states:

11 "There will very likely be exchange areas in each company's  
12 service territory where the cost to provide basic local service  
13 is still significantly above its price and this will remain a  
14 barrier to entry in those exchange areas. I would expect this  
15 to be true in the least densely populated exchanges in  
16 particular."<sup>3</sup>

17  
18 Q. CAN YOU EXPLAIN WHY MR. SHAFER'S STATEMENTS ARE NOT  
19 CLEAR TO YOU?

20 A. Based on these prior statements, I am not sure if Mr.  
21 Shafer's point is:

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<sup>2</sup> Gregory L. Shafer, direct testimony, page 9, lines 20 to 23.

<sup>3</sup> Gregory L. Shafer, direct testimony, page 10, lines 9 to 14.

1           1)    Not all alleged basic local service subsidies have  
2                    been identified by the LECs.  However, all of these  
3                    subsidies should eventually be subject to rate  
4                    rebalancing in future petitions, including those in rural/  
5                    less populated areas and those on a detailed granular  
6                    basis; or

7           2)    It is not necessary to identify or rebalance all alleged  
8                    basic local service subsidies, including those in  
9                    rural/less populated areas and those on a detailed  
10                   granular basis.

11

12   **Q.    CAN YOU EXPLAIN YOUR CONCERNS WITH MR. SHAFER'S**  
13   **TESTIMONY UNDER THE FIRST INTERPRETATION?**

14   A.    Yes.  I am most concerned if Mr. Shafer's testimony is intended to indicate  
15           that all basic local subsidies should be identified (and rebalanced) for all  
16           less densely populated areas (including all rural customers), and those  
17           that exist on a very detailed granular basis.  I still agree with Mr. Gabel's  
18           testimony, that no subsidy of basic local service has been demonstrated.  
19           However, I will address Mr. Shafer's testimony as if subsidies exist, at  
20           least on a detailed granular basis.  It is not reasonable or necessary to  
21           identify and rebalance every single dollar of alleged subsidy for basic local  
22           service, down to a detailed granular basis.  It would not be reasonable to  
23           identify alleged basic local subsidies for every rural customer, since

1 competitors do not price services based on this detailed granular basis.  
2 There is no reason that basic local service should be held to a higher  
3 standard than all other services regarding the elimination of possible  
4 subsidies. If local service is put under the microscope, then all other  
5 services should be comprehensively reviewed in a similar manner to  
6 identify and eliminate all possible subsidies at a detailed granular basis.  
7 Since basic local service is such a critical service to many consumers,<sup>4</sup>  
8 and there are social and universal service implications for this inelastic  
9 service, the Commission would be better served by first focusing on  
10 eliminating subsidies for all other services (and especially focusing on  
11 those competitive services which might be subsidized by other services). I  
12 believe that almost any service can be shown to have subsidies at a very  
13 detailed and granular basis, such as subsidies on an intra-service basis,  
14 inter-service basis, or between specific customer groups of the same  
15 service. Some level of rate averaging is important to both the company  
16 providing the service and to the customer, so excessive focus on  
17 elimination of all subsidies is not efficient or justified.

18

19 **Q. DO YOU AGREE WITH MR. SHAFER, THAT WIRELESS/CELLULAR**  
20 **COMPANIES WILL REDUCE THEIR RATES IN FLORIDA DUE TO**  
21 **REDUCTIONS IN FLORIDA INTRASTATE ACCESS CHARGES?**

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<sup>4</sup> The FCC supported the Joint Board's decision that "telephone service is considered a modern necessity", per the FCC's Order on Universal Service, released May 8, 1997, CC Docket No. 96-45, para. 110.

1 A. No, I do not agree with Mr. Shafer. At page 13, lines 18 to 25, Mr. Shafer  
2 indicates that most wireless carriers (i.e., cellular) pay interstate and  
3 intrastate access charges. He also indicates that bundled services are the  
4 mainstay of wireless pricing and have a competitive influence on wireline  
5 pricing. Mr. Shafer then concludes that this access cost reduction in  
6 Florida will result in wireless carriers reducing their rates, and BellSouth,  
7 Sprint, Verizon, and the IXCs will respond in a like manner.

8

9 **Q. WHY DON'T YOU AGREE WITH MR. SHAFER, THAT**  
10 **WIRELESS/CELLULAR CARRIERS WILL REDUCE THEIR RATES IN**  
11 **FLORIDA DUE TO REDUCTIONS IN FLORIDA INTRASTATE ACCESS**  
12 **RATES?**

13 A. Wireless carriers offer rates under "national" and "local/regional" plans that  
14 have a fairly consistent range of prices across geographic regions for  
15 monthly access, monthly airtime minutes, and per minute rates after the  
16 allowance. There is some variation between states, and within regions in  
17 a state, regarding prices and minutes within these ranges. However, I  
18 don't believe that wireless carriers will respond to the Florida intrastate  
19 access rate reductions with reduced rates or a higher number of airtime  
20 minutes in their Florida cellular plans. First, it is questionable whether the  
21 access rate reduction is significant enough to warrant a change in rates or  
22 airtime minutes for Florida in-state rates of wireless carriers. I am not  
23 aware that wireless carriers have changed their in-state wireless rates or

1           airtime minutes due to changes in intrastate access rates. It would likely  
2           require a significant reduction in access charges on a national basis  
3           (among most or all states), or a major change in price or minutes provided  
4           by a competitor, before a large wireless carrier would re-price their  
5           service. Also, if one believes that cellular service is a substitute for  
6           landline local service, the cellular carrier wouldn't have an incentive to  
7           decrease its rates in Florida because landline local rates are being  
8           increased by the rate rebalancing. The increase in price of the landline  
9           local rates in Florida by itself would not require an additional response by  
10          the Florida wireless carrier to reduce the monthly access rates or change  
11          the allowable minutes. Verizon is the largest wireless carrier in the nation.  
12          BellSouth and Sprint are also large providers of cellular service across the  
13          nation. Verizon, BellSouth and Sprint propose to increase their Florida  
14          landline basic local rates, but I don't think they would respond by reducing  
15          their cellular rates in Florida and cannibalizing the positive impact of the  
16          local rate increase on a total company basis. There may be some  
17          exceptions to this for small cellular carriers. However, Mr. Shafer  
18          indicates that large carriers like BellSouth, Sprint, and Verizon will respond  
19          competitively to changes in rates of wireless carriers (supposedly caused  
20          by reductions in Florida intrastate access rates), so it is clear that Mr.  
21          Shafer's scenario is intended to apply to large wireless carriers.

22

1 Q. ARE YOU AWARE OF ANY CASES WHERE A STATE HAS REDUCED  
2 ITS INTRASTATE ACCESS CHARGES, AND WIRELESS CARRIERS  
3 HAVE RESPONDED WITH STATE-SPECIFIC REDUCTIONS IN  
4 CELLULAR RATES?

5 A. No. I am not aware that this situation has occurred. I don't believe  
6 Mr. Shafer is intending to mislead the Commission, but I believe his  
7 testimony oversells the impact and magnitude of the proposed  
8 reductions in Florida intrastate access rates by asserting that  
9 cellular carriers will reduce their rates in Florida, or by inferring that  
10 these carriers may introduce state-specific cellular rates in Florida  
11 due to the intrastate access reduction.

12

13 Q. MR. SHAFER INDICATES THAT RATE REBALANCING WILL RESULT  
14 IN A SIGNIFICANT NUMBER OF RESIDENTIAL CUSTOMERS  
15 RECEIVING BENEFITS OF EXPANDED CHOICE AND NEW AND  
16 INNOVATIVE SERVICES. DOES HE PROVIDE ANY  
17 DOCUMENTATION OR ANALYSIS TO SUPPORT THIS CONCLUSION?

18 A. No. Mr. Shafer makes this allegation at page 14, lines 19 to 22.  
19 However, Mr. Shafer provides no documentation and no  
20 independent analysis to support his conclusion that a "significant"  
21 number of residential customers will benefit from "expanded choice"  
22 and "new and innovative services." Mr. Shafer does not define or  
23 identify how many residential customers constitute a "significant"

1 number in his opinion. This number cannot be defined or identified,  
2 because there is no study or documentation to support Mr. Shafer's  
3 conclusions. Also, Mr. Shafer does not perform an analysis to  
4 weigh the negative impacts of the known local rate increase against  
5 the unknown or speculative benefits related to alleged "expanded  
6 choice" or "new and innovative services." Mr. Shafer only looks at  
7 once side of the equation, but he never conducts any analysis to  
8 support his one-sided conclusion.

9 **Q. IS THERE ANY LINK OR CORRELATION BETWEEN THE SURVEY**  
10 **MR. SHAFER REFERENCES AND THE CONCLUSION HE REACHES**  
11 **REGARDING THE BENEFITS OF EXPANDED CHOICES FOR A**  
12 **SIGNIFICANT NUMBER OF RESIDENTIAL CONSUMERS?**

13 A. No. Mr. Shafer refers to a survey conducted for the Commission  
14 which indicates that 30% of residential consumers often used a  
15 wireless phone for long distance calling, and that 88% of residential  
16 consumers had bought some type of lower cost long distance  
17 alternative (prepaid calling card, dial around, etc.). However, there  
18 is no direct link or correlation between the survey of residential  
19 consumers (and the issues which were surveyed), and Mr. Shafer's  
20 conclusion that a significant number of residential consumers will  
21 realize benefits of expanded choice and new and innovative  
22 services due to the Florida access charge reductions. The

1 Commission should not rely on Mr. Shafer's conclusions because  
2 his testimony did not provide documentation to support his findings.

3

4 **Q. MR. SHAFER INDICATES THAT A SIGNIFICANT NUMBER OF**  
5 **RESIDENTIAL CONSUMERS WILL SEE BENEFITS OF EXPANDED**  
6 **CHOICE AND INNOVATIVE SERVICES. DID HE PERFORM ANY**  
7 **ANALYSIS TO DETERMINE IF CUSTOMERS WILL RECEIVE A "NET**  
8 **BENEFIT" FROM ACCESS REDUCTIONS AND RATE REBALANCING**  
9 **WHICH IS "KNOWN AND TANGIBLE"?**

10 A. Mr. Shafer did not provide any analysis to support his conclusion.  
11 In contrast, my testimony does include an analysis which shows  
12 that increases in basic local rates will exceed reductions in toll rates  
13 for residential customers. Therefore, I was able to conclude that  
14 residential consumers will not realize a "net tangible and known  
15 benefit" from access reductions and rate rebalancing. Mr. Shafer's  
16 assertions regarding benefits of "expanded choice" and "new and  
17 innovative services" are speculative, and are not known or tangible.  
18 Mr. Shafer did not identify examples of access reductions in Florida  
19 or other states where access reductions and rate rebalancing  
20 resulted in unique and specific services introduced in that  
21 jurisdiction.

22

23 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**



1 A. Yes.

2