

Section 1 - Bureau of Records and Hearing Services Completes

Docket No. 030961-TI Date Docketed: 10/02/2003 Title: Flow-through of LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.  
 Company: IXCs

Official Filing Date: \_\_\_\_\_  
 Last Day to Suspend: \_\_\_\_\_  
 Referred to: \_\_\_\_\_  
 ("O") indicates OPR

Expiration: \_\_\_\_\_

AUS	CAF	CCA	(CMP)	ECR	EXT	GCL	MMS	PIF
X			X			X		

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A19

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT  
 IT IS TENTATIVE AND SUBJECT TO REVISION.  
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff

Staff Counsel

OCRs

Current CASR revision level

Due Dates  
 Previous Current

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Recommended assignments for hearing and/or deciding this case:

Full Commission \_\_\_\_\_ Commission Panel \_\_\_\_\_  
 Hearing Examiner \_\_\_\_\_ Staff \_\_\_\_\_

Date filed with CCA: \_\_\_\_\_

Initials: OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	JB	DS	BZ	BD	DV	Exam	

- Prehearing Officer

Commissioners					ADM
JB	DS	BZ	BD	DV	

DOCUMENT NO.  
 12769-05

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

Section 1 - Bureau of Records and Hearings Services Completes

Docket No. 030961-TI Date Docketed: 10/02/2003 Title: Flow-through of LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.  
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 ("O" indicates OPR)

AUS	CAF	CCA	(CMP)	ECR	EXT	GCL	MMS	PIF
X			X			X		

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A19

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 IT IS TENTATIVE AND SUBJECT TO REVISION.  
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff C Bulecza-Banks, S Simmons  
R Wright

Staff Counsel L Fordham, F Banks

OCRs (AUS) D Vandiver

Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel \_\_\_\_\_  
 Hearing Examiner \_\_\_\_\_ Staff \_\_\_\_\_

Date filed with CCA: 10/08/2003

Initials: OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

	Current CASR revision level	Due Dates	
		Previous	Current
1. Staff Recommendation	0	NONE	10/22/2003
2. Agenda		NONE	11/03/2003
3. Standard Order		NONE	11/24/2003
4. Close Docket or Revise CASR		NONE	12/24/2003
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	JB	DS	BZ	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
JB	DS	BZ	BD	DV	
					X

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.  
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: LJ/smt  
 Date: 10/08/2003

*C*

Section 1 - Bureau of Records and History Services Completes

Docket No. 030961-TI Date Docketed: 10/02/2003 Title: Flow-through of LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.  
 Company: IXCs

Official Filing Date: \_\_\_\_\_ Expiration: \_\_\_\_\_  
 Last Day to Suspend: \_\_\_\_\_  
 Referred to: \_\_\_\_\_  
 ("O" indicates OPR)

AUS	CAF	CCA	(CMP)	ECR	EXT	GCL	MMS	PIF
X			X			X		

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module A19

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT  
 IT IS TENTATIVE AND SUBJECT TO REVISION.  
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff C Bulecza-Banks, S Simmons  
R Wright

Staff Counsel L Fordham, F Banks

OCRs (AUS) D Vandiver

Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel \_\_\_\_\_  
 Hearing Examiner \_\_\_\_\_ Staff \_\_\_\_\_

Date filed with CCA: 11/13/2003

Initials: OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

	Current CASR revision level	Due Dates	
		Previous	Current
1. *Staff Recommendation	1	SAME	10/22/2003
2. *Agenda		SAME	11/03/2003
3. *Standard Order		SAME	11/04/2003
4. *2 <sup>nd</sup> Order Modifying Orders Establishing Proceed		SAME	11/10/2003
5. *See CASR on Consolidated Dockets 030867, 868,		NONE	11/13/2003
6. Close Docket or Revise CASR		NONE	12/29/2003
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	JB	DS	BZ	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
JB	DS	BZ	BD	DV	
					X

DOCUMENT NO.  
 12769-05

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.  
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: *[Signature]*  
 Date: 11/13/2003

Section 1 - Bureau of Records and Hearings Services Completes

Docket No. 030961-Tf Date Docketed: 10/02/2003 Title: Flow-through of LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.  
 Company: IXCs

Official Filing Date: \_\_\_\_\_ Expiration: \_\_\_\_\_  
 Last Day to Suspend: \_\_\_\_\_  
 Referred to: \_\_\_\_\_  
 ("O" indicates OPR)

AUS	CAF	CCA	CMP	ECR	FLL	(GCL)	MMS	PIF
X			X			X		

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module A19

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT  
 IT IS TENTATIVE AND SUBJECT TO REVISION.  
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

<u>OPR Staff</u>	<u>R Melson, F Banks</u>
	<u>L Fordham</u>
<u>Staff Counsel</u>	<u>R Melson, F Banks</u>
	<u>L Fordham</u>
<u>OCRs (CMP)</u>	<u>C Bulecza-Banks, S Simmons</u>
	<u>R Wright</u>
<u>(AUS)</u>	<u>D Vandiver</u>

	Current CASR revision level	Due Dates	
		Previous	Current
1.	Staff Recommendation on Motion for Reconsideration	NONE	04/26/2004
2.	Special Agenda	NONE	05/03/2004
3.	Standard Order on Motion for Reconsideration	NONE	05/04/2004
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Recommended assignments for hearing and/or deciding this case:  
 Full Commission X Commission Panel \_\_\_\_\_  
 Hearing Examiner \_\_\_\_\_ Staff \_\_\_\_\_  
 Date filed with CCA: 04/07/2004  
 Initials: OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

Section 3 - Chairman Completes Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
					X

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.  
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: 13B/fms  
 Date: 04/07/2004



Florida Cable Telecommunications Association

Steve Wilkerson, President

VIA FACSIMILE

October 10, 2003

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

RECEIVED FPSC  
03 OCT 10 AM 10:02  
COMMISSION  
CLERK

RE: FPSC Docket No. 030961

Dear Ms. Bayo:

I am writing to request that the Florida Cable Telecommunications Association, Inc. ("FCTA") be placed on the mailing list of persons interested in monitoring the above-referenced docket. Please send all mailings to the following:

Michael A. Gross  
Vice President, Regulatory Affairs & Regulatory Counsel  
Florida Cable Telecommunications Association, Inc.  
246 E. 6<sup>th</sup> Avenue, Suite 100  
Tallahassee, FL 32303  
850/681-1990 Tel.  
850/681-9676 Fax  
E-Mail Address: mgross@fcta.com.

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

Sincerely,

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

MAG:mj

*Done* 10/10/03

Kay Flynn

030961-TL

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**From:** Denise Karnes  
**Sent:** Friday, October 31, 2003 4:44 PM  
**To:** Alina Dieguez; Beth Salak; Betty Ashby; Bev DeMello; Blanca Bayo; Bob Trapp; Braulio Baez; Breda Platt; Carol Purvis; Cayce Hinton; Charles Davidson; Chuck Hill; Cindy Miller; Dan Hoppe; Della Fordham; Diane Lee; Dorothy Boone; Harold McLean; Hurd Reeves; J. Terry Deason; Jane Faurot; Janet Brunson; Janet Harrison; JoAnn Chase; Jorge Chamizo; Kathleen Stewart; Katrina Tew; Kay Flynn; Kay Posey; Kevin Bloom; Kevin Neal; Larry Harris; Lila Jaber; Martha Golden; Mary Bane; Mary Macko; Norma Jenkins; Pat Dunbar; Patsy White; Richard Tudor; Roberta Bass; Rudy Bradley; Sharon Allbritton; Susan Howard; Tarik Noriega; Thelma Crump; Tim Devlin; Veronica Washington  
**Subject:** Amended News Release: Items of Interest at Upcoming Agenda, 11/03/03

An amended news release was faxed to the daily newspapers early this afternoon, and is now available on the web site:

<http://www.psc.state.fl.us/general/news/103103.html>

## WARNING:

Changes in appearance and in display of formulas, tables, and text may have occurred during translation of this document into an electronic medium. This HTML document may not be an accurate version of the official document and should not be relied on.

For an official paper copy, contact the Florida Public Service Commission at [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us) or call (850) 413-6770. There may be a charge for the copy.

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State of Florida

# Public Service Commission

## NEWS RELEASE

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October 31, 2003 Contact: 850-413-6482

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### Amended News Release: Items of Interest at Upcoming Agenda Conference, 11/03/03

**TALLAHASSEE** -- The following items are among those scheduled for consideration by the Commission at the November 3, 2003, Agenda Conference.

**ITEM 4A - DOCKET NO. 030867-TL - PETITION BY VERIZON FLORIDA INC. TO REFORM INTRASTATE NETWORK ACCESS AND BASIC LOCAL TELECOMMUNICATIONS RATES IN ACCORDANCE WITH SECTION 364.164, FLORIDA STATUTES.**

**DOCKET NO. 030868-TL - PETITION BY SPRINT-FLORIDA, INCORPORATED TO REDUCE INTRASTATE SWITCHED NETWORK ACCESS RATES TO INTERSTATE PARITY IN REVENUE-NEUTRAL MANNER PURSUANT TO SECTION 364.164(1), FLORIDA STATUTES.**

**DOCKET NO. 030869-TL - PETITION FOR IMPLEMENTATION OF SECTION 364.164, FLORIDA STATUTES, BY REBALANCING RATES IN A REVENUE-NEUTRAL MANNER THROUGH DECREASES IN INTRASTATE SWITCHED ACCESS CHARGES WITH OFFSETTING RATE ADJUSTMENTS FOR BASIC SERVICES, BY BELL SOUTH TELECOMMUNICATIONS, INC.** The Commission will consider a staff recommendation regarding the AARP's Motion to Dismiss petitions filed by BellSouth, Verizon, and Sprint-Florida in association with the Tele-Competition Innovation and Infrastructure Enhancement Act.

**ITEM 5 - DOCKET NO. 030961-TI - FLOW-THROUGH OF LEC SWITCHED ACCESS REDUCTIONS BY IXCS, PURSUANT TO SECTION 364.163(2), FLORIDA STATUTES.** The Commission will address which interexchange companies (IXCs) should be required to file tariffs if BellSouth's, Verizon's and Sprint-Florida's switched access reduction petitions associated with the Tele-Competition Innovation and Infrastructure Enhancement Act are approved. In addition, the Commission will address what should be included in the tariffs and when the IXC's tariffs should be filed.

**ITEM 8 - DOCKET NO. 030872-TI - INVESTIGATION AND DETERMINATION OF APPROPRIATE METHOD FOR REFUNDING OVERCHARGES ASSESSED ON INTRASTATE CALLS MADE USING ONE PLUS AND CALLING CARD SERVICES PROVIDED BY FLORIDA DIGITAL NETWORK, INC. D/B/A FDN COMMUNICATIONS.** The Commission will review a staff recommendation regarding Florida Digital Network, Inc.'s proposal to refund and refund calculation for overcharges on intrastate calls made using one plus service and calling card service from May 1, 2001 through February 28, 2003.

**ITEM 14A - DOCKET NO. 030001-EI - FUEL AND PURCHASED POWER COST RECOVERY CLAUSE WITH GENERATING PERFORMANCE INCENTIVE FACTOR.** The Commission will address a staff recommendation concerning Tampa Electric Company's coal transportation arrangements.

**\*\*ITEM 15 - DOCKET NO. 030711-EI - PETITION OF PROGRESS ENERGY FLORIDA, INC. FOR APPROVAL OF NEW ENVIRONMENTAL PROGRAMS FOR COST RECOVERY THROUGH ENVIRONMENTAL COST RECOVERY CLAUSE.** The Commission will consider a staff recommendation regarding Progress Energy Florida, Inc.'s petition to seek cost recovery for two new environmental programs through the environmental cost recovery clause. **\*\*PLEASE NOTE: This item has been withdrawn for consideration by the Commission.**

###

Kay Flynn

030961-TI

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**From:** Denise Karnes  
**Sent:** Tuesday, November 04, 2003 8:02 AM  
**To:** Alina Dieguez; Beth Salak; Betty Ashby; Bev DeMello; Blanca Bayo; Bob Trapp; Braulio Baez; Breda Platt; Carol Purvis; Cayce Hinton; Charles Davidson; Chuck Hill; Cindy Miller; Dan Hoppe; Della Fordham; Diane Lee; Dorothy Boone; Harold McLean; Hurd Reeves; J. Terry Deason; Jane Fautot; Janet Brunson; Janet Harrison; JoAnn Chase; Jorge Chamizo; Kathleen Stewart; Katrina Tew; Kay Flynn; Kay Posey; Kevin Bloom; Kevin Neal; Larry Harris; Lila Jaber; Martha Golden; Mary Bane; Mary Macko; Norma Jenkins; Pat Dunbar; Patsy White; Richard Tudor; Roberta Bass; Rudy Bradley; Sharon Allbritton; Susan Howard; Tarik Noriega; Thelma Crump; Tim Devlin; Veronica Washington  
**Subject:** PSC Announces Two Decisions Regarding Phone Rate Petitions

A news release was faxed to the daily newspapers late yesterday afternoon, and is available for viewing here:

<http://www.psc.state.fl.us/general/news/110303.html>

**WARNING:**

Changes in appearance and in display of formulas, tables, and text may have occurred during translation of this document into an electronic medium. This HTML document may not be an accurate version of the official document and should not be relied on.

For an official paper copy, contact the Florida Public Service Commission at [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us) or call (850) 413-6770. There may be a charge for the copy.

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State of Florida

Public Service Commission

NEWS RELEASE

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November 3, 2003 Contact: 850-413-6482

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**PSC Announces Two Decisions Regarding Phone Rate  
Petitions**

**TALLAHASSEE** -- Earlier today, the Florida Public Service Commission voted that additional information from interexchange companies (IXCs) should be filed and considered with the BellSouth, Sprint, and Verizon petitions associated with the Tele-Competition Innovation and Infrastructure Enhancement Act (the Act).

This Commission decision expands the scope of the proceedings currently underway and will require the parties in these proceedings to submit additional testimony later this month. Also, the dates set aside for the Tallahassee evidentiary hearing (December 10-12, 2003) will remain unchanged.

In addition, the American Association of Retired Persons' (AARP) request to dismiss the petitions based on a lack of information from the IXCs was denied by the Commission in a separate action.

The Commission decision on these petitions is required by the Act and is expected to take place later this year.

###

Matilda Sanders

1240 - PCO

From: LaSandra Givens  
Sent: Tuesday, November 04, 2003 2:09 PM  
To: CCA - Orders / Notices  
Subject: Order / Notice Submitted

4

Date and Time: 11/4/2003 2:06:00 PM  
Docket Number: 030961-TI, 030867-TL, 030868-TL, 030869-TL  
Filename / Path: 030961CON.LF

ORDER CONSOLIDATING DOCKETS FOR HEARING

ORDER MUST BE ISSUED TODAY/PER COMMISSIONER'S REQUEST

627/16

DOCUMENT NO  
12769-05

ORIGINAL

M E M O R A N D U M

November 6, 2003

RECEIVED FPSC

NOV -6 PM 3:36

COMMISSION  
CLERK

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: OFFICE OF THE GENERAL COUNSEL (P. CHRISTENSEN) *PC*

RE: DOCKET NO. 030867-TL - PETITION BY VERIZON FLORIDA INC. TO REFORM INTRASTATE NETWORK ACCESS AND BASIC LOCAL TELECOMMUNICATIONS RATES IN ACCORDANCE WITH SECTION 364.164, FLORIDA STATUTES.

DOCKET NO. 030868-TL - PETITION BY SPRINT-FLORIDA, INCORPORATED TO REDUCE INTRASTATE SWITCHED NETWORK ACCESS RATES TO INTERSTATE PARITY IN REVENUE-NEUTRAL MANNER PURSUANT TO SECTION 364.164(1), FLORIDA STATUTES.

DOCKET NO. 030869-TL - PETITION FOR IMPLEMENTATION OF SECTION 364.164, FLORIDA STATUTES, BY REBALANCING RATES IN A REVENUE-NEUTRAL MANNER THROUGH DECREASES IN INTRASTATE SWITCHED ACCESS CHARGES WITH OFFSETTING RATE ADJUSTMENTS FOR BASIC SERVICES, BY BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 030961-TI - FLOW-THROUGH OF LEC SWITCHED ACCESS REDUCTIONS BY IXCS, PURSUANT TO SECTION 364.163(2), FLORIDA STATUTES.

---

Please file the attached letter from Dr. Osvaldo Freiva in the correspondence section of the above referenced dockets.

PAC/lg  
Attachment

My name is \_\_\_\_\_ and I <sup>am</sup> ~~would like to read a~~ letter on behalf of The Association of Former Cuban Political Prisoners.

Florida Public Service Commission  
Tallahassee, Florida.

Dear Commissioners,

~~I am here~~ <sup>A</sup> ~~We are writing~~ <sup>business man</sup> ~~today as~~ <sup>has</sup> ~~local business people~~ ~~who have~~ fought and suffered for the principal of freedom of choice. We have experienced the tyranny of those who would restrict our freedom to think, to speak, to act and as the American constitution ~~says~~, to pursue happiness. <sup>states</sup>

That is why <sup>it</sup> is surprising that, in a country that holds these principles so dear, you have rules that inhibit a free marketplace and hinder companies from setting their own prices and pursuing success.

Allow the telephone companies to freely establish their own prices. You will see that customers in the market will soon make their wishes heard. And the market will have to respond. The entrepreneurial spirit in this country will give rise to more competition and more choices for everyone.

We know firsthand that there is only freedom where there is choice.

The Association of Former Cuban Political Prisoners supports this petition to foster more choices and competition in telephone services for consumers.

Sincerely,

Dr. Osvaldo Freiva

State of Florida



# Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

---

**DATE:** November 12, 2003

**TO:** Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

**FROM:** Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

**RE:** DOCKET NO. 030961-TI, AGENDA HELD 11-03-03.

---

RE: FLOW-THROUGH OF LEC SWITCHED ACCESS REDUCTIONS BY IXCs, PURSUANT TO SECTION 364.163(2), FLORIDA STATUTES.

DOCUMENT NO.: 11201-03, 11/10/03

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, CMP

Acknowledged BY:

A handwritten signature in cursive script, appearing to read "Pamela C. Lopez".

JF/rjm

Kay Flynn

---

030961

To: Sandy Moses; Rose Thompson  
Cc: Cheryl Bulecza-Banks; Lee Fordham  
Subject: RE: December hearing

Thanks!

-----Original Message-----

From: Sandy Moses  
Sent: Thursday, November 13, 2003 8:19 AM  
To: Kay Flynn; Rose Thompson  
Cc: Cheryl Bulecza-Banks; Lee Fordham  
Subject: RE: December hearing

Yes. It should have been included. I just talked to Vicki at SOS and we can fax her a corrected copy showing the additional docket underlined. We'll provide a copy for the file.

Lee, Cheryl, Please file a revised CASR in Docket 030961 reflecting the consolidation.

-----Original Message-----

From: Kay Flynn  
Sent: Thursday, November 13, 2003 8:02 AM  
To: Sandy Moses; Rose Thompson  
Subject: December hearing

Should the FAW notice for 030867 et al. have included Docket 030961? I don't see an event change for the docket yet, but wondered if a revised CASR were in the works?

Kay Flynn

030961

**From:** Jackie Edwards  
**Sent:** Thursday, November 13, 2003 4:47 PM  
**To:** Sally Simmons; Michael Barrett; Cheryl Bulecza-Banks; Bob Casey; Stephanie Cater; Nekey Garcia; Anne Marsh; Nancy Pruitt; Beth Salak; Rick Wright; Denise Vandiver; Greg Shafer; Ralph VonFossen; Roberta Bass; Neil Bethea; Bill Dickens; Patty Christensen; Mary Macko; Kay Posey; Veronica Washington; Nicki Garcia; Kathleen Stewart; Betty Ashby; Diane Lee; Lee Fordham; Sandy Moses; Kay Flynn; Rose Thompson; Jane Faurot; Kevin Bloom  
**Cc:** JoAnn Chase; Jackie Edwards  
**Subject:** Additon of DN 030961 to the PH/H/SH for December.  
**Importance:** High

Please note that DN 030961, in accordance with the FAW announcement I received today, is being added to the December hearing schedule for DNs 030867, 030868, and 030869. The schedule is as follows:

PH(BD): 11/24/03; 9:30-12; RM 1

Hearing (FULL): Dec. 10-12, 2003; 9:30-5; RM 148

With a Service Hearing on Dec. 10th at 9:30 prior to the hearing.

Please note that a Case Scheduling Form "will not" go out because the system will only generate a blank form for this type of change.

STATE OF FLORIDA

COMMISSIONERS:  
LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

Public Service Commission

ACKNOWLEDGMENT

DATE: 11.26.03

TO: Charles Beck

FROM: Therese, Division of the Commission Clerk and  
Administrative Services

RE: Acknowledgment of Receipt of Confidential Filing

12083-03

This will acknowledge receipt of a CONFIDENTIAL DOCUMENT filed in Docket No.

030961-TT or (if filed in an undocketed matter) concerning \_\_\_\_\_

Perennial testimony of Brian C. Ostrander, and

filed on behalf of OPCL Beck. The

document will be maintained in locked storage.

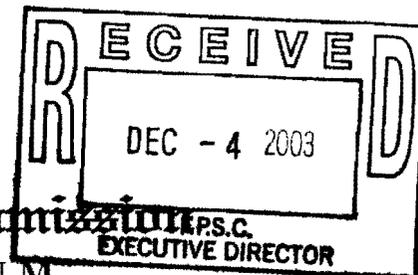
Any questions regarding this matter should be directed to Kay Flynn at (850) 413-6770.

State of Florida



# Public Service Commission P.S.C.

-M-E-M-O-R-A-N-D-U-M-




---

**DATE:** Tuesday, December 02, 2003  
**TO:** Mary Andrews Bane, Executive Director  
**FROM:** Beth W. Salak, Director, Division of Competitive Markets & Enforcement  
**RE:** Copying of Confidential Documents

---

I am requesting authorization for the following individuals to assist in copying confidential documents in Docket Nos. 030867, 030868 and 030869-TL (documents list attached:)

- Susan Howard
- Della Fordham
- Zoryana Ring
- Catherine Beard
- Sallie Hallmark
- Margie Edmondson
- Brenda Merritt

RECEIVED-PSC  
 03 DEC - 4 AM 9:21  
 COMMISSION  
 CLERK

These documents are being copied for the hearing being held on December 10-12, 2003. Help in copying these documents is needed because of the volume needed to be copied and also because they can not be sent to the print shop for reproduction.

BWS:sh  
cc: Bob Trapp

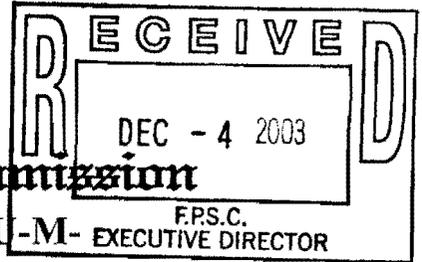
*O/C*  
*MAB*  
*12/4/03*

State of Florida



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-



**DATE:** December 4, 2003  
**TO:** Mary Andrews Bane, Executive Director  
**FROM:** Beth Salak, Director, CMP  
**RE:** Request to Copy Confidential Information for Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TL, Petitions of Verizon, et al. to reform Intrastate Network Access and Basic Local Rates

This is to request permission to make ten (10) copies of each of the confidential documents listed below. The copies will be used for cross-examination purposes at hearing beginning December 10, 2003. Because discovery will not be completed until December 5, 2003, additional documents may be required. If so, we will submit an additional list prior to the hearing. If you have any questions regarding this request, please call Anne Marsh at 413-6554.

- ✓ DN 08885-03
- ✓ DN 09021-03
- ✓ DN 09052-03
- ✓ DN 09366-03
- ✓ DN 09449-03
- ✓ DN 09829-03
- ✓ DN 10128-03
- ✓ DN 10142-03
- ✓ DN 10288-03
- ✓ DN 10632-03
- ✓ DN 10697-03
- ✓ DN 11531-03
- ✓ DN 11533-03
- ✓ DN 11728-03
- ✓ DN 11783-03
- ✓ DN 11794-03
- ✓ DN 11885-03
- ✓ DN 11928-03
- ✓ DN 11932-03
- ✓ DN 12053-03
- ✓ DN 12155-03

Not copied

9 ccs shredded  
1 cc: Ct. Rpr.

STATE OF FLORIDA

COMMISSIONERS:  
LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

# Public Service Commission

December 8, 2003

Jack Shreve, Esq.  
Office of the Attorney General  
PL -01, The Capitol  
Tallahassee, Florida 32399-1050

Re: Dockets 030867-TL, 030868-TL, 030869-TL, 030961-TL

Dear Mr. Shreve:

Accompanying this letter are copies of the following documents filed by parties as confidential in the referenced dockets:

08008-03	11728-03	11885-03	12053-03
08011-03, 08022-03	09412-03	11794-03	11890-03
08043-03 (CD)	09414-03 (CD)	10846-03	12023-03
08044-03 (CD)	09489-03	11654-03	12083-03
08045-03 (CD)	09499-03 (CD)	11662-03	
08671-03	09527-03	11683-03	
08885-03	09829-03	11684-03	
09366-03	10142-03	11685-03	
09449-03	10288-03	11688-03	
10128-03	11531-03	11691-03	
10632-03	11533-03	11694-03	
10697-03	12155-03	11783-03	

These documents are labeled "confidential" and must be maintained as confidential during the upcoming hearing, and returned to my office when the hearing concludes.

Sincerely,

Kay Flynn  
Chief of Records and Hearing Services

Enclosure

cc: Blanca S. Bayó  
Richard Melson, Esq.  
Beth Keating, Esq.  
Beth Salak  
Parties of Record

Letter to Jack Shreve, Esq. (In re: Dockets 030867-TL, et al.)

December 8, 2003

Page 2

Your signature below indicates you are taking possession of the confidential documents listed on the previous page:

Signature: Jack Shreve

Date: 12/8/03



# Public Service Commission

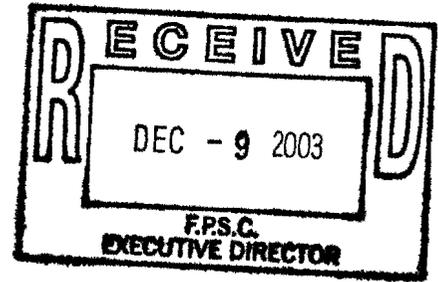
-M-E-M-O-R-A-N-D-U-M-

RECEIVED-FPSC  
03 DEC -9 PM 4:19  
COMMISSION  
CLERK

**DATE:** December 9, 2003  
**TO:** Mary Andrews Bane, Executive Director  
**FROM:** Beth Salak, Director, CMP  
**RE:** Second Request to Copy Confidential Information for Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TL, Petitions of Verizon, et al. to reform Intrastate Network Access and Basic Local Rates

This is to request permission to make ten (10) copies of each of the confidential documents listed below. The copies will be used for cross-examination purposes at hearing beginning December 10, 2003. If you have any questions regarding this request, please call Anne Marsh at 413-6554.

DN 09952-03 - not copied  
 DN 12258-03 }  
 DN 12491-03 } 9ccs: shredded  
 DN 12499-03 } 1cc: Ct. pr.



OK  
 MMB  
 12/9/03

**Marguerite Lockard**

PSC-03-1408-CFO-TL

**From:** Andrea Cowart  
**Sent:** Friday, December 12, 2003 10:31 AM  
**To:** Marguerite Lockard  
**Subject:** RE: CFO Order - Verizon - DN 11728-03.wpd

RECEIVED PSC

03 DEC 12 PM 1:55

COMMISSION  
CLERK

oh no,....okay thanks.

-----Original Message-----

**From:** Marguerite Lockard  
**Sent:** Friday, December 12, 2003 10:23 AM  
**To:** Andrea Cowart  
**Subject:** CFO Order - Verizon - DN 11728-03.wpd

030961

Hi Andrea.

on the above order, the signature block under Commissioner Bradley's signature is for Blanca's signature. can you redo this page over, with a new signature before this order is issued ???

thanks.

State of Florida



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

RECEIVED: FPSC  
DEC 16 AM 10:42

COMMISSION  
CLERK

**DATE:** December 16, 2003  
**TO:** Mary Andrews Bane, Executive Director  
**FROM:** Beth Salak, Director, CMP  
**RE:** Third Request to Copy Confidential Information for Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TL, Petitions of Verizon, et al. to reform Intrastate Network Access and Basic Local Rates

This is to request permission to make ten (10) copies of each of the confidential documents listed below. The copies will be used for the Agenda Conference in the above dockets on December 16, 2003. If you have any questions regarding this request, please call Anne Marsh at 413-6554.

1. Issue 1(a) - Support Calculations 13194-03
2. Issue 3 - Reductions in Access Charges as Filed by the Companies
3. Issue 3 - Staff Estimate of the Change in Verizon Residential Rates if the PICC ARPM is Calculated Using Interstate Minutes of Use.
4. Issue 4 - Amounts Included in the ILEC's Petitions
5. Issues 6 through 10 - Chart - IXC Split of Flow-Through Reductions Between Residential and Business Service and In-State Connection Fee Reductions and Reductions Revenue

Approved  
MAB  
12/16/03

# ORIGINAL

Hong Wang

---

From: Kate Smith  
Sent: Friday, December 26, 2003 10:04 AM  
To: Hong Wang  
Subject: FW: Phone Bills

030867-7L  
030868-7L  
030869-7L  
030961-71

I think maybe we should include this email in the correspondence side of the BST docket on the telephone rate increases. OK???

-----Original Message-----

From: Dan Richie [mailto:derichie@ucnsb.net]  
Sent: Tuesday, December 23, 2003 12:57 PM  
To: CAF Internet Mail  
Subject: Phone Bills

COMMISSION  
CLERK

03 DEC 29 AM 8:13

RECEIVED-FPSC

There was a very informative column in the Daytona Beach News-Journal on 12/23/03 written by Carl Hiaasen of the Miami Herald.

He states what I have suspected all along about the extra fees charged on each and every Phone Bill.....Most of these charges are as suspect as the fine print found at the bottom of most all Automobile Ads.....The bottom line is, most of this is just another way to get more profit out of the consumer.....Most of these extra costs could and should be part of the cost of doing business.....which means they should all be reflected in the actual cost of the Monthly phone line...

I hope very much AG Crist is going to continue to fight the new rate hikes. Someone needs to save us from increased fees that are supposed to "save us money" ??????

Dan Richie  
Edgewater, Fl

AUS \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP 1 \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL 2 \_\_\_\_\_  
JPC \_\_\_\_\_  
AMS \_\_\_\_\_  
REC \_\_\_\_\_  
OTH \_\_\_\_\_

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

Public Service Commission

January 12, 2004

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: Charles J. Crist, Jr., Attorney General, State of Florida,  
vs. Lila A. Jaber, Chairman, et al. (Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TD)**

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Appeal, filed in this office on January 7, 2004, on behalf of Charles J. Crist, Jr., Attorney General, State of Florida. Also enclosed is a copy of Order No. PSC-03-1469-FOF-TL, the order on appeal.

It is our understanding the index of record is due to be served on the parties to this proceeding on or before February 26, 2004.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records and Hearing Services

Enclosure

cc: David Smith, Esq., Office of the General Counsel  
Charles J. Crist, Jr., Esq., Attorney General, State of Florida  
Parties of Record

IN THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida, Inc. to Reform Intrastate Network Access and Basic Local Telecommunications Rates in Accordance with Section 364.164, Florida Statutes.

Docket No. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to Reduce Intrastate Switched Network Access Rates to Interstate Parity in Revenue - Neutral Manner Pursuant to Section 364.164(1), Florida Statutes.

Docket No. 030868 - TL

In re: Petition for Implementation of Section 364.164, Florida Statutes, by Rebalancing Rates in a Revenue - Neutral Manner Through Decreases in Intrastate Switched Access Charges With Offsetting Rate Adjustments for Basic Services, By BellSouth Telecommunications, Inc.

Docket No. 030869-TL

In re: Flow-through of the LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.

Docket No. 030961-TI

NOTICE OF APPEAL OF CHARLES J. CRIST, JR.,  
ATTORNEY GENERAL, STATE OF FLORIDA.

NOTICE IS GIVEN that Charles J. Crist, Jr., Attorney General, State of Florida, Appellant, appeals to the Florida Supreme Court, the order of this Public Service Commission, rendered on December 24, 2003. A copy of this order is attached. The nature of the order is a Final Order of this Commission which approved the Access Charge Reduction Petitions of Sprint, Verizon and BellSouth and allows these companies to raise their basic rates and approved the flow-through of LEC switched access reductions by IXCs in the manner set forth in their petitions.

A TRUE COPY  
ATTEST Kay Lynn  
Chief, Bureau of Records and  
Hearing Services

DOCUMENT NUMBER-DATE

00211 JAN-7 3

FPSC-COMMISSION CLERK

DATED this 7th day of January, 2004.

Respectfully submitted,

CHARLES J. CRIST, JR.  
ATTORNEY GENERAL

A handwritten signature in cursive script, reading "Charles J. Crist, Jr.", positioned above a horizontal line.

CHARLES J. CRIST, JR.  
Florida Bar No. 362190  
JACK SHREVE  
Florida Bar No. 73622  
Senior Special Counsel for Consumer Affairs  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399-1050  
Tel: (850) 414-3300, Ext 4681  
Fax: (850) 410-2672

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL

In re: Flow-through of LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.

DOCKET NO. 030961-TI  
ORDER NO. PSC-03-1469-FOF-TL  
ISSUED: December 24, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER NO. PSC-03-1469-FOF-TL

DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI

PAGE 2

APPEARANCES:

RICHARD CHAPKIS, Esquire, Verizon Florida, Inc., 201 North Franklin Street, FLTC00007, Tampa, Florida 33602  
On behalf of Verizon Florida, Inc.

JOHN FONS, Esquire, and MAJOR HARDING, Esquire, Ausley Law Firm, P.O. Box 391, Tallahassee, Florida 32302; and SUSAN MASTERTON, Esquire, Sprint-Florida, Incorporated, (MCFLTLH00107) P.O. Box 2214, Tallahassee, Florida 32316-2214  
On behalf of Sprint-Florida, Incorporated.

CHARLES REHWINKEL, Esquire, Sprint-Florida, Incorporated, (MCFLTLH00107) P.O. Box 2214, Tallahassee, Florida 32316-2214  
On behalf of Sprint Communications Company Limited Partnership.

NANCY WHITE, Esquire, R. DOUGLAS LACKEY, Esquire, and MEREDITH E. MAYS, Esquire, BellSouth Telecommunications, Inc., c/o Ms. Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301-1556  
On behalf of BellSouth Telecommunications, Inc.

HARRIS ANTHONY, BellSouth Long Distance, Inc., 400 Perimeter Center Terrace, #350, Atlanta, Georgia 30346-1231  
On behalf of BellSouth Long Distance, Inc.

GEORGE MEROS, Esquire, Gray, Harris & Robinson, P.O. Box 11189, Tallahassee, Florida, 32302  
On behalf of Knology of Florida, Inc.

TRACY HATCH, Esquire, 101 North Monroe Street, Suite 700, Tallahassee, Florida 32301-1549  
On behalf of AT&T Communications of the Southern States.

DONNA C. McNULTY, Esquire, 1203 Governors Square Boulevard, Suite 201, Tallahassee, Florida 32301-2960  
On behalf of MCI WorldCom Communications, Inc.

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ORDER NO. PSC-03-1469-FOF-TL

DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI

PAGE 3

FLOYD SELF, Esquire, and GARY EARLY, Esquire, Messer Law Firm,  
P.O. Box 1876, Tallahassee, Florida 32302-1876  
On behalf of AT&T Communications of the Southern States and  
MCI WorldCom Communications, Inc.

ATTORNEY GENERAL CHARLIE CRIST, Esquire, and JACK SHREVE,  
Esquire, Office of the Attorney General, PL-01, The Capitol,  
Tallahassee, Florida, 32399-1050  
On behalf of the Office of the Attorney General.

HAROLD McLEAN, Esquire, CHARLES BECK, Esquire, and H.F. MANN,  
Esquire, Office of Public Counsel, c/o The Florida  
Legislature, 111, West Madison Street, Room 812, Tallahassee,  
Florida 32399-1400  
On behalf of Office of Public Counsel (OPC).

MICHAEL B. TWOMEY, Esquire, P.O. Box 5256, Tallahassee,  
Florida 32314-5256  
On behalf of AARP, Common Cause Florida, and Sugarmill Woods  
Civic Association.

PATRICIA CHRISTENSEN, Esquire, BETH KEATING, Esquire, LEE  
FORDHAM, Esquire, and FELICIA BANKS, Esquire, FPSC Office of  
the General Counsel, 2540 Shumard Oak Boulevard, Tallahassee,  
Florida 32399-0850  
On behalf of the Commission.

#### ORDER ON ACCESS CHARGE REDUCTION PETITIONS

##### I. INTRODUCTION AND HISTORY

The telecommunications industry is in transition from an industry characterized by regional monopolies to one characterized by national competition. For most of its history, telephone service was furnished on a monopoly basis by a single provider. In exchange for a statutory monopoly, the telephone company was subject to economic regulation that gave it the opportunity to earn a fair rate of return on its investment. In this monopoly regime, prices for long distance and other premium services were set substantially above cost based on value of service principles. At

the same time, local telephone service was priced residually to advance the social policy goal of providing universal service.

Effective January 1, 1984, this monopoly regime was radically changed nationwide by the entry of the "modified final judgment"<sup>1</sup> which reorganized AT&T and divested it of its local telephone companies, restricted the operating areas of the local telephone companies, and provided for competitive interstate long distance service. See, Microtel, Inc. v. Florida Public Service Commission, 483 So.2d 415, 416 (Fla. 1986) (Microtel II). In apparent anticipation of the forthcoming consent judgment in the AT&T case, and motivated by a desire to promote competitive long distance telephone service within Florida, the Legislature in 1982 amended Florida law to allow the Commission to issue certificates for competitive intrastate long distance service. Id. at 417-418. As the Florida Supreme Court recognized in Microtel Inc. v. Florida Public Service Commission, 464 So.2d 1189, 1191 (Fla. 1985) (Microtel I), the 1982 Legislature made the "'fundamental and primary policy decision' that there be competition in long distance telephone services" in Florida.

As long distance competitors entered the market, state and federal regulators instituted a system of intercarrier compensation under which long distance companies paid "access charges" to the local exchange telephone companies for the use of the local networks to originate and terminate long distance calls. As the record reflects, these access charges were initially set to take the place of the revenue that had been provided by long distance service under the monopoly regime.

A decade after the introduction of long distance competition, the landscape in the telecommunications industry changed again with the elimination, first in Florida and then nationwide, of the statutory monopoly for local exchange service. In 1995, the Florida Legislature amended Chapter 364, Florida Statutes, to allow

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<sup>1</sup> United States v. American Telephone and Telegraph Co., 552 F. Supp 131 (D.D.C. 1982) aff'd sub nom, Maryland v. United States, 460 U.S. 1001 (1983), as subsequently modified by United States v. Western Electric Co., 569 F. Supp. 990 (D.D.C. 1983) and United States v. Western Electric Co., 569 F. Supp. 1057 (D.D.C.), aff'd sub nom, California v. United States, 464 U.S. 1013 (1983).

ORDER NO. PSC-03-1469-FOF-TL

DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI

PAGE 5

for competition in the provision of local service. The Legislature found that "the competitive provision of telecommunications services, including local exchange service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure." Section 364.01(3), Florida Statutes. In conjunction with the opening of the local exchange market to competition, the incumbent local exchange companies (ILECs) were permitted to elect to substitute price regulation for the former rate base, rate of return regulation. Section 364.051, Florida Statutes.

The opening of the Florida local market to competition was followed the next year by the enactment of the federal Telecommunications Act of 1996 (1996 Act). Pub. L. No. 104-104, 104th Congress 1996, 110 Stat. 56, 47 U.S.C. §§ et. seq. This act established a national framework to enable competitive local exchange carriers (CLECs) to enter the local telecommunications market and to allow the former Bell Operating Companies to reenter the interLATA long distance market. The purpose of the 1996 Act was to bring the benefits of competition to all telecommunications markets by creating a pro-competitive, de-regulatory national policy framework. Senate Rpt. 104-023, entitled "Telecommunications Competition" (March 30, 1995).

Over the 19 years since the introduction of long distance competition, both interstate access charges and intrastate access charges have been reduced. Despite these reductions, the record shows that intrastate access charge rates in Florida are among the highest in the nation and are substantially above interstate access charge rates. The record also shows, as further analyzed in Section VI(B) of this Order, that intrastate long distance rates in Florida (through which an IXC must recover, among other things, its intrastate access charge costs) are likewise among the highest in the nation, and are substantially above interstate long distance rates. Local service rates in Florida, however, are the lowest in the Southeast.

While the long distance market is now vigorously competitive, local wireline competition has progressed more slowly, particularly in the residential market. At the same time, wireline companies

are facing increased competition from providers using alternative technologies such as wireless, cable, and voice over internet protocol (VoIP). See FPSC Annual Report on Competition (June 30, 2003).

Against this backdrop, the Florida Legislature, during the 2003 Regular Session, enacted the Tele-Competition Innovation and Infrastructure Enhancement Act (2003 Act), which became effective on May 23, 2003. In broad terms, the 2003 Act allows the Commission to consider whether allowing the ILECs to reduce their intrastate access charges to interstate levels, and to make offsetting increases in local service rates, will further the Legislature's goal of increasing competition in the local telephone market. By returning some regulation of intrastate access charges to the Commission, the Legislature has given us the tools to address the question of whether access charges in fact support artificially low local service rates that may be impairing the implementation of competition in the local telephone market.

A key provision in the 2003 Act, Section 364.164, Florida Statutes, provides a process by which ILECs may petition this Commission to reduce their intrastate switched network access rates in a revenue-neutral manner. We are required by law to issue our final order granting or denying any such petition within 90 days of the filing. In reaching our decision, Section 364.164(1), Florida Statutes, sets forth four mandatory criteria we must consider. Those criteria are:

[W]hether granting the petition will:

- (a) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.
  - (b) Induce enhanced market entry.
  - (c) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.
-

- (d) Be revenue neutral as defined in subsection (7), within the revenue category defined in subsection (2).

In laymen's terms, subsection (1)(d) means that any ILEC that is permitted to reduce its intrastate switched network access rates may offset those reductions through simultaneous increases in the local rates charged to its flat-rate residential and single-line business customers.

In addition, Section 364.163(2), Florida Statutes, provides a mechanism to ensure that any IXC that receives the benefits of access charge rate reductions will flow those benefits through to both residential and business customers in the form of lower intrastate long distance rates:

Any intrastate interexchange telecommunications company whose intrastate switched access rate is reduced as a result of the rate adjustments made by a local exchange telecommunications company in accordance with s. 364.164 shall decrease its intrastate long distance revenues by the amount necessary to return the benefits of such reduction to both its residential and business customers. The intrastate interexchange telecommunications company may determine the specific intrastate rates to be decreased, provided that residential and business customers benefit from the rate decreases. Any in-state connection fee or similarly named fee shall be eliminated by July 1, 2006, provided that the timetable determined pursuant to s. 364.164(1) reduces intrastate switched network access rates in an amount that results in the elimination of such fee in a revenue-neutral manner. The tariff changes, if any, made by the intrastate interexchange telecommunications company to carry out the requirements of this subsection shall be presumed valid and shall become effective on 1 day's notice.

Section 364.163(3) gives this Commission continuing regulatory oversight regarding the access charge reduction flow-throughs described in subsection (2).

Finally, the 2003 Act amended Section 364.10 to provide increased protection to economically disadvantaged customers. This section requires any ILEC that reduces its access charges (and increases its local rates) pursuant to Section 364.164 to make its Lifeline Assistance Plan available to customers with incomes at or below 125% of the federal poverty level, up from 100% or less under the prior law.

Our jurisdiction in this matter arises from the above statutory provisions.

## II. CASE BACKGROUND

On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth), each filed petitions pursuant to Section 364.164, Florida Statutes. Dockets Nos. 030867-TL (Verizon), 030868-TL (Sprint), and 030869-TL (BellSouth) were opened to address these petitions in the time frame provided by Section 364.164, Florida Statutes. On September 4, 2003, the Order Establishing Procedure and Consolidating Dockets for Hearing, Order No. PSC-03-0994-PCO-TL, was issued. At the September 15, 2003, Agenda Conference, the Commission decided to hold public hearings in the above referenced dockets.

On September 3, 2003, the Office of Public Counsel (OPC) filed Motions to Dismiss the Petitions in each of these dockets on the grounds that the Petitions proposed to make rate changes over one year, rather than the two year minimum required by Section 364.164(1)(c). On September 10, 2003, Verizon filed its Response to OPC's Motion to Dismiss. Also on September 10, 2003, Sprint and BellSouth filed their Joint Response to OPC's Motion to Dismiss. At the September 30, 2003, Agenda Conference, we voted to dismiss Verizon, Sprint, and BellSouth's Petitions with leave to amend within 48 hours to address the Commission's determination regarding the application of the two-year time frame in Section 364.164(1)(c), Florida Statutes. On September 30, October 1, and October 2, 2003, respectively, BellSouth, Sprint, and Verizon filed their amended petitions.

By Order No. PSC-03-1240-PCO-TL, we consolidated Docket No. 030961-TI, which was opened to address questions regarding the

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ORDER NO. PSC-03-1469-FOF-TL  
DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI  
PAGE 9

IXCs' flow-through to customers of any access charge reductions, into this proceeding for hearing. By Order No. PSC-03-1269-PCO-TL, the procedure in these consolidated Dockets was amended to include additional testimony filing dates and issues to reflect the consolidation of Docket No. 030961-TI. A hearing on this matter was held on December 10-12, 2003.

In this matter, we received the testimony of 26 witnesses on behalf of the ILECs, intervenors, the consumer advocates, and our own Commission staff. We also received testimony from customers at 14 customer service hearings conducted throughout the state, as well as written comments from customers submitted to the docket files associated with this case. In addition, we received into evidence 86 exhibits. We have carefully considered the evidence received in its entirety, as well as the arguments of counsel. Based thereon, we hereby render our decision on the issues presented.

### III. MOTIONS

Three motions remained outstanding at the start of our hearing in this matter -- two motions for reconsideration of prior orders and one motion for entry of a summary final order. As a preliminary matter, we addressed the motions as follows:

A. Joint Petitioners Motion for Reconsideration of Order No. PSC-03-1269-PCO-TL, issued Nov. 10, 2003 - Second Order Modifying Procedure for Consolidated Dockets to Reflect Additional Docket, Associated Issues, and Filing Dates

This motion asked that the Commission reconsider the inclusion of Issues 6-10 in the Second Order Modifying Procedure. The motion argued that the inclusion of those issues, which relate to the IXCs' flow-through of any access charge reductions they receive, inappropriately imposed additional criteria on the Joint Petitioners' Petitions for switched network access rate reductions that go beyond the four mandatory criteria enumerated in Section 364.164(1). The Office of Public Counsel filed a response to this Motion on behalf of the Citizens. Upon consideration, we granted the Petitioners' request for oral argument on this Motion at the outset of the hearing.

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See, Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 162 (Fla. 1<sup>st</sup> DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3<sup>rd</sup> DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1<sup>st</sup> DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974). This standard is equally applicable to reconsideration by the Commission of a Prehearing Officer's order. See, Order No. PSC-96-0133-FOF-EI, issued January 29, 1996, in Docket No. 950110-EI.

Throughout this proceeding, one hotly contested issue has been whether, in making its determination to grant or deny the Petitions, the Commission can consider only the four mandatory criteria enumerated in Section 364.164(1) or whether it is also required or permitted to consider the extent to which residential customers whose local rates would be increased if the Petitions are granted are likely to benefit from offsetting long distance rate decreases. This is ultimately an issue of statutory construction which we indicated on several occasions would be considered at the conclusion of the evidentiary hearing.

The thrust of the Petitioners' motion for reconsideration is that the inclusion of Issues 6 through 10 in the Second Order Modifying Procedure improperly introduced consideration of this long distance rate impact into the proceedings on their Petitions. OPC, on the other hand, argues that these Issues were properly included, since the Commission must consider the combined impact on residential customers of any local rate increases and any long distance rate decreases.

Upon consideration, we conclude that the Motion for Reconsideration does not identify a mistake of fact or law made by the Prehearing Officer in rendering his decision. The determination

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about which the Joint Petitioners express concern is not one made by the Prehearing Officer in his Order. The Prehearing Officer did not impose additional requirements on the ILECs' Petitions to reduce access charges; instead, he included additional issues for consideration in this proceeding based upon our decision to consolidate Docket No. 030961-TI with Dockets Nos. 030867-TL, 030868-TL, and 030869-TL for hearing. His Order clearly set forth that this is the basis upon which he modified the schedule and the issues list for the proceeding. As such, his decision is not only correct, but needs no clarification. The decision to consolidate Docket No. 030961-TI was made by this Commission in Order No. PSC-03-1240-PCO-TP, issued November 4, 2003. Reconsideration of that decision was not requested. The Prehearing Officer's Order merely implements that decision by amending the schedule and including issues to reflect the consolidation. As for the legal issue raised by the Joint Petitioners, that being whether we should consider impacts on the toll market in making our decision on the ILECs' Petitions, that issue was not addressed by the Prehearing Officer and remains for decision by this Commission at the conclusion of the hearing. For these reasons, the Joint Motion For Reconsideration is denied.

B. OPC's Motion for Reconsideration of Order No. PSC-03-1331-FOF-TL (filed Dec. 5, 2003) / AARP's Motion for Reconsideration of Same Order (filed Dec. 8, 2003) (The Attorney General Joined in the Motions on December 9)

These motions asked that we reconsider certain language in our Order denying AARP's Motion to Dismiss these cases for failure to join the IXCs as indispensable parties. OPC and AARP argue that the language contained in the order did not accurately capture the rationale for the Commission's decision as expressed during the Commission's deliberations on that motion. A response in opposition was filed by the Joint Petitioners on December 9, 2003. We received additional argument on this Motion at the outset of the hearing.

While we do not believe that reconsideration is appropriate in this instance, upon consideration of the arguments and review of the Order itself, we do believe that some clarification is in order. It is clear that certain language included in the Order could be misconstrued. Therefore, Order No. PSC-03-1331-FOF-TL, at

pages 11 and 12, is amended and clarified as reflected in the following type and strike version:

In reaching this conclusion, we refer to the language of Section 364.164, Florida Statutes. Contrary to AARP's assertions, none of the four mandatory criteria set forth for our consideration in addressing the petitions mandates necessitates participation by the IXCs. ~~As plainly stated by the Legislature,~~ ~~t~~The first factor set forth in Section 364.164(1), Florida Statutes, for our consideration does not mandate that direct the Commission ~~to~~ consider how the ILECs' proposals will affect the **toll market** "for the benefit of residential consumers." Instead, the plain language states that consideration should be given to whether granting the petitions will:

(a) Remove current support for basic local telecommunications services that prevents the creation of **a more attractive local exchange market** for the benefit of residential consumers. [Emphasis added].

~~As such, the relevant market for use in making the final determination on the Petitions is the local exchange market. Thus, we find that, for purposes of Section 364.164, Florida Statutes, consideration of the impact on the toll market (and resulting impact on toll customers) is not required for the Commission's full and complete determination of the Petitions.<sup>3</sup> In reaching this conclusion, we do not find that we are precluded from such consideration, rather we conclude only that we are not required to do so.~~

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<sup>3</sup>~~In reaching this conclusion, we do not find that we are precluded from such consideration, rather we conclude only that we are not required to do so.~~

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~~The language of Section 364.164, Florida Statutes, appears clear; thus, under principles of statutory interpretation, this Commission need not look further to divine the Legislature's intent. Southeastern Utilities Service Co. v. Redding, 131 So.2d 1 (Fla. 1950).~~ That said, we nevertheless acknowledge AARP's contention that the Legislature considered the impacts on customers' toll bills in passing the new legislation.<sup>4</sup> We emphasize, though, that the Legislature did address the impact on the toll market if the Petitions are granted, but it did so through a separate section of the statutes, Section 364.163, wherein intrastate toll providers are required to pass the benefits of the access charge reductions on to their residential and business customers. This Commission is charged under that section with ensuring that reductions are, in fact, flowed through.

Based on the foregoing, Order No. PSC-03-1331-FOF-TP is clarified as set forth above.

C. Attorney General's Motion for Summary Final Order, filed Nov. 17 (AARP and OPC Joined in the Motion)

The Attorney General moved for a summary final order on the grounds that the record raises no genuine issue of fact regarding whether granting the Petitions will benefit residential consumers. Verizon, AT&T/MCI, BellSouth, and Sprint timely filed responses to the Motion. We received argument on this Motion at the hearing.

As became clear from the oral argument on this motion, the underlying contention by the Attorney General, OPC, and AARP is that Section 364.164 requires the Petitioners to demonstrate that residential consumers will benefit from long distance rate

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<sup>4</sup>At footnote 1 of the Motion, AARP states that it is in the process of having the relevant industry and legislator comments recorded and transcribed for filing at a later date. This material was officially recognized during the final hearings in these proceedings.

reductions, and that the prefiled testimony and exhibits showed that such benefits are not sufficient to offset the impact of the proposed local rate increases. The opponents of the motion contended that no such showing is required, and that the prefiled testimony establishes that residential customers will benefit from increased competition if the Petitions are granted.

Rule 28-106.204(4), Florida Administrative Code, provides:

Any party may move for summary final order whenever there is no genuine issue as to any material fact. The motion may be accompanied by supporting affidavits. All other parties may, within seven days of service, file a response in opposition, with or without supporting affidavits. A party moving for summary final order later than twelve days before the final hearing waives any objection to the continuance of the final hearing.

The standard for granting a summary final order is very high. The purpose of summary judgment, or in this instance summary final order, is to avoid the expense and delay of trial when no dispute exists concerning the material facts. The record is reviewed in the light most favorable to the party against whom the summary judgment is to be entered. When the movant presents a showing that no material fact on any issue is disputed, the burden shifts to his opponent to demonstrate the falsity of the showing. If the opponent does not do so, summary judgment is proper and should be affirmed. The question for determination on a motion for summary judgment is the existence or nonexistence of a material factual issue. There are two requisites for granting summary judgment: first, there must be no genuine issue of material fact, and second, one of the parties must be entitled to judgment as a matter of law on the undisputed facts. See, Trawick's Florida Practice and Procedure, §25-5, Summary Judgment Generally, Henry P. Trawick, Jr. (1999).

In summary, under Florida law, "the party moving for summary judgment is required to conclusively demonstrate the nonexistence of an issue of material fact, and . . . every possible inference must be drawn in favor of the party against whom a summary judgment

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is sought." Green v. CSX Transportation, Inc., 626 So. 2d 974 (Fla. 1st DCA 1993) (citing Wills v. Sears, Roebuck & Co., 351 So. 2d 29 (Fla. 1977)). Furthermore, "A summary judgment should not be granted unless the facts are so crystallized that nothing remains but questions of law." Moore v. Morris, 475 So. 2d 666 (Fla. 1985); City of Clermont, Florida v. Lake City Utility Services, Inc., 760 So. 1123 (5<sup>th</sup> DCA 2000).

The parties disagree on the proper interpretation of Section 364.164, Florida Statutes. We find, based on the pleadings, the arguments, and the prefiled testimony, there are genuine issues of material fact in dispute, regardless of whose statutory interpretation is ultimately determined to be correct. Since the motion must be viewed in the light most favorable to the parties against whom the motion is sought, the Motion must be denied in this case. In reaching this conclusion, we make no determination on the legal or factual issues to be addressed through the hearing. Rather, we conclude only that the high standard for granting a summary final order has not been met.

#### IV. STATUTORY INTERPRETATION

The question of the proper interpretation of Section 364.164 is one that has been raised time and again in this case in various motions, testimony, and in this Commission's own comments. We carefully withheld ruling on the question of whether Section 364.164, Florida Statutes, is ambiguous until after conclusion of the evidentiary hearing and the closing arguments of counsel. It is important to address this question before reaching the other issues in the case, because our decision will determine whether we can consider arguments and evidence presented in the case regarding the Legislative history and intent of the statute.

The law on this aspect of statutory interpretation is clear. When interpreting statutory provisions, one first should look to the provision at issue to determine whether the "language is clear and unambiguous and conveys a clear and definite meaning. . . ." Holly v. Auld, 450 So. 2d 217 (Fla. 1984), citing A.R. Douglass Inc. v. McRainey, 102 Fla. 1141 (1931). If the meaning is clear, there is no need to resort to statutory interpretation. Furthermore, an unambiguous statutory provision cannot be construed to extend, modify, or limit its express terms or its reasonable and

obvious implications. Holly, at 219. However, a statute should not be given its literal reading if such reading would lead to an unreasonable conclusion. Id.

Section 364.164 sets forth the criteria we must consider in determining whether to grant the ILECs' petitions. Those criteria are as follows:

[W]hether granting the petition will:

- (a) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.
- (b) Induce enhanced market entry.
- (c) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.
- (d) Be revenue neutral as defined in subsection (7) within the revenue category defined in subsection (2).

The ILECs argue that this language clearly expresses the Legislature's intent and, thus, is not subject to interpretation. The OPC, the Attorney General, and AARP present a vastly differing interpretation of the statute, and have offered into evidence and in their arguments the Legislative history of the bill. Each side offers tenable arguments regarding how the statute could be interpreted. We note that the lack of clarifying language or punctuation in the provisions at issue contributes to the differing interpretations. As such, having considered the arguments and the language of the statute itself, we find that the language of Section 364.164, Florida Statutes, is not clear on its face and, thus, is subject to statutory interpretation. Having reached this conclusion, our decisions as set forth below reflect our interpretation of the Legislature's intent as gleaned from the Legislative history, including consideration of the potential impacts of granting the Petitions on the toll rates paid by residential customers.

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V. SUMMARY OF DECISION

As discussed in more detail later in this order, we find and conclude, based on the record, that:

1. Intrastate access rates currently provide support for basic local telecommunications services that would be reduced by bringing such rates to parity with interstate access rates.

2. The existence of such support prevents the creation of a more attractive competitive local exchange market by keeping local rates at artificially low levels, thereby raising an artificial barrier to entry into the market by efficient competitors.

3. The elimination of such support will induce enhanced market entry into the local exchange market.

4. Enhanced market entry will result in the creation of a more competitive local exchange market that will benefit residential consumers through:

- a. increased choice of service providers;
- b. new and innovative service offerings, including bundles of local and long distance service, and bundles that may include cable TV service and high speed internet access service;
- c. technological advances;
- d. increased quality of service; and
- e. over the long run, reductions in prices for local service.

5. The ILECs' proposals will reduce intrastate switched network access rates to parity over a period of not less than two years or more than four years.

6. The ILECs' proposals will be revenue neutral within the meaning of the statute, which permits access charge reductions to be offset, dollar for dollar, by increases

in basic local service rates for flat-rate residential and single-line business customers.

7. Because of the mandatory flow-through provisions of Section 364.163, approval of the plans will be financially neutral to the IXCs, who are required to reduce their intrastate toll rates and charges to consumers to offset the benefit of any access charge reductions the IXCs receive.

8. Contrary to the position taken by the Attorney General in these proceedings, the statute does not require that implementation of the proposals be "bill neutral" to any particular customer or class of customers.

9. We are not mandated by Section 364.164 to consider the impact of the proposals on toll rates paid by residential consumers. However, consistent with the legislative history of the 2003 Act, we conclude that we are permitted to do so. In this regard, we find that many residential customers will benefit directly from the elimination of in-state connection fees and reductions in per-minute intrastate toll rates. We also find that residential customers as a whole will enjoy prices for toll services that are closer to economic costs and, therefore, will have less of a repressive effect on long distance usage. We also find that under the long distance rate reduction plans offered by the IXCs, residential customers as a whole will get a proportionate share of any toll rate reductions based on their share of total access minutes of use.

10. Experience from other states that have rebalanced local and toll rates shows that approval of the ILECs' proposals will have little, if any, negative impact on the availability of universal service. While no customer likes to see a rate increase, the record shows that basic local service will continue to remain affordable for the vast majority of residential customers.

11. Although we find that it is not a benefit that we should weigh in the balance in considering whether or not to grant the Petitions, the amended Lifeline provisions in Section 364.10 will help to protect economically disadvantaged consumers from the effect of local rate increases. This protection is enhanced by the ILECs' agreement to further increase the eligibility criteria for Lifeline assistance from 125% to 135% of the federal poverty level, increasing the number of customers eligible for the program by approximately 119,000, and to protect Lifeline recipients against basic local service rate increases for four years. Although we cannot predict the future with certainty, economic theory suggests, and we are encouraged to believe, that the establishment of a more competitive local market will put downward pressure on local exchange prices that will eventually reduce the need for targeted assistance programs such as Lifeline.

The following sections set forth a detailed analysis of our decisions on the points outlined above.

#### VI. REMOVAL OF CURRENT SUPPORT

In this section, we address whether the ILECs' proposals meet the requirements of Section 364.164(1)(a), Florida Statutes. For clarity of analysis, we have considered these requirements in three parts: (A) what is a reasonable estimate of the level of support for basic service provided by access charges; (B) does that support prevent the creation of a more attractive local exchange market; and (C) would the creation of a more attractive local exchange market benefit residential consumers.

##### A. REASONABLE ESTIMATE OF SUPPORT

###### 1. Arguments

Verizon contends that its basic local services receive support from its network access charges, and that its plan removes this support by bringing the prices of those services more in line with costs. Verizon asserts that removing support for basic local services will promote local exchange competition for the benefit of

residential customers. Verizon contends that it will make residential customers more attractive to competitors and thus induce enhanced market entry, encourage innovation, and promote increased freedom of choice. Verizon asserts that the plan will also reduce intrastate access rates, thereby allowing residential customers to make more long distance calls at lower prices. Verizon, along with BellSouth and Sprint, sponsored the testimony of Dr. Kenneth Gordon addressing this issue. Verizon's witnesses Fulp and Danner also offered testimony in this regard.

Verizon states that for purposes of this proceeding, it seeks to remove \$76.2 million of support from basic local telecommunication services. Verizon contends that this amount is necessary to bring its intrastate switched network access rate to parity with its interstate switched network access rate.

Likewise, Sprint argues that the level of support provided for basic local services by intrastate switched network access rates in excess of parity in Sprint's service areas is \$142,073,492 per year, based upon current access minutes of use. Sprint offered the testimony of witnesses Dickerson, Felz, and Staihr on this issue.

BellSouth emphasizes that this Commission has already found that BellSouth's residential rates receive support from access charges, which is further buttressed by the detailed testimony of BellSouth's witness Bernard Shell, particularly the information in witness Shell's exhibit WBS-1 (Hearing Exhibit 53). This support from above-parity intrastate access charges ranges from \$125.2 million to \$136.4 million per year, depending on the method used to perform the calculation. BellSouth maintains that its proposal will remove current support for basic local telecommunications services, and will bring the rates for basic local exchange service to a level that encourages competitive entry in the local exchange market. BellSouth argues that this is evidenced, in part, by the testimony of AT&T and Knology in this proceeding. BellSouth adds that residential customers will benefit from having new choices of providers and services that additional competition will bring and will also benefit from the pass-through of access charge reductions in the form of reduced toll rates. To address this aspect of its petition, BellSouth submitted the testimony of its witnesses Shell and Banerjee.

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Knology asserts that granting these petitions will materially diminish the current support for basic local telecommunications services. Knology contends that this support prevents creation of a more competitive market. Knology asserts that diminution of the support will spur additional competition. Knology states that its experience in its existing markets provides examples of how the entry of a facilities-based competitor for telephone service expands the products available to consumers, increases the customer service levels, and promotes product and pricing competition.

AT&T and MCI agree that the ILEC proposals will remove current support for basic local telecommunications services by simultaneously reducing intrastate switched access rates that have been established at economically inefficient levels through the residential rate setting process and adjusting local exchange rates upward on a revenue neutral basis. They assert that through the process of residual ratemaking, intrastate switched access charges have been historically elevated well above their relevant economic cost and the surplus has served as residual support for basic local telecommunications services. Dr. John Mayo testified on AT&T and MCI's behalf on this point.

OPC asserts that residential basic local telephone service is not subsidized by access service or any other service. OPC contends that the ILECs' petitions, therefore, do not remove current support, because there is none. OPC further asserts that Basic Local Telecommunication Services (BLTS) are not supported by the rates for intrastate access, because the existing BLTS rates exceed their incremental costs. AARP, Common Cause, and Sugarmill Woods agree to a large extent, although they further argue that there is no support, because the loop itself is a common cost that should be fully allocated among all services that use the loop. Dr. David Gabel provided testimony on behalf of OPC addressing this issue, while Dr. Mark Cooper testified on behalf of AARP.

## 2. Findings and Decision

We find that the ILECs' access charge rates provide support to local exchange service. In making this determination, we accept the economic testimony of the ILECs' and IXCs' witnesses, which treat the cost of the local loop as a cost of basic local service. In particular, the testimony shows there is no economic principle

requiring that the cost of that loop be allocated across other ancillary services that are provided over the loop.

We are not persuaded by the testimony of AARP and OPC's witnesses that all or some of the cost of the local loop should be shared, such that any costs shared by more than one service would be excluded from the ILECs' Total Service Long Run Incremental Cost (TSLRIC) calculations. This would be inconsistent with our past decisions, perhaps most notably in our 1998 Report on Fair and Reasonable Rates to the Legislature, that the costs associated with the local loop should not be allocated. The arguments raised by OPC and AARP have been considered and rejected in the past, and we find no new persuasive basis upon which to deviate from our consistent policy on this issue.

We note that the record raises some concern about the cost information provided in the proceeding by the ILECs. For instance, BellSouth's use of model inputs is inconsistent with past Commission decisions in the Docket No. 990649-TP, in which we established rates for unbundled network elements (UNEs). Also, we find that Verizon's use of interstate minutes to calculate switching and transport costs is problematic, and that Sprint and BellSouth's use of retail costs appears to be excessive, particularly since they do not differentiate between costs that apply to basic local service and costs that apply to all other services. Nevertheless, after weighing all the evidence, we find that the correction of these deficiencies would not alter our conclusion that local exchange rates are supported by intrastate access charge rates; that the ILECs have, in fact, provided a reasonable estimate of the level of support for basic local telecommunications service; and that their proposals appropriately remove that support as required by the statute. In reaching this decision, we do not in any way indicate agreement with the ILECs' costs, inputs, or methodologies considered herein for any purpose beyond this proceeding.

In addition, we note that AT&T/MCI witness Mayo emphasized that the statute does not require removal of a pure economic subsidy, but rather "support" for basic local service. Thus, he disputes witnesses Gabel and Cooper's arguments that there is no subsidy to be removed. We also find this argument persuasive in view of the plain language of the statute.

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B. SUPPORT PREVENTS THE CREATION OF A MORE ATTRACTIVE  
COMPETITIVE LOCAL EXCHANGE MARKET

1. Arguments

Verizon contends that its current residential basic monthly rates are well below incremental cost, and therefore impair competition for residential customers. Verizon asserts that the availability of local service at supported prices limits the prices that competitive local providers can charge. Verizon contends that to the extent that competitive providers' costs are similar to Verizon's, the existing supported prices make it economically infeasible for those providers to compete. Dr. Gordon spoke to this issue on behalf of the three ILECs. In addition, Verizon offered the testimony of witness Danner in this regard.

Sprint contends that the presence of heavily supported residential basic local service acts as an obstacle to the creation of widespread residential local competition. The removal of this obstacle, according to Sprint, is the goal of the 2003 Act. Sprint's witness Staihr spoke to this issue.

BellSouth again contends that we have already determined that its residential rates are supported. BellSouth emphasizes that the testimony of its witness Shell lends further support to the argument that removal of the support for basic local service will bring rates to a level that encourages competition, leading to new choices for consumers, as well as reduced toll rates. BellSouth's witnesses Ruscilli and Banerjee offered additional testimony on this point.

Knology maintains that granting these petitions will materially diminish the current support for basic local telecommunications services. Knology asserts that this support prevents creation of a more competitive market and that diminution of the support will spur additional competition.

AT&T and MCI assert that the currently excessive intrastate switched access charge rate levels make it difficult for a telecommunications company to enter the local exchange market and compete against incumbent providers whose local rates are supported by access charges; the support allows incumbent providers to

subject their competitors to an anticompetitive price squeeze. AT&T and MCI contend that excessive access charges further depress competition by limiting competitors' ability to compete across the full range of service categories. Dr. Mayo addressed this aspect of the ILEC Petitions on behalf of AT&T and MCI.

Although their analysis differs somewhat, OPC, AARP, Common Cause Florida, and Sugarmill Woods each contend there is no support for basic local service; therefore, raising current prices will not create a more attractive competitive local exchange market for the benefit of residential consumers. They contend that the existing levels of basic local telecommunications service rates have minimal, if any, impact on making the local exchange market more attractive to competitors. Drs. Gabel and Cooper also provided testimony in this regard on behalf of OPC and AARP, respectively.

The Commission staff offered the testimony of witness Ollila for purposes of providing additional perspective on this issue by way of the Commission's 2002 Report on Competition in Telecommunications Markets in Florida. In addition, the 2003 Report was received into the record as a stipulated exhibit.

## 2. Findings and Decision

Upon consideration, we agree with witness Gordon that the current level of support has allowed residential rates to remain lower than they would be in an undistorted competitive market, and that they are, in fact, lower than in other states in our region. We can find no basis in economics for the underpricing of basic service which is demand-inelastic relative to usage. Except for a limited range of residential customers, it is not economically feasible for a CLEC to price complementary products and packages in a manner that would allow it to make up for lack of profitability in the provision of basic service. As a result, there is little opportunity or ability to bundle products and services for consumers, and a very limited range of customers can truly be served on a profitable basis.

As recognized by both witness Mayo and witness Gordon, the state law, as well as the federal Telecommunications Act of 1996, shifts the utility commission's role away from historically protecting monopolists from competitors' entry and protecting

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consumers from the monopolist, to a role of encouraging competition. Under the old regime, utility commissions set rates for non-basic services, such as long distance, carrier switched access, and vertical features, above cost in order to hold down the price for basic local exchange service. This was in furtherance of universal service.

As witness Mayo emphasized, even as we moved toward price cap regulation, the pricing structure did not really change; thus, the prices for non-basic services continued to support basic service. Specifically, access charges were created after divestiture of AT&T to provide a source of revenue that would enable the local exchange companies to continue to keep prices low. Witness Mayo added that at the federal level, access charges have been reduced dramatically over the past 19 years, and this process has taken place for intrastate access charges in other states as well. Nevertheless, the witness emphasized that intrastate access rate levels in Florida are still in excess of their incremental cost, serving as continued support for low local service rates. As such, according to witnesses Mayo and Gordon, approving the ILECs' petitions to reduce intrastate access charges in a revenue neutral manner will, in fact, remove some of the support for local service, which will in turn make local service market entry more attractive for prospective entrants. This testimony was very compelling.

Witness Gordon further testified that the effect of having rates that are below cost is to discourage entry, as well as investment, by both new entrants and incumbents. Thus, not only is there less likelihood of competition, but of innovation as well. He emphasized that there is empirical evidence on this point, as referenced in the Ros-McDermott study he mentions in his pre-filed testimony. He also testified that in states that have implemented rebalancing, namely California, Illinois, Ohio, Massachusetts, and Maine, there was little noticeable impact on subscribership levels in spite of residential local service rate increases comparable to the increases proposed in the ILECs' petitions. In addition, he noted that, in the states that have implemented rebalancing, toll rates were lowered.

Our 2003 Competition Report shows that CLEC residential market share is only 9% in Florida, while CLEC's serve 29% of the business market. Similarly, Verizon's competition study for its territory

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shows that there is a 100 to 1 ratio of business versus residential customers being served by facilities-based CLECs. This drops to 10 to 1 if UNE-P and resale are taken into account. Together, these studies persuade us that competition for residential customers is currently suffering as a result of barriers to entry.

In addition, Knology's witness Boccucci specifically stated that, ". . . under current rates for local services in Florida, Knology has not been able to generate rates of return sufficient to attract the capital necessary to expand in adjacent areas to Panama City or elsewhere in Florida. If rate rebalancing is implemented, Knology has every intention to expand and compete further in Florida." He emphasized that because of Florida's low local rates, that ". . . from our investors' perspective, in the competition for the valuable CAPX or the capital expenditures, it was tough to make a business case to expand into the panhandle when we could expand into Georgia, Tennessee, Alabama and North Carolina [where local rates are higher] and be more assured that we could meet the returns that our investors expected in the marketplace."

Based on the foregoing, we find that current support provided by access charges does, in fact, impede competition in the residential local exchange markets.

C. BENEFIT TO RESIDENTIAL CONSUMERS AS CONTEMPLATED BY SECTION 364.164, FLORIDA STATUTES

1. Arguments

Verizon asserts that by moving basic local residential rates toward cost, its rate rebalancing plan will promote competition for the benefit of residential customers, which is the benefit contemplated by Section 364.164, Florida Statutes. Verizon contends that implementation of its rebalancing proposal will make these residential customers more attractive to competitors and thus induce enhanced market entry, encourage innovation, and promote increased freedom of choice. Verizon asserts that, in addition, its rebalancing plan will lower intrastate access rates and, ultimately, allow residential customers to make more long distance calls at lower prices. Again, Dr. Gordon provided testimonial support for the three ILECs on this point. In addition, Verizon's witnesses Danner and Fulp addressed this issue.

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Similarly, Sprint contends that the creation of a more attractive competitive local exchange market will benefit residential consumers by giving them choices in providers, services, technologies, and pricing options. Sprint maintains that this is what consumers are demanding, and that this range of choice will only be made available through a competitive market. Sprint offered the testimonies of witnesses Staihr and Felz on this point.

BellSouth again argues that its residential rates are supported. BellSouth emphasizes that the testimony of its witness Shell lends further support to the argument that removal of the support for basic local service will bring rates to a level that encourages competition, leading to new choices for consumers, which is the benefit contemplated by the 2003 Act, as well as reduced toll rates. BellSouth's witnesses Banerjee and Ruscilli provided testimony on this issue.

Knology states that its experience in its existing markets provides examples of how the entry of a facilities-based competitor for telephone service expands the products available to consumers, increases the customer service levels, and promotes product and pricing competition. Knology's witness Boccucci emphasizes that telecommunications services are converging, such that a wireless consumer does not really think of his or her service in terms of local versus long distance service. He envisions that with increased competition in the wireline market, the same will hold true for wireline customers. Likewise, he argues that the value for consumers in a competitive market is a converged bill with multiple telecommunications services, upgraded service quality, as well as price competition. He also added that a higher local rate will enable Knology to provide bundled packages at prices economical to seniors on fixed incomes, so that they can receive more economic and better quality service than they do today.

AT&T and MCI agree that the ILECs' proposals will benefit residential consumers as contemplated by Section 364.164, Florida Statutes. They contend that the ILECs' proposals will reduce current deterrents to local market entry and create a more level playing field, which will ultimately induce increased market entry. The result will be to provide consumers, residential and business alike, with a wider choice of providers' offerings and prices. They contend that residential consumers will further benefit from

toll rate reductions and the elimination of any in-state connection fee. Dr. Mayo provided testimony addressing this point on behalf of AT&T and MCI, while witness Fonteix provided additional information on behalf of AT&T.

OPC, AARP, Common Cause Florida, and Sugarmill Woods contend that the ILECs' rebalancing petitions will not benefit residential consumers as contemplated by Section 364.164, Florida Statutes. They assert that the ILECs have not made a showing that the proposed rebalancing of basic local telecommunications service rates would create a more attractive competitive local exchange market for the benefit of residential customers, nor that market entry will be enhanced, because the ILECs' analyses are based on a model that no entrant would ever use. They argue that, moreover, any claims of benefits to consumers based on the removal or reduction of support for residential basic local telecommunications service are moot, since no such support exists. Again, Drs. Gabel and Cooper provided testimony on this point for OPC and AARP, respectively.

Commission staff's witness Shafer testified that the ILECs' proposals will likely result in benefits for residential customers, such as increased value and choice in products.

## 2. Findings and Decision

Upon consideration of the evidence presented, as well as the Legislature's clear policy to enhance competition in Florida's telecommunications market, we find that the ILECs' proposals will ultimately benefit residential consumers as contemplated by Section 364.164, Florida Statutes. As evidenced by the results in other states that have engaged in rate rebalancing, the ILECs' proposals will make the residential market more economically attractive for CLECs, which should lead to an increase in choice of providers. This will be accomplished by increasing in the short term the rate at which residential service can be offered by competitors, leading to increased profit margins for CLECs serving residential customers. Witness Fonteix specifically stated that AT&T's decision to enter BellSouth's territory was ". . . predicated upon an assumption after the passage of the Act that it would be implemented." Furthermore, the witness testified that in AT&T's experience in Michigan and Georgia, where rates have already been

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rebalanced, although basic local service rates initially went up, in the long run, competition drove the price back down.

Companies providing bundled offerings that include both local and long distance service will benefit not only from the increased rate at which residential service can be offered on a competitive basis, but also from the decreased terminating access rate. These changes will make providing bundled packages to residential customers more economically attractive, because companies will increase their profit margin.

Again, as argued by AT&T's witness Fonteix, because the Bell incumbents are now able to enter the long distance market, it is better to proceed with access charge reform, which has been underway at the federal level for some time now. The witness emphasized that waiting will only further harm the long distance market. This testimony was consistent with that of witness Gordon, who maintained that long distance service is overpriced, because of the support provided by access charges to local service. He asserted that as prices come down for long distance service, people will respond by making more long distance calls, which he contends is a benefit to society. He concluded that:

If the toll prices are overpriced, then there will be less calling and that constitutes a loss to society. And there's no reason to have it. It's a very expensive way to achieve the goal in Crandall's and Waverman's point. If you really want to have universal service and you think it's a problem, you know, a policy problem that should be addressed, better that the payments should be made directly in some fashion than by distorting the entire price structure, which is the mechanism we've used to date.

While it is uncontested that some customers will not receive a direct benefit as a result of the implementation of the ILECs' proposals, we find that Florida consumers as a whole will reap the benefits of increased competition and, ultimately, competition will serve to regulate the level of prices consumers will pay. Increased competition will lead not only to a wider choice of

providers, but also to technological innovation, new service offerings, and increased quality of service to the customer. The evidence in this case shows that Knology will continue its plans to enter Florida markets if the Petitions are granted, and will consider broadening the number of Florida markets it enters, as demonstrated through the testimony of witness Boccucci. AT&T witness Fonteix has also indicated that AT&T's entry into BellSouth's territory has been largely influenced by the 2003 Legislation and the hope that with the granting of these Petitions, the raising of local rates will make Florida markets more profitable for competitors. Furthermore, witness Gordon explained that less regulation in the wireless market has not only produced lower prices, but also a beneficial impact on consumer welfare, because the use of the technology has become so prevalent.

While Section 364.164 does not mandate that we consider the degree of benefit to residential customers from long distance rate reductions, our review of the legislative history convinces us that it is within our discretion to do so. Thus, we have considered witness Ostrander's argument that the Petitioners have been unable to quantify the impact of competition, and therefore have been unable to show the benefit to customers. We reject that argument, and find that the preponderance of the evidence in the proceeding shows that the benefits to residential customers as a whole generated by the resulting decreases in long distance rates and elimination of the in-state connection fee will outweigh the increases in local rates. This benefit should be a continuing one, since the IXCs have indicated that they will flow through the reductions on a pro-rata basis according to minutes of access, and the record indicates that market forces should exert enough pressure to ensure that rates are kept low. Furthermore, as in the wireless industry, whose ability to offer bundled packages has been facilitated by the fact that they do not pay the high level of access fees that the wireline carriers do, we anticipate that the reduction in access fees will result in an increase in bundled offerings by wireline carriers and a decrease in the distinction between wireline local and long distance service.

We acknowledge, as OPC, the Attorney General and AARP have argued, that not every residential customer will get a long distance rate reduction, and those who do receive reductions will not necessarily receive reductions that totally offset the increase

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in their rate for local service. Such "bill neutrality" is not required by the statute and, in fact, would be inconsistent with its plain language. First, there could never be "bill neutrality" unless every residential customer made exactly the same number of long distance calls and could therefore share per capita in any long distance rate decreases. Second, Section 364.164 achieves revenue neutrality to the ILEC by permitting it to increase rates for flat-rate residential and single-line business service. Section 364.163, Florida Statutes, in contrast, gives the IXCs discretion in where to flow through their long distance rate decreases so long as some portion of the benefit goes to residential and business customers. As discussed in Section X(D), we find that the IXCs' proposals to flow through these reductions between business and residential customers in proportion to their access minutes of use complies with both the language and spirit of the statute.

Also on this issue, we acknowledge that the testimony from the public hearings was mixed. Many customers did not believe that the ILEC proposals would benefit them, but others were hopeful that they would see competition in their area. Generally, the written comments we received tended to be unfavorable. However, when considered with the economic testimony received through our technical hearing, we find that customers as a whole will benefit as contemplated by the statute. As noted by witness Boccucci, customers will get better quality service for the products they choose, as well as a wider variety of products and providers. The evidence also shows that even those customers that use calling cards or dial-around service will receive benefits from increased competition, as will older citizens that use 1+ calling.

We also acknowledge the customer testimony critical of extended calling service (ECS) rates. In recognition of the concerns raised, we direct our staff to organize a Commission workshop to discuss the history of ECS, the current state of the law on ECS, and what role, if any, ECS has in today's market. The Petitioners have all agreed to participate fully in this workshop. In addition, it is notable that Sprint's petition includes a five-free-call allowance for ECS.

~~Although we find that it is not a benefit that we should weigh in the balance in considering whether or not to grant the~~

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Petitions, we observe that the amended Lifeline provisions in Section 364.10 will help to protect economically disadvantaged consumers from the effect of local rate increases. The use of targeted assistance, rather than implicit rate subsidies, to address this social issue will result in more efficient pricing, which will benefit the competitive market, spur innovations and new product offerings. This is the benefit contemplated by the Legislature when it enacted this legislation and is further supported by the testimony of AT&T/MCI's witness Mayo. As noted by the witness, the ability to target assistance is far more effective at promoting universal service objectives. The witness also testified that targeted assistance is more economically efficient than continuation of implicit support from access charge prices. We agree, and expect that, over time, competition should take care of those protected by Lifeline, in spite of the current limited duration that these customers are protected from the local increases at issue here. The evidence shows that even with the proposed local rate increases, there will not be a significant number of customers that drop off the network. While the need for continued targeted assistance for some customers may foster its own social welfare concerns, those concerns must be balanced with the Legislature's clear intent to move Florida's telecommunications markets towards increased competition.

Furthermore, Dr. Cooper acknowledged that Exhibit 85 indicates that many seniors on fixed incomes take a number of additional services, such as cellular service, cable service, and Internet service. This indicates not only a likelihood that the increases proposed are within the zone of affordability for this segment of consumers, but also, as indicated by witness Boccucci, demonstrates that this segment in particular may see increased benefits as a result of bundled competitive offerings. Similarly, the evidence shows that 53% to 72% of Lifeline customers served by the Petitioners purchase one or more ancillary services.

As argued by witness Mayo, in approaching this task we must balance "hard-headed" economic principles with "soft-hearted" social welfare goals. It is the application of sound economic principles that will bring efficiencies, and as a result, competition to the telecommunications market, while the statute itself provides for targeted assistance that will assist those

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unable to afford the proposed increases.<sup>5</sup> At the end of the day, capitalism and the free market will maximize benefits to consumers in a way that regulation cannot. That is not, however, to say that the companies should not be encouraged to consider their social welfare obligations in targeting assistance to customers and coming up with new ideas to address the needs of the economically disadvantaged.

In the end, we find that the ILECs' proposals meet the statutory requirement set forth in Section 364.164(1)(a), Florida Statutes, providing required benefit of a more attractive competitive telecommunications market for Florida consumers.

#### VII. INDUCE ENHANCED MARKET ENTRY

In this section, we address whether the ILECs' proposals will induce enhanced market entry as required by Section 364.164(1)(b), Florida Statutes.

##### A. Arguments

BellSouth states that by removing implicit support from basic local exchange rates, competitors will have increased business opportunities to attract new customers and offer new products, services, and bundles. BellSouth contends that competitors base their entry decisions on whether or not they can at least match the rates charged by ILECs. BellSouth argues that if these rates are lowered artificially by subsidies, but the incremental costs do not change, then competitors are likely to be deterred from entering the market. BellSouth concludes that this situation limits competition. BellSouth witness Banerjee offered testimony in this regard.

BellSouth further explains that there will never be competitive alternatives for customers who are receiving service at a price below the relevant cost of providing that service. As the

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<sup>5</sup> It is noteworthy that the ILECs have also agreed to the increase the number of customers to whom Lifeline is available to those whose income is 135% or less of the federal poverty level. This increases the pool of Lifeline eligible customers by approximately 119,000 when compared to the 125% standard required by Section 364.10.

price of service is raised to, and above, its relevant costs, such customers become more attractive to competitors, according to BellSouth witness Ruscilli.

Witness Gordon contends that when the price of services increases, a cash flow analysis would show that the investment project becomes more profitable (or less of a loss) and, thus, more attractive for new market entrants. Dr. Gordon adds that technology is changing so rapidly that competitive markets will do a much better job than a monopoly would of discovering which technologies can or cannot succeed in the long run. Dr. Gordon further opines that in order for the lowest cost mix of technologies to remain in the market, price and the signals it sends must not be distorted and must reflect the underlying cost of providing service.

BellSouth emphasizes that lowering intrastate access rates to parity with interstate rates eliminates an artificial discrepancy between two nearly identical services. Lower intrastate access rates make long distance calling more attractive for customers and competitors who wish to bundle long distance service with local service. BellSouth witness Banerjee testifies that the unevenness of the business market versus the residential market entry is attributable in large part to the relationship between end-user rates for basic local telephone service and UNE/UNE-P rates. Dr. Banerjee explains that generally the margins are far more substantial for business service. Unconstrained by public policy or regulation, the CLECs have gravitated naturally to business markets. As indicated by Dr. Gordon, the problem of an unattractive residential market may be worse in Florida than in other states because these other states have higher residential rates, indicating a greater need to rebalance the rates in Florida.

Verizon states that its rate rebalancing plan will bring the prices of its basic local services more in line with costs. Verizon asserts that prices that more closely reflect underlying costs, such as those proposed in its rate rebalancing plan, will increase the likelihood that competitive providers can offer services at a price equal to or lower than that offered by Verizon, and still remain profitable. Verizon contends that as a result, the reformed prices proposed in Verizon's rate rebalancing plan

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will make the local exchange market more attractive to competitors and induce enhanced market entry.

Verizon further contends that by removing implicit support from basic local exchange rates, competitors will be enticed into the market. Verizon contends that Knology's testimony that it decided to enter the Florida market following the passage of the access reduction legislation demonstrates that Verizon's rebalancing proposal will encourage competitive entry. Also, Verizon cites to Dr. Gordon's testimony, which includes statistical studies demonstrating that rebalancing will have a positive effect on competitive entry.

Sprint concurs with BellSouth and Verizon, stating that CLECs will benefit from the higher residential basic prices, without being required to reduce their own intrastate access prices. Sprint contends that rebalancing reduces risk for CLECs, improving the cash flow equation for serving residential customers. Sprint witness Staihr testifies that rebalancing rates for basic local service will create a situation where competitors will find that, on average, a larger percentage of the residential market will be financially attractive to serve. Witness Staihr states further that the current artificially low prices are unsustainable in the face of competition, and they come at a cost: (1) fewer options among services; (2) less innovation; and (3) in large portions of Sprint's territory, no competitive choices. Sprint concludes that rebalancing will induce enhanced market entry, thereby providing customers with the benefits of more choices, enhanced service offerings and greater innovation.

Knology states that the ILEC petitions should be granted because that decision will help to implement the policy underlying Section 364.164, Florida Statutes, and it will enhance the competitive choice available to Florida citizens. Knology identifies itself as a prime example of how granting the ILECs' Petitions will induce enhanced competition. As stated previously, Knology is a facilities-based intermodal competitor offering voice, video and data services over hybrid fiber coax (HFC) and fiber to the curb (FTTC) network in Panama City, with plans to expand in Pinellas County, Florida. Knology has been providing telecommunications services in Florida since 1997 and is currently providing its services to over 275,000 residential and business

customers in Florida. Knology's witness Boccucci testified, however, that Knology's decisions on whether to further expand service in other Florida markets will be greatly influenced by whether or not the ILECs' Petitions are granted.

Knology witness Boccucci testified that the 2003 Act creates the regulatory environment necessary to attract capital investment to expand telephone competition in Florida. Knology contends that granting the ILEC petitions will allow it to attract and deploy new capital investment in Florida, thereby offering consumers a choice in facilities-based providers for new and advanced high-tech services. Knology asserts, however, that if the petitions are not granted, it will be forced to deploy capital in states with more favorable market conditions as it has done in the past.

AT&T and MCI state that economic theory demonstrates that a decrease in overpriced access charges together with an increase in the retail price of residential service will encourage market entry. AT&T and MCI contend that prices are a key signal to prospective entrants regarding the desirability of a particular market. Higher prices relative to cost provide greater inducements for entry. AT&T and MCI contend further that bundled offerings are undermined by excessive access charges, because the lower bound to which competitors can drive prices is defined by the artificially high level of access charges. The presence of excessive access charges will limit the ability of competitors to enter the market. AT&T/MCI witness Mayo offered testimony in this regard. Dr. Mayo opines that the reduction of existing access support will also make the market more attractive for traditional long distance companies to enter the telecommunications market.

Witnesses Mayo and Fonteix testified that the reduction and eventual elimination of the access support is critical to sustainable competition as it will allow CLECs to compete on a more equal footing. Witness Mayo explains that the anemic CLEC market share for residential customers provides prima facie evidence that low residential prices are inhibiting competitive entry.

AT&T states further that reducing intrastate access charges to parity will significantly reduce the ILECs' advantage of receiving large access charge subsidies, thereby moving ILECs and competitors closer to an equal footing and enhancing competition.

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OPC responds that competition will not be enhanced to the residential consumer's benefit, although the ILECs' revenue from inelastic basic local service will be enhanced and the respective ILEC's market share will increase using revenues as a basis of measurement, according to OPC witness Ostrander. Witness Ostrander further contends that there will be no new or unique service introductions and no uniquely associated benefits of capital investment. OPC witness Gabel states that entry decisions are made on the basis of the expected total revenues and costs of all services an entrant can offer, not just one service. If total revenues cover total costs, it is completely irrelevant to a firm's decision to enter a market if one of the components of the offering (e.g. basic local service) may produce a loss according to some measure. Therefore, OPC surmises that a rise in total revenue from current levels may not be sufficient to allow entrants to overcome existing competitive barriers.

AARP concurs with OPC in its basic position that granting the ILECs' petitions will not induce enhanced market entry or increase competition. AARP witness Cooper argues that the Legislature intended that the ILECs be required to demonstrate that competition would, in fact, occur, as opposed to simply being more likely to occur, if the Petitions are approved. Witness Cooper further argues that none of the companies have provided such proof for any of their geographic areas. AARP contends that competition for bundled service is where the focus is in telecommunications. Therefore, AARP concludes that the shifting of costs from intraLATA long distance to basic service will have little, if any, impact on this competition since both are in the bundle.

However, Commission Staff witness Shafer testified that the likelihood of increased market entry is improved by granting the rebalancing petitions, particularly in those markets where profitability is marginal. Witness Shafer states that there appears to be a relationship between the subsidy and market entry, indicating that the removal of the subsidy will also increase market entry. Witness Shafer concludes that one can reasonably expect the ILECs' petitions will create additional market entry, particularly in markets that, to date, have been only marginally profitable or slightly unprofitable.

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B. Findings and Decision

Upon consideration, we are persuaded that granting the ILEC petitions will induce enhanced market entry.

There are two types of evidence that the parties have presented in this case: empirical, which is based on real-life scenarios, and economic theory. We believe that the ILECs have offered strong theoretical and empirical evidence that the proposed changes to intrastate access charges and basic local service rates will improve the level of competition in many markets. The ILECs' witness Gordon testified that when the price of services increases, a cash flow analysis would show that investment in the market becomes more profitable and, thus, more attractive for market entry. BellSouth explains that if these rates are lowered artificially by subsidies but the incremental costs do not change, then competitors ineligible to receive the subsidy are likely to be deterred from entering the market. In addition, AT&T and MCI indicate that the reduction and eventual elimination of the access support is critical to sustainable competition as it will allow CLECs to compete on equal footing with the ILECs. We find that these arguments compelling. We conclude from the evidence presented that entry into the local telephone market is deterred if the ILECs' local service prices are below cost and that rate rebalancing is critical to actually promoting competition.

While OPC and AARP have expressed doubt about the effect that a reduction in access charges will have on competition, they have failed to convince us that these rate reductions will not induce enhanced market entry. To the contrary, Knology presents a model case on the impact that these reductions have had and will have on market entry by CLECs. Witness Boccucci testified that the granting of the ILEC petitions will allow Knology to attract and deploy new capital in Florida, thereby offering consumers a choice in facilities-based providers for new and advanced high-tech services. In addition, AT&T indicated that it has entered the BellSouth territory as a result of the 2003 Act.

We are persuaded that companies like Knology and AT&T provide the empirical evidence of how the ILECs' proposals will increase competition. We note that poor profitability, or limited profitability, is the main deterrent to market entry. We conclude

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that the evidence presented by the ILECs demonstrates that granting the petitions will induce enhanced market entry, thereby promoting competition, as required by Section 364.164(1)(b), Florida Statutes.

For almost 20 years, the telecommunications industry has been in transition from a monopolistic regime to a competitive one. While changes to Florida law and enactment of the Telecommunications Act of 1996 have made great strides in promoting competition, there is still a lack of widespread competition in the residential local exchange market. Implementation of the access reductions and offsetting rate increases permitted by the 2003 Act should serve to enhance competition in this important market.

Based on the foregoing, we find that the existing rate structure impairs competition for residential customers. Granting the ILECs' petitions will result in more attractive pricing for basic local telephone service, providing market entry opportunities for competitors that have been constrained by inefficient pricing in the past. Thus, we find that the petitions filed by BellSouth, Verizon and Sprint to reduce intrastate switched network access charges will induce enhanced market entry.

#### VIII. PARITY

In this section, we address the requirement of Section 364.164(1)(c) that any plan provide for intrastate access rates to be reduced to parity with interstate rates over a period of not less than two years or more than four years.

##### A. Arguments

Verizon contends that its proposal will reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four years. Specifically, Verizon proposes to reduce its composite intrastate access total average revenue per minute (ARPM) from \$.0485441 to \$.0117043 in three increments over two years. The total Verizon reduction would be \$76.2 million.

There was conflicting testimony in the record regarding whether Verizon's inclusion of its non-traffic sensitive interstate

presubscribed interexchange carrier charge (PICC) in the calculation of its switched access charge reduction was appropriate. Verizon's witness Fulp testified that the PICC was included because its interstate access rates include both traffic sensitive and non-traffic sensitive charges. Witness Fulp asserts that the 2003 Act permits the inclusion of the PICC, since the 2003 Act defines the term "intrastate switched access rate" to include the carrier common line charge and the PICC is a federal common line charge. He asserts that because the Act includes common line charges in Verizon's intrastate access rates, the analogous PICC federal common line charge must be included in Verizon's calculation of the interstate ARPM for a consistent comparison.

Verizon's witness Fulp asserts that if the PICC is excluded from its calculation, Verizon would have to reduce its composite intrastate access rate by a greater amount than originally proposed. As such, to preserve revenue neutrality, Verizon's basic local rates would have to increase more than its original proposal. Specifically, the witness explained that if Verizon were to exclude the PICC from the parity calculation, Verizon would have to reduce its access revenues by \$12,679,052 more than originally proposed, and, consequently, Verizon would have to increase its basic local revenues by a corresponding amount. The result would be an increase to Verizon's basic local rates of \$0.86 more than Verizon originally proposed.

AT&T and MCI assert that Verizon's proposal does not correctly reduce its intrastate switched access rates to interstate parity. AT&T witness Fonteix contends that Verizon's inclusion of the PICC is inappropriate for two reasons. He contends that the PICC is not part of the intrastate rate elements. Witness Fonteix asserts that even if the PICC was appropriate for inclusion in the calculation, Verizon should have used the interstate minutes of use in calculating the ARPM rather than the intrastate minutes of use. Finally, Witness Fonteix argues that the PICC should have been excluded because the PICC charge applies to multiline business customers and the access charge reductions allow Verizon to collect business line revenue from all Florida residents.

AARP, Common Cause Florida, and Sugarmill Woods also contend that Verizon's inclusion of the interstate PICC end-user charge in its calculation of intrastate access charges for the purpose of

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rebalancing means that Verizon has failed to comply with the provisions of the Act requiring parity and revenue neutrality. They assert that Verizon's petition should be denied on these grounds.

Sprint asserts that its proposal will reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four. Sprint contends that its petition, testimony, and exhibits demonstrate that rebalancing prices over a two-year period (three annual increments) will provide the marketplace with the appropriate competitive signals and will not result in consumer rate shock. Sprint's initial proposal was to reduce its access rate by \$62,319,890 the first year, \$56,211,862 the second year, and \$23,541,711 the third year. Sprint's total proposed reduction is \$125.2 million. However, during closing arguments Sprint agreed to spread its reduction and corresponding increase in four steps over a period of three years, consistent with the position advocated by Commission staff witness Shafer. Under Sprint's revised proposal, the basic local telecommunications services increases will be \$2.25 the first year, \$2.25 the second year, \$1.50 the third year, and \$0.86 the fourth year.

BellSouth contends that its proposal will reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four. BellSouth asserts that its proposed increases will occur over three installments, 1<sup>st</sup> quarter 2004, 1<sup>st</sup> quarter 2005, and 1<sup>st</sup> quarter 2006. BellSouth presents two alternative methodologies by which parity can be achieved: "mirroring" and the "typical network." Witness Ruscilli testified that BellSouth's proposed reductions under either methodology will be 40% in the 1<sup>st</sup> quarter of 2004, 35% in the 1<sup>st</sup> quarter of 2005, and 25% in the 1<sup>st</sup> quarter of 2006. Witness Ruscilli further testified that BellSouth's proposal reaches parity in 24 months, consistent with the requirement in Section 364.164(1)(c), Florida Statutes, that parity be reached in not less than 2 years and not more than 4 years.

AT&T and MCI assert that BellSouth's "mirroring" proposal appears to correctly reduce its switched access rates to interstate parity, but they contend that BellSouth's "typical network" proposal does not. Witness Fonteix explains that BellSouth's

"mirroring" methodology appropriately quantifies the revenue impact of the intrastate rate reductions necessary to achieve parity by multiplying the demand times the difference between its intrastate and interstate tariffed rates. However, witness Fonteix asserts that BellSouth's "typical network" methodology is inappropriate because it targets only a select set of rate elements to equal interstate rate levels, and thus fails to address all of the rate elements in the statutory definition of intrastate switched network access rate.

Witness Shafer contends that Sprint should extend its implementation of access reductions and increases to basic local service rates by 12 months in order to mitigate rate shock to consumers. Witness Shafer testified that while the statute did not directly address or define rate shock, the statute does provide for a transition period for the access charge and basic local service rate adjustments of not less than 2 years and not more than 4 years. He asserts that due to this range it is reasonable to infer that the Legislature recognized the concept of rate shock or rate reasonableness. Witness Shafer asserts that it would be appropriate for Sprint to implement an additional incremental rate adjustment 36 months after the initial adjustment in order to complete its transition to parity. He argues that this would put Sprint's residential customers more on par with those of BellSouth and Verizon in terms of the amount of the increase they receive at any one time.

#### B. Findings and Decision

Section 364.164(1)(c), Florida Statutes, requires that we consider whether the Petitions will require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years. We find that each of the three amended Petitions meets the requirement of 364.164(1)(c), Florida Statutes.

As noted above, there was testimony regarding whether it was appropriate for Verizon to include the PICC in its access charge reduction calculation. Section 364.164(6), Florida Statutes,

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defines the term "intrastate switched network access rate" as:

. . . the composite of the originating and terminating network access rate for carrier common line, local channel/entrance facility, switched common transport, access tandem switching, interconnection charge, signaling, information surcharge, and local switching. (Emphasis added.)

Based on the definition in the statute, as well as the testimony of witness Fulp, we are persuaded that the PICC can be included in the calculation of the interstate rate target, since it was developed to recover nontraffic sensitive charges that were originally in the traffic sensitive carrier common line charge. In construing the statute in this manner, we are mindful that the interpretation advocated by other parties would result in a higher overall charge to the consumer. Thus, we conclude that Verizon's explanation for inclusion of the PICC is not inconsistent with the statute and find that Verizon's methodology for calculating its switched access charge reduction complies with Section 364.164(1)(c), Florida Statutes.

We note that witness Shafer testified that it would be appropriate for Sprint to implement an additional incremental rate adjustment 36 months after the initial adjustment in order to complete its transition to parity. However, we find that Sprint's original proposal met the criteria set forth in Section 364.164(1)(c), Florida Statutes. We also note that Sprint subsequently agreed to spread its reduction and corresponding increase over a period of three years and that this revised proposal also meets the statutory criteria.

Finally, we address which of BellSouth's methodologies, "mirroring" or "typical network," is the appropriate method to be applied in the next section. However, we find that either method meets the "parity" criteria set forth in Section 364.164(1)(c), Florida Statutes.

IX. REVENUE NEUTRALITY

In this section, we address whether the ILECs' proposals will achieve revenue neutrality as required by Section 364.164(1)(d), Florida Statutes.

A. Arguments

Verizon contends that its rate rebalancing plan is revenue neutral, as defined in the statute. Verizon asserts the plan will reduce Verizon's intrastate switched network access rates by \$76.2 million and offset that reduction with a corresponding increase in basic local rates. Verizon proposes incremental residential local service rate increases of \$1.58 in its first increment, \$1.58 in its second increment, and \$1.57 in its third increment.<sup>6</sup> Verizon asserts that single-line business recurring rates will be raised to \$32.00 per month. Verizon proposes to raise its network establishment charge and central office connection charges by \$5.00 over three increments. Verizon proposes to raise its non-recurring single line business network establishment charges by \$0.10.

Sprint asserts that, as demonstrated by the testimony and exhibits it filed, rebalancing will be accomplished in a revenue neutral manner. Sprint testified that it will be reducing its switched network access charges by a total of \$142.1 million. Sprint initially proposed basic residential rate increases of \$2.95 for increment one, \$2.75 for increment two, and \$1.16 for increment three for a total of \$6.86. However, as noted previously, Sprint agreed in its closing argument to four incremental increases of \$2.25 in 2004, \$2.25 in 2005, \$1.36 in 2006, and \$1.00 in 2007. Sprint also proposes to increase its single-line business rates by \$2.70 in the first increment, \$2.40 in the second increment, and \$0.90 in the third increment.

BellSouth argues that its proposal, using either methodology, reflects a reduction in intrastate access that will be rebalanced through increases in basic local exchange rates. Witness Hendrix

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<sup>6</sup> We note that Verizon in its closing argument agreed to increase the amount it recoups through non-recurring revenues from \$1.2 million to \$2.4 million, so that basic local rates will be raised by \$1.2 million less than originally requested.

explains that the "mirroring" methodology actually mirrors the recurring rate elements listed in Section 364.164(6), namely the carrier common line, local channel/entrance facility, switched common transport, access tandem switching, interconnection charge, signaling, information surcharge, and local switching. He testified that the revenue impact of reducing these elements to interstate parity is \$136.4 million. Under the "mirroring" methodology, BellSouth would raise residential recurring rates a \$1.39 in the first increase, \$1.38 in the second increase, and \$1.09 in the third increase, for a total of \$3.86 per month. BellSouth proposes to raise single line business to \$25 (rate groups 1-3), \$28 (rate groups 4-6), and \$30.20 (rate groups 7-11, X2, X4) in two equal installments. BellSouth also proposes to raise its non-recurring charges in three installments.

Witness Hendrix also explained that BellSouth's "typical network" methodology achieves parity by comparison of the "typical network" composite rate for interstate switched access with the composite rate for intrastate switched network access utilizing the rate elements in BellSouth's annual filing with this Commission, the Florida Access and Toll Report, Tables 1 and 2. He further testified that the revenue reduction resulting from the achievement of parity using the "typical network" methodology is \$125.2 million. Under the "typical network" methodology, BellSouth would raise residential recurring rates a total of \$3.50; \$1.25 for the first increase, \$1.25 for the second increase; and \$1.00 for the third increase.<sup>7</sup> BellSouth's proposal to raise single line business rates remains the same as set forth under the "mirroring" methodology, as does its proposed increase in non-recurring charges.

Witness Hendrix asserts that the difference in the revenue impact between these two methodologies stems from the number of rate elements utilized in each methodology. He contends that both methodologies use the most recent 12-months' demand to determine the intrastate switched network access revenue reduction. He asserts that the "mirroring" methodology uses all of the recurring switched network access rate elements, whereas the "typical network" methodology uses the limited, specific rate elements that

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<sup>7</sup>BellSouth agreed to increase its non-recurring charge so that the single line residential rates would be lowered by approximately \$0.36.

are considered to be representative of averages for BellSouth's network. Witness Hendrix testified that use of composites from a typical network is consistent with the Commission's past practice for determination of switched access revenue reductions.

AT&T and MCI contend that the ILECs' rebalancing proposals appear to be revenue neutral notwithstanding any failures to correctly reach interstate parity. Under the parity section, AT&T and MCI argued that BellSouth's "mirroring" methodology, but not the "typical network" methodology, meets the criteria for parity. As noted previously, witness Fonteix claims that BellSouth's "typical network" methodology targets only a select set of rate elements to equal interstate rate levels, and thus fails to address all of the rate elements in the statutory definition of intrastate switched network access rate.

AARP, Common Cause Florida, and Sugarmill Woods assert that the ILECs have not substantiated that their respective intrastate long distance rate reductions for residential customers will equal their corresponding basic long distance telecommunications service increases. They further assert that Verizon's inclusion of the interstate PICC end-user charge in its calculation of intrastate access charges for the purpose of rebalancing results in Verizon's failure to comply with the provisions of the Act requiring both parity and revenue neutrality. They conclude that Verizon's petition should be denied on these grounds.

The Attorney General argues that the ILECs have not substantiated that their respective intrastate long distance rate reductions for residential customers will equal their corresponding basic local telecommunications services increase. He argues that the ILECs have failed to demonstrate that the increase is revenue neutral.

#### B. Findings and Decision

AARP, Common Cause Florida, and Sugarmill Woods, articulate their specific position that because the PICC should not have been included in Verizon's switched network access charge reduction, Verizon's petition is not revenue neutral. For the reasons noted in the previous section, we find that it is appropriate for Verizon to include the PICC in its switched network access charge reduction

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calculation. Given that the PICC is appropriately included, we find that Verizon's proposed revenue reduction and basic rate increases are revenue neutral. Thus, we find that Verizon's proposal meets the criteria set forth in Section 364.164(1)(d), Florida Statutes. We also find that Sprint's proposed revenue reduction and basic rate increases are revenue neutral.

BellSouth has proposed two methodologies, "mirroring" and "typical network," which could be used to achieve revenue neutrality. We find that both the "mirroring" and "typical network" methodologies meet the statutory requirements for revenue neutrality. We note that the "typical network" methodology provides for less of an increase in basic local residential rates. Thus, we find it appropriate to approve the "typical network" methodology as the methodology which has a lesser impact on the local rates. In addition, we find that BellSouth's proposal meets the criteria set forth in Section 364.164 (1)(d), Florida Statutes.

Section 364.164(1)(d), Florida Statutes, requires that we consider whether approving the ILECs' proposals will be revenue neutral as defined in subsection (7) within the revenue category defined in subsection (2). Subsection (7) states that "revenue neutrality" means that the total revenue within the revenue category established by the statute remains the same before and after the local exchange telecommunications company implements any rate adjustments under this section. Subsection (2) states that once the ILEC petitions are granted, the local exchange telecommunications company is authorized to immediately implement a revenue category mechanism consisting of basic local telecommunications service revenues and intrastate switched network access revenues to achieve revenue neutrality. We find that each of the three amended Petitions meet the revenue neutrality requirement of 364.164(1)(d), Florida Statutes.

Furthermore, contrary to the position taken by the Attorney General in these proceedings as further elucidated in Section VI(C) of this Order, we find the statute does not require that implementation of the proposals be "bill neutral" to any particular customer or class of customers.

X. FLOW-THROUGH CONSIDERATIONS

In this section, we consider the proper application of Section 364.163, Florida Statutes. We note that for each of the flow-through issues, Common Cause Florida and Sugarmill Woods adopted the position of AARP.

A. Applicability and Content of Flow-Through Tariffs.

This section addresses which IXCs should be required to file flow-through tariffs and what information should accompany those filings.

1. Argument

AT&T and MCI argue that all IXCs should be required to flow through the switched access reductions they receive in order to keep long distance carriers on a level playing field. For competitive neutrality, any flow-through conditions imposed must be applied to all IXCs. However, AT&T and MCI would not be opposed to a de minimus threshold established by this Commission for those IXCs for which the flow-through would have no meaningful impact. Such threshold, however, should be set sufficiently low to allow only those IXCs with very low volume of access use to qualify.

BellSouth Long Distance notes that Section 364.163, Florida Statutes, requires that all IXCs who benefit from the access reductions must flow through the benefits. Also, a company's tariff filings should specify the rates to be reduced and contain a statement of the particular company's corresponding anticipated revenue reduction.

Sprint Communications Company's conditional position is that any IXC paying more than \$1 million in access charges should be required to demonstrate that the required flow-through has occurred. It is not clear that the demonstration of flow-through should occur in the tariff filings. The demonstration of compliance with the statutory requirements should be up to each company and should insure that confidentiality is maintained where needed. Tariffs should reflect rates and charges that flow through benefits of reduced access charge prices.

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Verizon Long Distance argues that any IXC that receives the benefit of intrastate switched access rate reductions must file intrastate tariffs (if tariff filings are required) flowing through such reductions. An IXC reseller should not be required to reduce prices to its customers unless it receives a reduction in the prices it is charged by its facilities-based supplier. IXCs should have the discretion to determine how to flow through the access charge reductions by lowering the in-state per minute rates, or monthly recurring plan charges, or both. If this Commission should decide to deregulate long distance services and eliminate long distance tariffing obligations, Verizon contends the reductions should be passed through to end users under end user service agreements.

OPC and AARP urge that all IXCs in Florida should be required to file tariffs and flow through the impacts of access rate reductions, except for those IXCs whose intrastate access expense reduction is \$100 or less, per month. Those IXCs which are not required to flow through the reductions should attest to such, via a letter filed with this Commission. These flow-through reductions should be directed to residential customers in the same proportion as the basic local telephone service revenue increases proposed by the ILECs. Included in these tariff filings should be the information delineated in the testimony of witness Ostrander.

The Attorney General argues that all IXCs in Florida should be required to file tariffs and flow through the impacts of access rate reductions, except for those IXCs whose intrastate access expense reduction is \$100 or less, per month. Those IXCs which are not required to flow through the reductions should attest to such, via a letter filed with this Commission.

## 2. Findings and Decision

There appears to be little disagreement among the parties as to the fact that the savings must be flowed through. There is disagreement, however, as to the type of documentation that should be required to demonstrate that this requirement has been met.

Upon consideration, all IXCs that paid \$1 million or more in intrastate switched access charges within the most recent 12 month period shall include in their tariff filings: (1) a calculation of

the dollar benefit associated with the LEC's intrastate access rate reductions; (2) separate demonstrations that residential and business long distance rates have been reduced and the estimated annualized revenue effect, residential and business, including how those estimates were made; and (3) a demonstration that all rate reductions have been flowed through.

Further, IXCs that paid less than \$1 million in intrastate switched access charges within the most recent 12-month period shall include in their tariff filings a letter certifying that they paid less than \$1 million in intrastate switched access charges within the most recent 12 month period, and that they have complied with each of the flow-through requirements as specified in Section 364.163(2), Florida Statutes. Any IXC whose intrastate switched access expense reduction is \$100 or less per month shall not be obligated to flow through its reduction, but must attest to such through a letter filed with this Commission.

Finally, we direct our staff to work with the parties on an appropriate reporting format with consideration given to the formats used to demonstrate the 1998 access charge reduction flow throughs. In addition, our staff shall be diligent in assuring compliance with the requirements of this Order.

#### B. Timing

This section of our Order addresses the appropriate timing for filing of the IXC flow-through tariffs required by this Order.

##### 1. Argument

AT&T and MCI state that it is unnecessary to set the exact same filing dates for both the ILECs and IXCs. They maintain the statute clearly requires the IXC's revenues to be reduced by the amount of access reductions it receives, but does not specify a time frame for making the reduction. They believe IXCs need a sufficient amount of time to both calculate the savings they will receive and to prepare tariffs for filing. As such, they argue that IXCs should be allowed 60 days from the date the ILEC files its access tariff revisions to file any IXC tariff revisions for flow-through. If this Commission chooses to mandate the ILEC and IXC tariffs be effective simultaneously, the ILEC access tariff

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revisions should be filed 60 days in advance of the effective date so that IXCs have the time necessary to conduct their analysis and file their tariffs, according to AT&T and MCI.

BellSouth Long Distance notes that affected IXCs should file their tariffs to flow through the access reductions within 15 days of the effective date of the last of the three LECs' filings. This would allow the carriers to avoid unnecessary multiple filings.

Sprint Communications Company's position is that IXCs should be allowed to have up to 60 days from the time that ILECs access reductions are effective in order to implement the tariff, billing and other administrative changes necessary to flow through the price adjustments.

Verizon Long Distance argues that facilities-based IXCs that benefit from reductions in the price of access should be required to pass through rate reductions via their intrastate tariffs (if tariffs are required), as soon as possible after the approved ILEC access rate reductions. Non-facilities-based IXCs should be required to flow through access charge reductions when they are received from the underlying facilities-based carrier. Since the flow-through of the access charges will require facilities-based carriers as well as IXC resellers, to make modifications to, for example, billing systems, rate tables, marketing and fulfillment materials, carriers should be given a reasonable amount of time to implement necessary plan and system changes before they are required to pass through access rate reductions.

On cross-examination, most of the IXC witnesses conceded that tariffs could be filed within 44 days after an ILEC's access charge tariff filing.

OPC, AARP and the AG all simply state that IXCs should be required to flow through the benefits of any rate reductions, via the tariffs, simultaneously with the approved ILEC access rate reductions.

## 2. Findings and Decision

Based on past experience with the 1998 access charge reduction flow-through, IXC's have not had difficulty complying with filing requirements as short as 21 and 30 days. We have heard no compelling testimony as to why, for the present dockets, 44 days from the filing of the ILEC tariffs is not a reasonable time frame for filing of the IXC tariffs. The ILECs are required by Section 364.164(2), Florida Statutes, to give 45 days notice before tariffs go into effect, but IXC's need give only one day's notice. The goal of this requirement would be to have the ILEC and IXC tariffs become effective simultaneously. Accordingly, the IXC tariffs shall be required within 44 days after the filing of the ILECs tariffs, and the ILEC and IXC tariffs shall become effective simultaneously.

### C. Duration of Revenue Reductions

Here, we address the appropriate duration of the IXC revenue reductions necessary to fully flow through the benefits of the access charge reductions to customers.

#### 1. Argument

AT&T and MCI state that the highly competitive long distance market should and will decide this issue. They urge that specific restrictions have been unnecessary in the past, and could have negative consequences. In a highly competitive market, imposing any restrictions on the length of time a revenue reduction is in place could place the IXC's at a disadvantage in that it could prevent an IXC from implementing a pricing strategy that maximizes its competitive position. AT&T and MCI state that, should this Commission mandate the time period over which the reductions should be maintained, it would be the first time such a mandate has been imposed. In the earlier flow-throughs identified in these proceedings, this Commission did not impose a period of time that the rate reductions must be in place.

BellSouth Long Distance argues that, given the completely and irrevocably competitive nature of the intrastate interexchange long distance market in Florida, market forces will ensure that any long distance revenue reductions resulting from the flow-through of

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access charges will remain in place. There is significant and considerable competition among traditional long distance carriers as well as competition from other providers, such as voice over internet protocol providers and wireless carriers. According to BellSouth Long Distance, this competition will cause carriers to move their prices toward cost and prevent them from raising rates. Intrastate interexchange carriers should have the flexibility to change rates to meet market conditions, as long as they reduce their revenues in an amount equal to their access charge reductions.

Sprint Communications Company's conditional position is that market forces will insure that the revenue benefits of access reductions will be effective in maintaining the revenue benefits of the access reductions. Nevertheless, each provider required to make a flow-through filing should reduce average prices by an amount at least equivalent to the access reduction on a per minute basis and should maintain those average price reductions for all three years of the access reductions plus at least one additional year.

Verizon Long Distance urges that the long distance market is highly competitive in that the traditional wireline long distance carriers compete against each other as well as with wireless carriers, cable companies and IP telephony providers. Competition will ensure that IXCs flow through access reductions without any need for Commission intervention. Nevertheless, to remove any doubt about whether customers will actually receive the benefit of the access reductions, Verizon Long Distance (and its affiliates) agree to flow through the reductions for three years. After that time, Verizon Long Distance argue IXCs should be free to change their long distance rates in accordance with the demands of the marketplace.

OPC, AARP and the AG argue that the IXCs should be required to cap and maintain their long distance rate reductions for a period of three years after parity is achieved, as required by Section 364.163, Florida Statutes, and as further described by witness Ostrander.

## 2. Findings and Decision

We find that, in order to implement the intent of the statutory requirements, there needs be a period of rate certainty after parity is achieved. We are not, however, persuaded by the arguments that we should mandate that the reductions remain in effect for a period of three years after parity is achieved. This is contrary to the fact that the long distance market is highly competitive, and as noted by witness Kapka, market forces will likely prove effective in keeping long distance rates low over the long term. Accordingly, we find that rate reductions shall remain in effect for no less than one year subsequent to parity being accomplished.

### D. Allocation of the Flow-Through Benefits between Residential and Business Customers.

Here, we address the proper method for allocating the flow-through benefits between residential and business customers.

#### 1. Argument

AT&T and MCI argue that the 2003 Act simply requires the IXCs to return the benefits of access reductions to both residential and business customers. However, it does not micro-manage the IXC market by mandating a methodology or specific allocation between the customer classes. In doing so, the Act recognizes the competitive market will determine the specifics of the access flow-through. They argue the 2003 Act specifically has given IXCs the maximum flexibility to determine how best to make reductions that meet the needs of the market place. As long as both residential and business customers benefit, each IXC should be left to accomplish its flow-through consistent with its market needs, according to the companies. In addition, each IXC must eliminate any in-state connection fee by July 1, 2006.

BellSouth Long Distance urges that both residential and business customers must receive benefits from the reduction in access charges, but emphasizes that Section 364.163, Florida Statutes, does not require any specific allocation. Nonetheless, under current market conditions, and so long as the other carriers agree to do so, BellSouth Long Distance will allocate the revenue

reductions in an approximately pro rata manner between residential and business customers based upon access minutes of use.

Sprint Communications Company states that the methodology contained in witness Kapka's direct testimony should be a guide for flow-through. In his testimony, witness Kapka explained his methodology as follows:

For services which are substantially used by residential subscribed customers, Sprint would determine the average revenue per minute for these services in the aggregate. With each reduction in access charges, Sprint would adjust the average revenue per minute for this base of customers such that the average revenue per minute would be reduced by an amount at least equal to the reduction in access charges per minute. . . . This general approach will ensure that the residential subscriber base will experience a reduction in long distance prices at a level at least as much as the reduction in access costs associated with long distance minutes that customer segment consumes.

Verizon Long Distance (and the Verizon affiliates) plan to flow through the benefits realized from access reductions to both residential and business customers based on the relative proportion of access minutes associated with those classes of customers. The amount of intrastate switched access that Verizon Select Services uses is significantly less than the amount that Verizon Long Distance uses.

The position of OPC, AARP and the AG is that the IXCs should allocate rate reductions between residential and business customers in the same proportion as the respective percent revenue increases for those two classes of customers that have been proposed by the ILECs.

## 2. Findings and Decision

Each of the IXCs has agreed that the allocation of rate reductions between the residential and business customer classes should be in proportion to the respective access minutes of use. While we have considered the argument that the reductions should be

allocated in accordance with the increases on the local exchange side, we are not persuaded that this is feasible, economically appropriate, or even contemplated by the statute. Accordingly, we acknowledge the reasonableness of the IXC proposals that the allocation of the rate reductions being flowed through to residential and business customers on a pro-rata basis according to access minutes of use is reasonable.

XI. CONCLUSION

Based on the foregoing, we hereby grant the Petitions of Verizon, Sprint, and BellSouth as filed in Dockets Nos. 030867-TL, 030868-TL, and 030869-TL, as amended by commitments made on the record at the final hearing. In doing so, we find that these Petitions meet the statutory criteria set forth in Section 364.164, Florida Statutes, and that granting the Petitions furthers the Legislature's stated policy of furthering competition in the local exchange market and promoting new offerings and innovations in the telecommunications market for Florida consumers.

We hereby accept and approve the additional proposals offered by the companies as listed below:

BELLSOUTH	SPRINT	VERIZON
Increase non-recurring charges so that the single line residential rates would be lowered by approximately 36 cents.	Increases to basic residential recurring and non-recurring rates would be in four steps spread over three years.	Increase non-recurring revenues from \$1.2 million to \$2.4 million so that basic local rates can be raised by \$1.2 million less than requested.
Increase Lifeline eligibility to 135% of the federal poverty level.	Increase Lifeline eligibility to 135% of the federal poverty level.	Increase Lifeline eligibility to 135% of the federal poverty level.
	Lifeline rates would not be increased for four years.	Lifeline rates would not be increased for four years.

BELLSOUTH	SPRINT	VERIZON
Will work with PSC to review ECS in a Commission workshop.	Will work with PSC to review ECS in a Commission workshop.	Will work with PSC to review ECS in a Commission workshop.

The tariffs reflecting the ILECs' agreement to increase Lifeline eligibility to 135% of the federal poverty level shall be effective concurrently with the ILECs' 45-day tariff filings.

In addition, the IXCs shall flow through the benefits resulting from the granting of the ILECs' Petitions in accordance with the specific requirements set forth in Section X of this Order.

Finally, Commission staff is hereby authorized to administratively review and approve the tariff filings received implementing these proposals.

It is therefore

ORDERED by the Florida Public Service Commission that the Petitions filed by Verizon Florida, Inc., Sprint-Florida, Incorporated, and BellSouth Telecommunications, Inc., in respective Dockets Nos. 030867-TL, 030868-TL, and 030869-TL are hereby approved as set forth in the body of this Order. It is further

ORDERED that the modifications proposed by these companies are also accepted and approved as set forth herein. It is further

ORDERED that the tariffs implementing the increased Lifeline eligibility criteria shall be effective concurrently with the Petitioners' 45-day tariff filings. It is further

ORDERED that the flow through of the access charge reductions by the interexchange carriers shall proceed in accordance with the provisions set forth herein and within the timeframes specified. It is further

ORDERED that a Commission workshop shall be conducted to investigate Extended Calling Service, as prescribed herein. It is further

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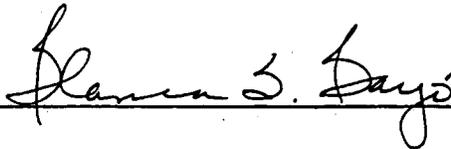
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ORDERED that Commission staff is hereby authorized to administratively review and approve the tariffs implementing these decisions. It is further

ORDERED that these Dockets shall be closed after the time for filing an appeal has run.

By ORDER of the Florida Public Service Commission this 24th day of December, 2003.



BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

RDM/BK/FRB/PAC/CLF

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

Public Service Commission

January 12, 2004

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: Harold McLean, Public Counsel, vs. Lila A. Jaber, Chairman, et al.  
(Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TD)**

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Appeal, filed in this office on January 7, 2004, on behalf of Harold McLean, Public Counsel. Also enclosed is a copy of Order No. PSC-03-1469-FOF-TL, the order on appeal.

It is our understanding the index of record is due to be served on the parties to this proceeding on or before February 26, 2004.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records and Hearing Services

Enclosure

cc: David Smith, Esq., Office of the General Counsel  
Harold McLean, Esq., Office of the Public Counsel  
Parties of Record

IN THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida, Inc. to Reform Intrastate Network Access and Basic Local Telecommunications Rates in Accordance with Section 364.164, Florida Statutes.

Docket No. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to Reduce Intrastate Switched Network Access Rates to Interstate Parity in Revenue - Neutral Manner Pursuant to Section 364.164(1), Florida Statutes.

Docket No. 030868 - TL

In re: Petition for Implementation of Section 364.164, Florida Statutes, by Rebalancing Rates in a Revenue - Neutral Manner Through Decreases in Intrastate Switched Access Charges With Offsetting Rate Adjustments for Basic Services, By BellSouth Telecommunications, Inc.

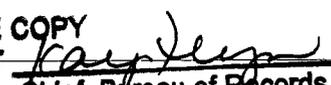
Docket No. 030869-TL

In re: Flow-through of the LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.

Docket No. 030961-TI

NOTICE OF APPEAL OF HAROLD MCLEAN,  
PUBLIC COUNSEL, STATE OF FLORIDA.

NOTICE IS GIVEN that Harold McLean, Public Counsel, State of Florida, Appellant, appeals to the Florida Supreme Court, the order of this Public Service Commission, rendered on December 24, 2003. A copy of this order is attached. The nature of the order is a Final Order of this Commission which approved the Access Charge Reduction Petitions of Sprint, Verizon and BellSouth and allows these companies to raise their basic rates and approved the flow-through of LEC switched access reductions by IXCs in the manner set forth in their petitions.

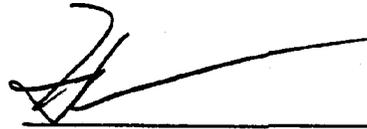
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Chief, Bureau of Records and  
Hearing Services

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DATED this 7th day of January, 2004.

Respectfully submitted,

HAROLD MCLEAN  
PUBLIC COUNSEL

A handwritten signature in black ink, appearing to be 'H. McLean', written over a horizontal line.

HAROLD MCLEAN  
Florida Bar No. 0193591  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399  
Tel: (850) 488-9330  
Fax: (850) 488-4491

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL

In re: Flow-through of LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.

DOCKET NO. 030961-TI  
ORDER NO. PSC-03-1469-FOF-TL  
ISSUED: December 24, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

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APPEARANCES:

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On behalf of Verizon Florida, Inc.

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On behalf of BellSouth Telecommunications, Inc.

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On behalf of Knology of Florida, Inc.

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On behalf of the Office of the Attorney General.

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Civic Association.

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#### ORDER ON ACCESS CHARGE REDUCTION PETITIONS

##### I. INTRODUCTION AND HISTORY

The telecommunications industry is in transition from an industry characterized by regional monopolies to one characterized by national competition. For most of its history, telephone service was furnished on a monopoly basis by a single provider. In exchange for a statutory monopoly, the telephone company was subject to economic regulation that gave it the opportunity to earn a fair rate of return on its investment. In this monopoly regime, prices for long distance and other premium services were set substantially above cost based on value of service principles. At

the same time, local telephone service was priced residually to advance the social policy goal of providing universal service.

Effective January 1, 1984, this monopoly regime was radically changed nationwide by the entry of the "modified final judgment"<sup>1</sup> which reorganized AT&T and divested it of its local telephone companies, restricted the operating areas of the local telephone companies, and provided for competitive interstate long distance service. See, Microtel, Inc. v. Florida Public Service Commission, 483 So.2d 415, 416 (Fla. 1986) (Microtel II). In apparent anticipation of the forthcoming consent judgment in the AT&T case, and motivated by a desire to promote competitive long distance telephone service within Florida, the Legislature in 1982 amended Florida law to allow the Commission to issue certificates for competitive intrastate long distance service. Id. at 417-418. As the Florida Supreme Court recognized in Microtel Inc. v. Florida Public Service Commission, 464 So.2d 1189, 1191 (Fla. 1985) (Microtel I), the 1982 Legislature made the "'fundamental and primary policy decision' that there be competition in long distance telephone services" in Florida.

As long distance competitors entered the market, state and federal regulators instituted a system of intercarrier compensation under which long distance companies paid "access charges" to the local exchange telephone companies for the use of the local networks to originate and terminate long distance calls. As the record reflects, these access charges were initially set to take the place of the revenue that had been provided by long distance service under the monopoly regime.

A decade after the introduction of long distance competition, the landscape in the telecommunications industry changed again with the elimination, first in Florida and then nationwide, of the statutory monopoly for local exchange service. In 1995, the Florida Legislature amended Chapter 364, Florida Statutes, to allow

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<sup>1</sup> United States v. American Telephone and Telegraph Co., 552 F. Supp 131 (D.D.C. 1982) aff'd sub nom, Maryland v. United States, 460 U.S. 1001 (1983), as subsequently modified by United States v. Western Electric Co., 569 F. Supp. 990 (D.D.C. 1983) and United States v. Western Electric Co., 569 F. Supp. 1057 (D.D.C.), aff'd sub nom, California v. United States, 464 U.S. 1013 (1983).

for competition in the provision of local service. The Legislature found that "the competitive provision of telecommunications services, including local exchange service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure." Section 364.01(3), Florida Statutes. In conjunction with the opening of the local exchange market to competition, the incumbent local exchange companies (ILECs) were permitted to elect to substitute price regulation for the former rate base, rate of return regulation. Section 364.051, Florida Statutes.

The opening of the Florida local market to competition was followed the next year by the enactment of the federal Telecommunications Act of 1996 (1996 Act). Pub. L. No. 104-104, 104th Congress 1996, 110 Stat. 56, 47 U.S.C. §§ et. seq. This act established a national framework to enable competitive local exchange carriers (CLECs) to enter the local telecommunications market and to allow the former Bell Operating Companies to reenter the interLATA long distance market. The purpose of the 1996 Act was to bring the benefits of competition to all telecommunications markets by creating a pro-competitive, de-regulatory national policy framework. Senate Rpt. 104-023, entitled "Telecommunications Competition" (March 30, 1995).

Over the 19 years since the introduction of long distance competition, both interstate access charges and intrastate access charges have been reduced. Despite these reductions, the record shows that intrastate access charge rates in Florida are among the highest in the nation and are substantially above interstate access charge rates. The record also shows, as further analyzed in Section VI(B) of this Order, that intrastate long distance rates in Florida (through which an IXC must recover, among other things, its intrastate access charge costs) are likewise among the highest in the nation, and are substantially above interstate long distance rates. Local service rates in Florida, however, are the lowest in the Southeast.

While the long distance market is now vigorously competitive, local wireline competition has progressed more slowly, particularly in the residential market. At the same time, wireline companies

are facing increased competition from providers using alternative technologies such as wireless, cable, and voice over internet protocol (VoIP). See FPSC Annual Report on Competition (June 30, 2003).

Against this backdrop, the Florida Legislature, during the 2003 Regular Session, enacted the Tele-Competition Innovation and Infrastructure Enhancement Act (2003 Act), which became effective on May 23, 2003. In broad terms, the 2003 Act allows the Commission to consider whether allowing the ILECs to reduce their intrastate access charges to interstate levels, and to make offsetting increases in local service rates, will further the Legislature's goal of increasing competition in the local telephone market. By returning some regulation of intrastate access charges to the Commission, the Legislature has given us the tools to address the question of whether access charges in fact support artificially low local service rates that may be impairing the implementation of competition in the local telephone market.

A key provision in the 2003 Act, Section 364.164, Florida Statutes, provides a process by which ILECs may petition this Commission to reduce their intrastate switched network access rates in a revenue-neutral manner. We are required by law to issue our final order granting or denying any such petition within 90 days of the filing. In reaching our decision, Section 364.164(1), Florida Statutes, sets forth four mandatory criteria we must consider. Those criteria are:

[W]hether granting the petition will:

- (a) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.
  - (b) Induce enhanced market entry.
  - (c) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.
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- (d) Be revenue neutral as defined in subsection (7), within the revenue category defined in subsection (2).

In laymen's terms, subsection (1)(d) means that any ILEC that is permitted to reduce its intrastate switched network access rates may offset those reductions through simultaneous increases in the local rates charged to its flat-rate residential and single-line business customers.

In addition, Section 364.163(2), Florida Statutes, provides a mechanism to ensure that any IXC that receives the benefits of access charge rate reductions will flow those benefits through to both residential and business customers in the form of lower intrastate long distance rates:

Any intrastate interexchange telecommunications company whose intrastate switched access rate is reduced as a result of the rate adjustments made by a local exchange telecommunications company in accordance with s. 364.164 shall decrease its intrastate long distance revenues by the amount necessary to return the benefits of such reduction to both its residential and business customers. The intrastate interexchange telecommunications company may determine the specific intrastate rates to be decreased, provided that residential and business customers benefit from the rate decreases. Any in-state connection fee or similarly named fee shall be eliminated by July 1, 2006, provided that the timetable determined pursuant to s. 364.164(1) reduces intrastate switched network access rates in an amount that results in the elimination of such fee in a revenue-neutral manner. The tariff changes, if any, made by the intrastate interexchange telecommunications company to carry out the requirements of this subsection shall be presumed valid and shall become effective on 1 day's notice.

Section 364.163(3) gives this Commission continuing regulatory oversight regarding the access charge reduction flow-throughs described in subsection (2).

Finally, the 2003 Act amended Section 364.10 to provide increased protection to economically disadvantaged customers. This section requires any ILEC that reduces its access charges (and increases its local rates) pursuant to Section 364.164 to make its Lifeline Assistance Plan available to customers with incomes at or below 125% of the federal poverty level, up from 100% or less under the prior law.

Our jurisdiction in this matter arises from the above statutory provisions.

## II. CASE BACKGROUND

On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth), each filed petitions pursuant to Section 364.164, Florida Statutes. Dockets Nos. 030867-TL (Verizon), 030868-TL (Sprint), and 030869-TL (BellSouth) were opened to address these petitions in the time frame provided by Section 364.164, Florida Statutes. On September 4, 2003, the Order Establishing Procedure and Consolidating Dockets for Hearing, Order No. PSC-03-0994-PCO-TL, was issued. At the September 15, 2003, Agenda Conference, the Commission decided to hold public hearings in the above referenced dockets.

On September 3, 2003, the Office of Public Counsel (OPC) filed Motions to Dismiss the Petitions in each of these dockets on the grounds that the Petitions proposed to make rate changes over one year, rather than the two year minimum required by Section 364.164(1)(c). On September 10, 2003, Verizon filed its Response to OPC's Motion to Dismiss. Also on September 10, 2003, Sprint and BellSouth filed their Joint Response to OPC's Motion to Dismiss. At the September 30, 2003, Agenda Conference, we voted to dismiss Verizon, Sprint, and BellSouth's Petitions with leave to amend within 48 hours to address the Commission's determination regarding the application of the two-year time frame in Section 364.164(1)(c), Florida Statutes. On September 30, October 1, and October 2, 2003, respectively, BellSouth, Sprint, and Verizon filed their amended petitions.

By Order No. PSC-03-1240-PCO-TL, we consolidated Docket No. 030961-TI, which was opened to address questions regarding the

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IXCs' flow-through to customers of any access charge reductions, into this proceeding for hearing. By Order No. PSC-03-1269-PCO-TL, the procedure in these consolidated Dockets was amended to include additional testimony filing dates and issues to reflect the consolidation of Docket No. 030961-TI. A hearing on this matter was held on December 10-12, 2003.

In this matter, we received the testimony of 26 witnesses on behalf of the ILECs, intervenors, the consumer advocates, and our own Commission staff. We also received testimony from customers at 14 customer service hearings conducted throughout the state, as well as written comments from customers submitted to the docket files associated with this case. In addition, we received into evidence 86 exhibits. We have carefully considered the evidence received in its entirety, as well as the arguments of counsel. Based thereon, we hereby render our decision on the issues presented.

### III. MOTIONS

Three motions remained outstanding at the start of our hearing in this matter -- two motions for reconsideration of prior orders and one motion for entry of a summary final order. As a preliminary matter, we addressed the motions as follows:

A. Joint Petitioners Motion for Reconsideration of Order No. PSC-03-1269-PCO-TL, issued Nov. 10, 2003 - Second Order Modifying Procedure for Consolidated Dockets to Reflect Additional Docket, Associated Issues, and Filing Dates

This motion asked that the Commission reconsider the inclusion of Issues 6-10 in the Second Order Modifying Procedure. The motion argued that the inclusion of those issues, which relate to the IXCs' flow-through of any access charge reductions they receive, inappropriately imposed additional criteria on the Joint Petitioners' Petitions for switched network access rate reductions that go beyond the four mandatory criteria enumerated in Section 364.164(1). The Office of Public Counsel filed a response to this Motion on behalf of the Citizens. Upon consideration, we granted the Petitioners' request for oral argument on this Motion at the outset of the hearing.

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The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See, Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 162 (Fla. 1<sup>st</sup> DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3<sup>rd</sup> DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1<sup>st</sup> DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974). This standard is equally applicable to reconsideration by the Commission of a Prehearing Officer's order. See, Order No. PSC-96-0133-FOF-EI, issued January 29, 1996, in Docket No. 950110-EI.

Throughout this proceeding, one hotly contested issue has been whether, in making its determination to grant or deny the Petitions, the Commission can consider only the four mandatory criteria enumerated in Section 364.164(1) or whether it is also required or permitted to consider the extent to which residential customers whose local rates would be increased if the Petitions are granted are likely to benefit from offsetting long distance rate decreases. This is ultimately an issue of statutory construction which we indicated on several occasions would be considered at the conclusion of the evidentiary hearing.

The thrust of the Petitioners' motion for reconsideration is that the inclusion of Issues 6 through 10 in the Second Order Modifying Procedure improperly introduced consideration of this long distance rate impact into the proceedings on their Petitions. OPC, on the other hand, argues that these Issues were properly included, since the Commission must consider the combined impact on residential customers of any local rate increases and any long distance rate decreases.

Upon consideration, we conclude that the Motion for Reconsideration does not identify a mistake of fact or law made by the Prehearing Officer in rendering his decision. The determination

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about which the Joint Petitioners express concern is not one made by the Prehearing Officer in his Order. The Prehearing Officer did not impose additional requirements on the ILECs' Petitions to reduce access charges; instead, he included additional issues for consideration in this proceeding based upon our decision to consolidate Docket No. 030961-TI with Dockets Nos. 030867-TL, 030868-TL, and 030869-TL for hearing. His Order clearly set forth that this is the basis upon which he modified the schedule and the issues list for the proceeding. As such, his decision is not only correct, but needs no clarification. The decision to consolidate Docket No. 030961-TI was made by this Commission in Order No. PSC-03-1240-PCO-TP, issued November 4, 2003. Reconsideration of that decision was not requested. The Prehearing Officer's Order merely implements that decision by amending the schedule and including issues to reflect the consolidation. As for the legal issue raised by the Joint Petitioners, that being whether we should consider impacts on the toll market in making our decision on the ILECs' Petitions, that issue was not addressed by the Prehearing Officer and remains for decision by this Commission at the conclusion of the hearing. For these reasons, the Joint Motion For Reconsideration is denied.

B. OPC's Motion for Reconsideration of Order No. PSC-03-1331-FOF-TL (filed Dec. 5, 2003) / AARP's Motion for Reconsideration of Same Order (filed Dec. 8, 2003) (The Attorney General Joined in the Motions on December 9)

These motions asked that we reconsider certain language in our Order denying AARP's Motion to Dismiss these cases for failure to join the IXC's as indispensable parties. OPC and AARP argue that the language contained in the order did not accurately capture the rationale for the Commission's decision as expressed during the Commission's deliberations on that motion. A response in opposition was filed by the Joint Petitioners on December 9, 2003. We received additional argument on this Motion at the outset of the hearing.

While we do not believe that reconsideration is appropriate in this instance, upon consideration of the arguments and review of the Order itself, we do believe that some clarification is in order. It is clear that certain language included in the Order could be misconstrued. Therefore, Order No. PSC-03-1331-FOF-TL, at

pages 11 and 12, is amended and clarified as reflected in the following type and strike version:

In reaching this conclusion, we refer to the language of Section 364.164, Florida Statutes. Contrary to AARP's assertions, none of the four mandatory criteria set forth for our consideration in addressing the petitions mandates necessitates participation by the IXCs. ~~As plainly stated by the Legislature,~~ ~~the~~ first factor set forth in Section 364.164(1), Florida Statutes, for our consideration does not mandate that direct the Commission ~~to~~ consider how the ILECs' proposals will affect the **toll market** "for the benefit of residential consumers." Instead, the plain language states that consideration should be given to whether granting the petitions will:

(a) Remove current support for basic local telecommunications services that prevents the creation of **a more attractive local exchange market** for the benefit of residential consumers. [Emphasis added].

~~As such, the relevant market for use in making the final determination on the Petitions is the local exchange market. Thus, we find that, for purposes of Section 364.164, Florida Statutes, consideration of the impact on the toll market (and resulting impact on toll customers) is not required for the Commission's full and complete determination of the Petitions.<sup>3</sup> In reaching this conclusion, we do not find that we are precluded from such consideration, rather we conclude only that we are not required to do so.~~

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<sup>3</sup>~~In reaching this conclusion, we do not find that we are precluded from such consideration, rather we conclude only that we are not required to do so.~~

~~The language of Section 364.164, Florida Statutes, appears clear, thus, under principles of statutory interpretation, this Commission need not look further to divine the Legislature's intent. Southeastern Utilities Service Co. v. Redding, 131 So.2d 1 (Fla. 1950).~~ That said, we nevertheless acknowledge AARP's contention that the Legislature considered the impacts on customers' toll bills in passing the new legislation.<sup>4</sup> We emphasize, though, that the Legislature did address the impact on the toll market if the Petitions are granted, but it did so through a separate section of the statutes, Section 364.163, wherein intrastate toll providers are required to pass the benefits of the access charge reductions on to their residential and business customers. This Commission is charged under that section with ensuring that reductions are, in fact, flowed through.

Based on the foregoing, Order No. PSC-03-1331-FOF-TP is clarified as set forth above.

C. Attorney General's Motion for Summary Final Order, filed Nov. 17 (AARP and OPC Joined in the Motion)

The Attorney General moved for a summary final order on the grounds that the record raises no genuine issue of fact regarding whether granting the Petitions will benefit residential consumers. Verizon, AT&T/MCI, BellSouth, and Sprint timely filed responses to the Motion. We received argument on this Motion at the hearing.

As became clear from the oral argument on this motion, the underlying contention by the Attorney General, OPC, and AARP is that Section 364.164 requires the Petitioners to demonstrate that residential consumers will benefit from long distance rate

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<sup>4</sup>At footnote 1 of the Motion, AARP states that it is in the process of having the relevant industry and legislator comments recorded and transcribed for filing at a later date. This material was officially recognized during the final hearings in these proceedings.

reductions, and that the prefiled testimony and exhibits showed that such benefits are not sufficient to offset the impact of the proposed local rate increases. The opponents of the motion contended that no such showing is required, and that the prefiled testimony establishes that residential customers will benefit from increased competition if the Petitions are granted.

Rule 28-106.204(4), Florida Administrative Code, provides:

Any party may move for summary final order whenever there is no genuine issue as to any material fact. The motion may be accompanied by supporting affidavits. All other parties may, within seven days of service, file a response in opposition, with or without supporting affidavits. A party moving for summary final order later than twelve days before the final hearing waives any objection to the continuance of the final hearing.

The standard for granting a summary final order is very high. The purpose of summary judgment, or in this instance summary final order, is to avoid the expense and delay of trial when no dispute exists concerning the material facts. The record is reviewed in the light most favorable to the party against whom the summary judgment is to be entered. When the movant presents a showing that no material fact on any issue is disputed, the burden shifts to his opponent to demonstrate the falsity of the showing. If the opponent does not do so, summary judgment is proper and should be affirmed. The question for determination on a motion for summary judgment is the existence or nonexistence of a material factual issue. There are two requisites for granting summary judgment: first, there must be no genuine issue of material fact, and second, one of the parties must be entitled to judgment as a matter of law on the undisputed facts. See, Trawick's Florida Practice and Procedure, §25-5, Summary Judgment Generally, Henry P. Trawick, Jr. (1999).

In summary, under Florida law, "the party moving for summary judgment is required to conclusively demonstrate the nonexistence of an issue of material fact, and . . . every possible inference must be drawn in favor of the party against whom a summary judgment

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is sought." Green v. CSX Transportation, Inc., 626 So. 2d 974 (Fla. 1st DCA 1993) (citing Wills v. Sears, Roebuck & Co., 351 So. 2d 29 (Fla. 1977)). Furthermore, "A summary judgment should not be granted unless the facts are so crystallized that nothing remains but questions of law." Moore v. Morris, 475 So. 2d 666 (Fla. 1985); City of Clermont, Florida v. Lake City Utility Services, Inc., 760 So. 1123 (5<sup>th</sup> DCA 2000).

The parties disagree on the proper interpretation of Section 364.164, Florida Statutes. We find, based on the pleadings, the arguments, and the prefiled testimony, there are genuine issues of material fact in dispute, regardless of whose statutory interpretation is ultimately determined to be correct. Since the motion must be viewed in the light most favorable to the parties against whom the motion is sought, the Motion must be denied in this case. In reaching this conclusion, we make no determination on the legal or factual issues to be addressed through the hearing. Rather, we conclude only that the high standard for granting a summary final order has not been met.

#### IV. STATUTORY INTERPRETATION

The question of the proper interpretation of Section 364.164 is one that has been raised time and again in this case in various motions, testimony, and in this Commission's own comments. We carefully withheld ruling on the question of whether Section 364.164, Florida Statutes, is ambiguous until after conclusion of the evidentiary hearing and the closing arguments of counsel. It is important to address this question before reaching the other issues in the case, because our decision will determine whether we can consider arguments and evidence presented in the case regarding the Legislative history and intent of the statute.

The law on this aspect of statutory interpretation is clear. When interpreting statutory provisions, one first should look to the provision at issue to determine whether the "language is clear and unambiguous and conveys a clear and definite meaning. . . ." Holly v. Auld, 450 So. 2d 217 (Fla. 1984), citing A.R. Douglass Inc. v. McRaney, 102 Fla. 1141 (1931). If the meaning is clear, there is no need to resort to statutory interpretation. Furthermore, an unambiguous statutory provision cannot be construed to extend, modify, or limit its express terms or its reasonable and

obvious implications. Holly, at 219. However, a statute should not be given its literal reading if such reading would lead to an unreasonable conclusion. Id.

Section 364.164 sets forth the criteria we must consider in determining whether to grant the ILECs' petitions. Those criteria are as follows:

[W]hether granting the petition will:

- (a) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.
- (b) Induce enhanced market entry.
- (c) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.
- (d) Be revenue neutral as defined in subsection (7) within the revenue category defined in subsection (2).

The ILECs argue that this language clearly expresses the Legislature's intent and, thus, is not subject to interpretation. The OPC, the Attorney General, and AARP present a vastly differing interpretation of the statute, and have offered into evidence and in their arguments the Legislative history of the bill. Each side offers tenable arguments regarding how the statute could be interpreted. We note that the lack of clarifying language or punctuation in the provisions at issue contributes to the differing interpretations. As such, having considered the arguments and the language of the statute itself, we find that the language of Section 364.164, Florida Statutes, is not clear on its face and, thus, is subject to statutory interpretation. Having reached this conclusion, our decisions as set forth below reflect our interpretation of the Legislature's intent as gleaned from the Legislative history, including consideration of the potential impacts of granting the Petitions on the toll rates paid by residential customers.

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V. SUMMARY OF DECISION

As discussed in more detail later in this order, we find and conclude, based on the record, that:

1. Intrastate access rates currently provide support for basic local telecommunications services that would be reduced by bringing such rates to parity with interstate access rates.
2. The existence of such support prevents the creation of a more attractive competitive local exchange market by keeping local rates at artificially low levels, thereby raising an artificial barrier to entry into the market by efficient competitors.
3. The elimination of such support will induce enhanced market entry into the local exchange market.
4. Enhanced market entry will result in the creation of a more competitive local exchange market that will benefit residential consumers through:
  - a. increased choice of service providers;
  - b. new and innovative service offerings, including bundles of local and long distance service, and bundles that may include cable TV service and high speed internet access service;
  - c. technological advances;
  - d. increased quality of service; and
  - e. over the long run, reductions in prices for local service.
5. The ILECs' proposals will reduce intrastate switched network access rates to parity over a period of not less than two years or more than four years.
6. The ILECs' proposals will be revenue neutral within the meaning of the statute, which permits access charge reductions to be offset, dollar for dollar, by increases

in basic local service rates for flat-rate residential and single-line business customers.

7. Because of the mandatory flow-through provisions of Section 364.163, approval of the plans will be financially neutral to the IXCs, who are required to reduce their intrastate toll rates and charges to consumers to offset the benefit of any access charge reductions the IXCs receive.

8. Contrary to the position taken by the Attorney General in these proceedings, the statute does not require that implementation of the proposals be "bill neutral" to any particular customer or class of customers.

9. We are not mandated by Section 364.164 to consider the impact of the proposals on toll rates paid by residential consumers. However, consistent with the legislative history of the 2003 Act, we conclude that we are permitted to do so. In this regard, we find that many residential customers will benefit directly from the elimination of in-state connection fees and reductions in per-minute intrastate toll rates. We also find that residential customers as a whole will enjoy prices for toll services that are closer to economic costs and, therefore, will have less of a repressive effect on long distance usage. We also find that under the long distance rate reduction plans offered by the IXCs, residential customers as a whole will get a proportionate share of any toll rate reductions based on their share of total access minutes of use.

10. Experience from other states that have rebalanced local and toll rates shows that approval of the ILECs' proposals will have little, if any, negative impact on the availability of universal service. While no customer likes to see a rate increase, the record shows that basic local service will continue to remain affordable for the vast majority of residential customers.

11. Although we find that it is not a benefit that we should weigh in the balance in considering whether or not to grant the Petitions, the amended Lifeline provisions in Section 364.10 will help to protect economically disadvantaged consumers from the effect of local rate increases. This protection is enhanced by the ILECs' agreement to further increase the eligibility criteria for Lifeline assistance from 125% to 135% of the federal poverty level, increasing the number of customers eligible for the program by approximately 119,000, and to protect Lifeline recipients against basic local service rate increases for four years. Although we cannot predict the future with certainty, economic theory suggests, and we are encouraged to believe, that the establishment of a more competitive local market will put downward pressure on local exchange prices that will eventually reduce the need for targeted assistance programs such as Lifeline.

The following sections set forth a detailed analysis of our decisions on the points outlined above.

## VI. REMOVAL OF CURRENT SUPPORT

In this section, we address whether the ILECs' proposals meet the requirements of Section 364.164(1)(a), Florida Statutes. For clarity of analysis, we have considered these requirements in three parts: (A) what is a reasonable estimate of the level of support for basic service provided by access charges; (B) does that support prevent the creation of a more attractive local exchange market; and (C) would the creation of a more attractive local exchange market benefit residential consumers.

### A. REASONABLE ESTIMATE OF SUPPORT

#### 1. Arguments

Verizon contends that its basic local services receive support from its network access charges, and that its plan removes this support by bringing the prices of those services more in line with costs. Verizon asserts that removing support for basic local services will promote local exchange competition for the benefit of

residential customers. Verizon contends that it will make residential customers more attractive to competitors and thus induce enhanced market entry, encourage innovation, and promote increased freedom of choice. Verizon asserts that the plan will also reduce intrastate access rates, thereby allowing residential customers to make more long distance calls at lower prices. Verizon, along with BellSouth and Sprint, sponsored the testimony of Dr. Kenneth Gordon addressing this issue. Verizon's witnesses Fulp and Danner also offered testimony in this regard.

Verizon states that for purposes of this proceeding, it seeks to remove \$76.2 million of support from basic local telecommunication services. Verizon contends that this amount is necessary to bring its intrastate switched network access rate to parity with its interstate switched network access rate.

Likewise, Sprint argues that the level of support provided for basic local services by intrastate switched network access rates in excess of parity in Sprint's service areas is \$142,073,492 per year, based upon current access minutes of use. Sprint offered the testimony of witnesses Dickerson, Felz, and Staihr on this issue.

BellSouth emphasizes that this Commission has already found that BellSouth's residential rates receive support from access charges, which is further buttressed by the detailed testimony of BellSouth's witness Bernard Shell, particularly the information in witness Shell's exhibit WBS-1 (Hearing Exhibit 53). This support from above-parity intrastate access charges ranges from \$125.2 million to \$136.4 million per year, depending on the method used to perform the calculation. BellSouth maintains that its proposal will remove current support for basic local telecommunications services, and will bring the rates for basic local exchange service to a level that encourages competitive entry in the local exchange market. BellSouth argues that this is evidenced, in part, by the testimony of AT&T and Knology in this proceeding. BellSouth adds that residential customers will benefit from having new choices of providers and services that additional competition will bring and will also benefit from the pass-through of access charge reductions in the form of reduced toll rates. To address this aspect of its petition, BellSouth submitted the testimony of its witnesses Shell and Banerjee.

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Knology asserts that granting these petitions will materially diminish the current support for basic local telecommunications services. Knology contends that this support prevents creation of a more competitive market. Knology asserts that diminution of the support will spur additional competition. Knology states that its experience in its existing markets provides examples of how the entry of a facilities-based competitor for telephone service expands the products available to consumers, increases the customer service levels, and promotes product and pricing competition.

AT&T and MCI agree that the ILEC proposals will remove current support for basic local telecommunications services by simultaneously reducing intrastate switched access rates that have been established at economically inefficient levels through the residential rate setting process and adjusting local exchange rates upward on a revenue neutral basis. They assert that through the process of residual ratemaking, intrastate switched access charges have been historically elevated well above their relevant economic cost and the surplus has served as residual support for basic local telecommunications services. Dr. John Mayo testified on AT&T and MCI's behalf on this point.

OPC asserts that residential basic local telephone service is not subsidized by access service or any other service. OPC contends that the ILECs' petitions, therefore, do not remove current support, because there is none. OPC further asserts that Basic Local Telecommunication Services (BLTS) are not supported by the rates for intrastate access, because the existing BLTS rates exceed their incremental costs. AARP, Common Cause, and Sugarmill Woods agree to a large extent, although they further argue that there is no support, because the loop itself is a common cost that should be fully allocated among all services that use the loop. Dr. David Gabel provided testimony on behalf of OPC addressing this issue, while Dr. Mark Cooper testified on behalf of AARP.

## 2. Findings and Decision

We find that the ILECs' access charge rates provide support to local exchange service. In making this determination, we accept the economic testimony of the ILECs' and IXCs' witnesses, which treat the cost of the local loop as a cost of basic local service. In particular, the testimony shows there is no economic principle

requiring that the cost of that loop be allocated across other ancillary services that are provided over the loop.

We are not persuaded by the testimony of AARP and OPC's witnesses that all or some of the cost of the local loop should be shared, such that any costs shared by more than one service would be excluded from the ILECs' Total Service Long Run Incremental Cost (TSLRIC) calculations. This would be inconsistent with our past decisions, perhaps most notably in our 1998 Report on Fair and Reasonable Rates to the Legislature, that the costs associated with the local loop should not be allocated. The arguments raised by OPC and AARP have been considered and rejected in the past, and we find no new persuasive basis upon which to deviate from our consistent policy on this issue.

We note that the record raises some concern about the cost information provided in the proceeding by the ILECs. For instance, BellSouth's use of model inputs is inconsistent with past Commission decisions in the Docket No. 990649-TP, in which we established rates for unbundled network elements (UNEs). Also, we find that Verizon's use of interstate minutes to calculate switching and transport costs is problematic, and that Sprint and BellSouth's use of retail costs appears to be excessive, particularly since they do not differentiate between costs that apply to basic local service and costs that apply to all other services. Nevertheless, after weighing all the evidence, we find that the correction of these deficiencies would not alter our conclusion that local exchange rates are supported by intrastate access charge rates; that the ILECs have, in fact, provided a reasonable estimate of the level of support for basic local telecommunications service; and that their proposals appropriately remove that support as required by the statute. In reaching this decision, we do not in any way indicate agreement with the ILECs' costs, inputs, or methodologies considered herein for any purpose beyond this proceeding.

In addition, we note that AT&T/MCI witness Mayo emphasized that the statute does not require removal of a pure economic subsidy, but rather "support" for basic local service. Thus, he disputes witnesses Gabel and Cooper's arguments that there is no subsidy to be removed. We also find this argument persuasive in view of the plain language of the statute.

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B. SUPPORT PREVENTS THE CREATION OF A MORE ATTRACTIVE  
COMPETITIVE LOCAL EXCHANGE MARKET

1. Arguments

Verizon contends that its current residential basic monthly rates are well below incremental cost, and therefore impair competition for residential customers. Verizon asserts that the availability of local service at supported prices limits the prices that competitive local providers can charge. Verizon contends that to the extent that competitive providers' costs are similar to Verizon's, the existing supported prices make it economically infeasible for those providers to compete. Dr. Gordon spoke to this issue on behalf of the three ILECs. In addition, Verizon offered the testimony of witness Danner in this regard.

Sprint contends that the presence of heavily supported residential basic local service acts as an obstacle to the creation of widespread residential local competition. The removal of this obstacle, according to Sprint, is the goal of the 2003 Act. Sprint's witness Staihr spoke to this issue.

BellSouth again contends that we have already determined that its residential rates are supported. BellSouth emphasizes that the testimony of its witness Shell lends further support to the argument that removal of the support for basic local service will bring rates to a level that encourages competition, leading to new choices for consumers, as well as reduced toll rates. BellSouth's witnesses Ruscilli and Banerjee offered additional testimony on this point.

Knology maintains that granting these petitions will materially diminish the current support for basic local telecommunications services. Knology asserts that this support prevents creation of a more competitive market and that diminution of the support will spur additional competition.

AT&T and MCI assert that the currently excessive intrastate switched access charge rate levels make it difficult for a telecommunications company to enter the local exchange market and compete against incumbent providers whose local rates are supported by access charges; the support allows incumbent providers to

subject their competitors to an anticompetitive price squeeze. AT&T and MCI contend that excessive access charges further depress competition by limiting competitors' ability to compete across the full range of service categories. Dr. Mayo addressed this aspect of the ILEC Petitions on behalf of AT&T and MCI.

Although their analysis differs somewhat, OPC, AARP, Common Cause Florida, and Sugarmill Woods each contend there is no support for basic local service; therefore, raising current prices will not create a more attractive competitive local exchange market for the benefit of residential consumers. They contend that the existing levels of basic local telecommunications service rates have minimal, if any, impact on making the local exchange market more attractive to competitors. Drs. Gabel and Cooper also provided testimony in this regard on behalf of OPC and AARP, respectively.

The Commission staff offered the testimony of witness Ollila for purposes of providing additional perspective on this issue by way of the Commission's 2002 Report on Competition in Telecommunications Markets in Florida. In addition, the 2003 Report was received into the record as a stipulated exhibit.

## 2. Findings and Decision

Upon consideration, we agree with witness Gordon that the current level of support has allowed residential rates to remain lower than they would be in an undistorted competitive market, and that they are, in fact, lower than in other states in our region. We can find no basis in economics for the underpricing of basic service which is demand-inelastic relative to usage. Except for a limited range of residential customers, it is not economically feasible for a CLEC to price complementary products and packages in a manner that would allow it to make up for lack of profitability in the provision of basic service. As a result, there is little opportunity or ability to bundle products and services for consumers, and a very limited range of customers can truly be served on a profitable basis.

As recognized by both witness Mayo and witness Gordon, the state law, as well as the federal Telecommunications Act of 1996, shifts the utility commission's role away from historically protecting monopolists from competitors' entry and protecting

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consumers from the monopolist, to a role of encouraging competition. Under the old regime, utility commissions set rates for non-basic services, such as long distance, carrier switched access, and vertical features, above cost in order to hold down the price for basic local exchange service. This was in furtherance of universal service.

As witness Mayo emphasized, even as we moved toward price cap regulation, the pricing structure did not really change; thus, the prices for non-basic services continued to support basic service. Specifically, access charges were created after divestiture of AT&T to provide a source of revenue that would enable the local exchange companies to continue to keep prices low. Witness Mayo added that at the federal level, access charges have been reduced dramatically over the past 19 years, and this process has taken place for intrastate access charges in other states as well. Nevertheless, the witness emphasized that intrastate access rate levels in Florida are still in excess of their incremental cost, serving as continued support for low local service rates. As such, according to witnesses Mayo and Gordon, approving the ILECs' petitions to reduce intrastate access charges in a revenue neutral manner will, in fact, remove some of the support for local service, which will in turn make local service market entry more attractive for prospective entrants. This testimony was very compelling.

Witness Gordon further testified that the effect of having rates that are below cost is to discourage entry, as well as investment, by both new entrants and incumbents. Thus, not only is there less likelihood of competition, but of innovation as well. He emphasized that there is empirical evidence on this point, as referenced in the Ros-McDermott study he mentions in his pre-filed testimony. He also testified that in states that have implemented rebalancing, namely California, Illinois, Ohio, Massachusetts, and Maine, there was little noticeable impact on subscribership levels in spite of residential local service rate increases comparable to the increases proposed in the ILECs' petitions. In addition, he noted that, in the states that have implemented rebalancing, toll rates were lowered.

Our 2003 Competition Report shows that CLEC residential market share is only 9% in Florida, while CLEC's serve 29% of the business market. Similarly, Verizon's competition study for its territory

shows that there is a 100 to 1 ratio of business versus residential customers being served by facilities-based CLECs. This drops to 10 to 1 if UNE-P and resale are taken into account. Together, these studies persuade us that competition for residential customers is currently suffering as a result of barriers to entry.

In addition, Knology's witness Boccucci specifically stated that, ". . . under current rates for local services in Florida, Knology has not been able to generate rates of return sufficient to attract the capital necessary to expand in adjacent areas to Panama City or elsewhere in Florida. If rate rebalancing is implemented, Knology has every intention to expand and compete further in Florida." He emphasized that because of Florida's low local rates, that ". . . from our investors' perspective, in the competition for the valuable CAPX or the capital expenditures, it was tough to make a business case to expand into the panhandle when we could expand into Georgia, Tennessee, Alabama and North Carolina [where local rates are higher] and be more assured that we could meet the returns that our investors expected in the marketplace."

Based on the foregoing, we find that current support provided by access charges does, in fact, impede competition in the residential local exchange markets.

C. BENEFIT TO RESIDENTIAL CONSUMERS AS CONTEMPLATED BY SECTION 364.164, FLORIDA STATUTES

1. Arguments

Verizon asserts that by moving basic local residential rates toward cost, its rate rebalancing plan will promote competition for the benefit of residential customers, which is the benefit contemplated by Section 364.164, Florida Statutes. Verizon contends that implementation of its rebalancing proposal will make these residential customers more attractive to competitors and thus induce enhanced market entry, encourage innovation, and promote increased freedom of choice. Verizon asserts that, in addition, its rebalancing plan will lower intrastate access rates and, ultimately, allow residential customers to make more long distance calls at lower prices. Again, Dr. Gordon provided testimonial support for the three ILECs on this point. In addition, Verizon's witnesses Danner and Fulp addressed this issue.

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Similarly, Sprint contends that the creation of a more attractive competitive local exchange market will benefit residential consumers by giving them choices in providers, services, technologies, and pricing options. Sprint maintains that this is what consumers are demanding, and that this range of choice will only be made available through a competitive market. Sprint offered the testimonies of witnesses Stairr and Felz on this point.

BellSouth again argues that its residential rates are supported. BellSouth emphasizes that the testimony of its witness Shell lends further support to the argument that removal of the support for basic local service will bring rates to a level that encourages competition, leading to new choices for consumers, which is the benefit contemplated by the 2003 Act, as well as reduced toll rates. BellSouth's witnesses Banerjee and Ruscilli provided testimony on this issue.

Knology states that its experience in its existing markets provides examples of how the entry of a facilities-based competitor for telephone service expands the products available to consumers, increases the customer service levels, and promotes product and pricing competition. Knology's witness Boccucci emphasizes that telecommunications services are converging, such that a wireless consumer does not really think of his or her service in terms of local versus long distance service. He envisions that with increased competition in the wireline market, the same will hold true for wireline customers. Likewise, he argues that the value for consumers in a competitive market is a converged bill with multiple telecommunications services, upgraded service quality, as well as price competition. He also added that a higher local rate will enable Knology to provide bundled packages at prices economical to seniors on fixed incomes, so that they can receive more economic and better quality service than they do today.

AT&T and MCI agree that the ILECs' proposals will benefit residential consumers as contemplated by Section 364.164, Florida Statutes. They contend that the ILECs' proposals will reduce current deterrents to local market entry and create a more level playing field, which will ultimately induce increased market entry. The result will be to provide consumers, residential and business alike, with a wider choice of providers' offerings and prices. They contend that residential consumers will further benefit from

toll rate reductions and the elimination of any in-state connection fee. Dr. Mayo provided testimony addressing this point on behalf of AT&T and MCI, while witness Fonteix provided additional information on behalf of AT&T.

OPC, AARP, Common Cause Florida, and Sugarmill Woods contend that the ILECs' rebalancing petitions will not benefit residential consumers as contemplated by Section 364.164, Florida Statutes. They assert that the ILECs have not made a showing that the proposed rebalancing of basic local telecommunications service rates would create a more attractive competitive local exchange market for the benefit of residential customers, nor that market entry will be enhanced, because the ILECs' analyses are based on a model that no entrant would ever use. They argue that, moreover, any claims of benefits to consumers based on the removal or reduction of support for residential basic local telecommunications service are moot, since no such support exists. Again, Drs. Gabel and Cooper provided testimony on this point for OPC and AARP, respectively.

Commission staff's witness Shafer testified that the ILECs' proposals will likely result in benefits for residential customers, such as increased value and choice in products.

## 2. Findings and Decision

Upon consideration of the evidence presented, as well as the Legislature's clear policy to enhance competition in Florida's telecommunications market, we find that the ILECs' proposals will ultimately benefit residential consumers as contemplated by Section 364.164, Florida Statutes. As evidenced by the results in other states that have engaged in rate rebalancing, the ILECs' proposals will make the residential market more economically attractive for CLECs, which should lead to an increase in choice of providers. This will be accomplished by increasing in the short term the rate at which residential service can be offered by competitors, leading to increased profit margins for CLECs serving residential customers. Witness Fonteix specifically stated that AT&T's decision to enter BellSouth's territory was ". . . predicated upon an assumption after the passage of the Act that it would be implemented." Furthermore, the witness testified that in AT&T's experience in Michigan and Georgia, where rates have already been

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rebalanced, although basic local service rates initially went up, in the long run, competition drove the price back down.

Companies providing bundled offerings that include both local and long distance service will benefit not only from the increased rate at which residential service can be offered on a competitive basis, but also from the decreased terminating access rate. These changes will make providing bundled packages to residential customers more economically attractive, because companies will increase their profit margin.

Again, as argued by AT&T's witness Fonteix, because the Bell incumbents are now able to enter the long distance market, it is better to proceed with access charge reform, which has been underway at the federal level for some time now. The witness emphasized that waiting will only further harm the long distance market. This testimony was consistent with that of witness Gordon, who maintained that long distance service is overpriced, because of the support provided by access charges to local service. He asserted that as prices come down for long distance service, people will respond by making more long distance calls, which he contends is a benefit to society. He concluded that:

If the toll prices are overpriced, then there will be less calling and that constitutes a loss to society. And there's no reason to have it. It's a very expensive way to achieve the goal in Crandall's and Waverman's point. If you really want to have universal service and you think it's a problem, you know, a policy problem that should be addressed, better that the payments should be made directly in some fashion than by distorting the entire price structure, which is the mechanism we've used to date.

While it is uncontested that some customers will not receive a direct benefit as a result of the implementation of the ILECs' proposals, we find that Florida consumers as a whole will reap the benefits of increased competition and, ultimately, competition will serve to regulate the level of prices consumers will pay. Increased competition will lead not only to a wider choice of

providers, but also to technological innovation, new service offerings, and increased quality of service to the customer. The evidence in this case shows that Knology will continue its plans to enter Florida markets if the Petitions are granted, and will consider broadening the number of Florida markets it enters, as demonstrated through the testimony of witness Boccucci. AT&T witness Fonteix has also indicated that AT&T's entry into BellSouth's territory has been largely influenced by the 2003 Legislation and the hope that with the granting of these Petitions, the raising of local rates will make Florida markets more profitable for competitors. Furthermore, witness Gordon explained that less regulation in the wireless market has not only produced lower prices, but also a beneficial impact on consumer welfare, because the use of the technology has become so prevalent.

While Section 364.164 does not mandate that we consider the degree of benefit to residential customers from long distance rate reductions, our review of the legislative history convinces us that it is within our discretion to do so. Thus, we have considered witness Ostrander's argument that the Petitioners have been unable to quantify the impact of competition, and therefore have been unable to show the benefit to customers. We reject that argument, and find that the preponderance of the evidence in the proceeding shows that the benefits to residential customers as a whole generated by the resulting decreases in long distance rates and elimination of the in-state connection fee will outweigh the increases in local rates. This benefit should be a continuing one, since the IXCs have indicated that they will flow through the reductions on a pro-rata basis according to minutes of access, and the record indicates that market forces should exert enough pressure to ensure that rates are kept low. Furthermore, as in the wireless industry, whose ability to offer bundled packages has been facilitated by the fact that they do not pay the high level of access fees that the wireline carriers do, we anticipate that the reduction in access fees will result in an increase in bundled offerings by wireline carriers and a decrease in the distinction between wireline local and long distance service.

We acknowledge, as OPC, the Attorney General and AARP have argued, that not every residential customer will get a long distance rate reduction, and those who do receive reductions will not necessarily receive reductions that totally offset the increase

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in their rate for local service. Such "bill neutrality" is not required by the statute and, in fact, would be inconsistent with its plain language. First, there could never be "bill neutrality" unless every residential customer made exactly the same number of long distance calls and could therefore share per capita in any long distance rate decreases. Second, Section 364.164 achieves revenue neutrality to the ILEC by permitting it to increase rates for flat-rate residential and single-line business service. Section 364.163, Florida Statutes, in contrast, gives the IXCs discretion in where to flow through their long distance rate decreases so long as some portion of the benefit goes to residential and business customers. As discussed in Section X(D), we find that the IXCs' proposals to flow through these reductions between business and residential customers in proportion to their access minutes of use complies with both the language and spirit of the statute.

Also on this issue, we acknowledge that the testimony from the public hearings was mixed. Many customers did not believe that the ILEC proposals would benefit them, but others were hopeful that they would see competition in their area. Generally, the written comments we received tended to be unfavorable. However, when considered with the economic testimony received through our technical hearing, we find that customers as a whole will benefit as contemplated by the statute. As noted by witness Boccucci, customers will get better quality service for the products they choose, as well as a wider variety of products and providers. The evidence also shows that even those customers that use calling cards or dial-around service will receive benefits from increased competition, as will older citizens that use 1+ calling.

We also acknowledge the customer testimony critical of extended calling service (ECS) rates. In recognition of the concerns raised, we direct our staff to organize a Commission workshop to discuss the history of ECS, the current state of the law on ECS, and what role, if any, ECS has in today's market. The Petitioners have all agreed to participate fully in this workshop. In addition, it is notable that Sprint's petition includes a five-free-call allowance for ECS.

~~Although we find that it is not a benefit that we should weigh in the balance in considering whether or not to grant the~~

Petitions, we observe that the amended Lifeline provisions in Section 364.10 will help to protect economically disadvantaged consumers from the effect of local rate increases. The use of targeted assistance, rather than implicit rate subsidies, to address this social issue will result in more efficient pricing, which will benefit the competitive market, spur innovations and new product offerings. This is the benefit contemplated by the Legislature when it enacted this legislation and is further supported by the testimony of AT&T/MCI's witness Mayo. As noted by the witness, the ability to target assistance is far more effective at promoting universal service objectives. The witness also testified that targeted assistance is more economically efficient than continuation of implicit support from access charge prices. We agree, and expect that, over time, competition should take care of those protected by Lifeline, in spite of the current limited duration that these customers are protected from the local increases at issue here. The evidence shows that even with the proposed local rate increases, there will not be a significant number of customers that drop off the network. While the need for continued targeted assistance for some customers may foster its own social welfare concerns, those concerns must be balanced with the Legislature's clear intent to move Florida's telecommunications markets towards increased competition.

Furthermore, Dr. Cooper acknowledged that Exhibit 85 indicates that many seniors on fixed incomes take a number of additional services, such as cellular service, cable service, and Internet service. This indicates not only a likelihood that the increases proposed are within the zone of affordability for this segment of consumers, but also, as indicated by witness Boccucci, demonstrates that this segment in particular may see increased benefits as a result of bundled competitive offerings. Similarly, the evidence shows that 53% to 72% of Lifeline customers served by the Petitioners purchase one or more ancillary services.

As argued by witness Mayo, in approaching this task we must balance "hard-headed" economic principles with "soft-hearted" social welfare goals. It is the application of sound economic principles that will bring efficiencies, and as a result, competition to the telecommunications market, while the statute itself provides for targeted assistance that will assist those

unable to afford the proposed increases.<sup>5</sup> At the end of the day, capitalism and the free market will maximize benefits to consumers in a way that regulation cannot. That is not, however, to say that the companies should not be encouraged to consider their social welfare obligations in targeting assistance to customers and coming up with new ideas to address the needs of the economically disadvantaged.

In the end, we find that the ILECs' proposals meet the statutory requirement set forth in Section 364.164(1)(a), Florida Statutes, providing required benefit of a more attractive competitive telecommunications market for Florida consumers.

#### VII. INDUCE ENHANCED MARKET ENTRY

In this section, we address whether the ILECs' proposals will induce enhanced market entry as required by Section 364.164(1)(b), Florida Statutes.

##### A. Arguments

BellSouth states that by removing implicit support from basic local exchange rates, competitors will have increased business opportunities to attract new customers and offer new products, services, and bundles. BellSouth contends that competitors base their entry decisions on whether or not they can at least match the rates charged by ILECs. BellSouth argues that if these rates are lowered artificially by subsidies, but the incremental costs do not change, then competitors are likely to be deterred from entering the market. BellSouth concludes that this situation limits competition. BellSouth witness Banerjee offered testimony in this regard.

BellSouth further explains that there will never be competitive alternatives for customers who are receiving service at a price below the relevant cost of providing that service. As the

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<sup>5</sup> It is noteworthy that the ILECs have also agreed to the increase the number of customers to whom Lifeline is available to those whose income is 135% or less of the federal poverty level. This increases the pool of Lifeline eligible customers by approximately 119,000 when compared to the 125% standard required by Section 364.10.

price of service is raised to, and above, its relevant costs, such customers become more attractive to competitors, according to BellSouth witness Ruscilli.

Witness Gordon contends that when the price of services increases, a cash flow analysis would show that the investment project becomes more profitable (or less of a loss) and, thus, more attractive for new market entrants. Dr. Gordon adds that technology is changing so rapidly that competitive markets will do a much better job than a monopoly would of discovering which technologies can or cannot succeed in the long run. Dr. Gordon further opines that in order for the lowest cost mix of technologies to remain in the market, price and the signals it sends must not be distorted and must reflect the underlying cost of providing service.

BellSouth emphasizes that lowering intrastate access rates to parity with interstate rates eliminates an artificial discrepancy between two nearly identical services. Lower intrastate access rates make long distance calling more attractive for customers and competitors who wish to bundle long distance service with local service. BellSouth witness Banerjee testifies that the unevenness of the business market versus the residential market entry is attributable in large part to the relationship between end-user rates for basic local telephone service and UNE/UNE-P rates. Dr. Banerjee explains that generally the margins are far more substantial for business service. Unconstrained by public policy or regulation, the CLECs have gravitated naturally to business markets. As indicated by Dr. Gordon, the problem of an unattractive residential market may be worse in Florida than in other states because these other states have higher residential rates, indicating a greater need to rebalance the rates in Florida.

Verizon states that its rate rebalancing plan will bring the prices of its basic local services more in line with costs. Verizon asserts that prices that more closely reflect underlying costs, such as those proposed in its rate rebalancing plan, will increase the likelihood that competitive providers can offer services at a price equal to or lower than that offered by Verizon, and still remain profitable. Verizon contends that as a result, the reformed prices proposed in Verizon's rate rebalancing plan

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will make the local exchange market more attractive to competitors and induce enhanced market entry.

Verizon further contends that by removing implicit support from basic local exchange rates, competitors will be enticed into the market. Verizon contends that Knology's testimony that it decided to enter the Florida market following the passage of the access reduction legislation demonstrates that Verizon's rebalancing proposal will encourage competitive entry. Also, Verizon cites to Dr. Gordon's testimony, which includes statistical studies demonstrating that rebalancing will have a positive effect on competitive entry.

Sprint concurs with BellSouth and Verizon, stating that CLECs will benefit from the higher residential basic prices, without being required to reduce their own intrastate access prices. Sprint contends that rebalancing reduces risk for CLECs, improving the cash flow equation for serving residential customers. Sprint witness Staihr testifies that rebalancing rates for basic local service will create a situation where competitors will find that, on average, a larger percentage of the residential market will be financially attractive to serve. Witness Staihr states further that the current artificially low prices are unsustainable in the face of competition, and they come at a cost: (1) fewer options among services; (2) less innovation; and (3) in large portions of Sprint's territory, no competitive choices. Sprint concludes that rebalancing will induce enhanced market entry, thereby providing customers with the benefits of more choices, enhanced service offerings and greater innovation.

Knology states that the ILEC petitions should be granted because that decision will help to implement the policy underlying Section 364.164, Florida Statutes, and it will enhance the competitive choice available to Florida citizens. Knology identifies itself as a prime example of how granting the ILECs' Petitions will induce enhanced competition. As stated previously, Knology is a facilities-based intermodal competitor offering voice, video and data services over hybrid fiber coax (HFC) and fiber to the curb (FTTC) network in Panama City, with plans to expand in Pinellas County, Florida. Knology has been providing telecommunications services in Florida since 1997 and is currently providing its services to over 275,000 residential and business

customers in Florida. Knology's witness Boccucci testified, however, that Knology's decisions on whether to further expand service in other Florida markets will be greatly influenced by whether or not the ILECs' Petitions are granted.

Knology witness Boccucci testified that the 2003 Act creates the regulatory environment necessary to attract capital investment to expand telephone competition in Florida. Knology contends that granting the ILEC petitions will allow it to attract and deploy new capital investment in Florida, thereby offering consumers a choice in facilities-based providers for new and advanced high-tech services. Knology asserts, however, that if the petitions are not granted, it will be forced to deploy capital in states with more favorable market conditions as it has done in the past.

AT&T and MCI state that economic theory demonstrates that a decrease in overpriced access charges together with an increase in the retail price of residential service will encourage market entry. AT&T and MCI contend that prices are a key signal to prospective entrants regarding the desirability of a particular market. Higher prices relative to cost provide greater inducements for entry. AT&T and MCI contend further that bundled offerings are undermined by excessive access charges, because the lower bound to which competitors can drive prices is defined by the artificially high level of access charges. The presence of excessive access charges will limit the ability of competitors to enter the market. AT&T/MCI witness Mayo offered testimony in this regard. Dr. Mayo opines that the reduction of existing access support will also make the market more attractive for traditional long distance companies to enter the telecommunications market.

Witnesses Mayo and Fonteix testified that the reduction and eventual elimination of the access support is critical to sustainable competition as it will allow CLECs to compete on a more equal footing. Witness Mayo explains that the anemic CLEC market share for residential customers provides prima facie evidence that low residential prices are inhibiting competitive entry.

AT&T states further that reducing intrastate access charges to parity will significantly reduce the ILECs' advantage of receiving large access charge subsidies, thereby moving ILECs and competitors closer to an equal footing and enhancing competition.

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OPC responds that competition will not be enhanced to the residential consumer's benefit, although the ILECs' revenue from inelastic basic local service will be enhanced and the respective ILEC's market share will increase using revenues as a basis of measurement, according to OPC witness Ostrander. Witness Ostrander further contends that there will be no new or unique service introductions and no uniquely associated benefits of capital investment. OPC witness Gabel states that entry decisions are made on the basis of the expected total revenues and costs of all services an entrant can offer, not just one service. If total revenues cover total costs, it is completely irrelevant to a firm's decision to enter a market if one of the components of the offering (e.g. basic local service) may produce a loss according to some measure. Therefore, OPC surmises that a rise in total revenue from current levels may not be sufficient to allow entrants to overcome existing competitive barriers.

AARP concurs with OPC in its basic position that granting the ILECs' petitions will not induce enhanced market entry or increase competition. AARP witness Cooper argues that the Legislature intended that the ILECs be required to demonstrate that competition would, in fact, occur, as opposed to simply being more likely to occur, if the Petitions are approved. Witness Cooper further argues that none of the companies have provided such proof for any of their geographic areas. AARP contends that competition for bundled service is where the focus is in telecommunications. Therefore, AARP concludes that the shifting of costs from intraLATA long distance to basic service will have little, if any, impact on this competition since both are in the bundle.

However, Commission Staff witness Shafer testified that the likelihood of increased market entry is improved by granting the rebalancing petitions, particularly in those markets where profitability is marginal. Witness Shafer states that there appears to be a relationship between the subsidy and market entry, indicating that the removal of the subsidy will also increase market entry. Witness Shafer concludes that one can reasonably expect the ILECs' petitions will create additional market entry, particularly in markets that, to date, have been only marginally profitable or slightly unprofitable.

B. Findings and Decision

Upon consideration, we are persuaded that granting the ILEC petitions will induce enhanced market entry.

There are two types of evidence that the parties have presented in this case: empirical, which is based on real-life scenarios, and economic theory. We believe that the ILECs have offered strong theoretical and empirical evidence that the proposed changes to intrastate access charges and basic local service rates will improve the level of competition in many markets. The ILECs' witness Gordon testified that when the price of services increases, a cash flow analysis would show that investment in the market becomes more profitable and, thus, more attractive for market entry. BellSouth explains that if these rates are lowered artificially by subsidies but the incremental costs do not change, then competitors ineligible to receive the subsidy are likely to be deterred from entering the market. In addition, AT&T and MCI indicate that the reduction and eventual elimination of the access support is critical to sustainable competition as it will allow CLECs to compete on equal footing with the ILECs. We find that these arguments compelling. We conclude from the evidence presented that entry into the local telephone market is deterred if the ILECs' local service prices are below cost and that rate rebalancing is critical to actually promoting competition.

While OPC and AARP have expressed doubt about the effect that a reduction in access charges will have on competition, they have failed to convince us that these rate reductions will not induce enhanced market entry. To the contrary, Knology presents a model case on the impact that these reductions have had and will have on market entry by CLECs. Witness Boccucci testified that the granting of the ILEC petitions will allow Knology to attract and deploy new capital in Florida, thereby offering consumers a choice in facilities-based providers for new and advanced high-tech services. In addition, AT&T indicated that it has entered the BellSouth territory as a result of the 2003 Act.

We are persuaded that companies like Knology and AT&T provide the empirical evidence of how the ILECs' proposals will increase competition. We note that poor profitability, or limited profitability, is the main deterrent to market entry. We conclude

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that the evidence presented by the ILECs demonstrates that granting the petitions will induce enhanced market entry, thereby promoting competition, as required by Section 364.164(1)(b), Florida Statutes.

For almost 20 years, the telecommunications industry has been in transition from a monopolistic regime to a competitive one. While changes to Florida law and enactment of the Telecommunications Act of 1996 have made great strides in promoting competition, there is still a lack of widespread competition in the residential local exchange market. Implementation of the access reductions and offsetting rate increases permitted by the 2003 Act should serve to enhance competition in this important market.

Based on the foregoing, we find that the existing rate structure impairs competition for residential customers. Granting the ILECs' petitions will result in more attractive pricing for basic local telephone service, providing market entry opportunities for competitors that have been constrained by inefficient pricing in the past. Thus, we find that the petitions filed by BellSouth, Verizon and Sprint to reduce intrastate switched network access charges will induce enhanced market entry.

#### VIII. PARITY

In this section, we address the requirement of Section 364.164(1)(c) that any plan provide for intrastate access rates to be reduced to parity with interstate rates over a period of not less than two years or more than four years.

##### A. Arguments

Verizon contends that its proposal will reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four years. Specifically, Verizon proposes to reduce its composite intrastate access total average revenue per minute (ARPM) from \$.0485441 to \$.0117043 in three increments over two years. The total Verizon reduction would be \$76.2 million.

There was conflicting testimony in the record regarding whether Verizon's inclusion of its non-traffic sensitive interstate

presubscribed interexchange carrier charge (PICC) in the calculation of its switched access charge reduction was appropriate. Verizon's witness Fulp testified that the PICC was included because its interstate access rates include both traffic sensitive and non-traffic sensitive charges. Witness Fulp asserts that the 2003 Act permits the inclusion of the PICC, since the 2003 Act defines the term "intrastate switched access rate" to include the carrier common line charge and the PICC is a federal common line charge. He asserts that because the Act includes common line charges in Verizon's intrastate access rates, the analogous PICC federal common line charge must be included in Verizon's calculation of the interstate ARPM for a consistent comparison.

Verizon's witness Fulp asserts that if the PICC is excluded from its calculation, Verizon would have to reduce its composite intrastate access rate by a greater amount than originally proposed. As such, to preserve revenue neutrality, Verizon's basic local rates would have to increase more than its original proposal. Specifically, the witness explained that if Verizon were to exclude the PICC from the parity calculation, Verizon would have to reduce its access revenues by \$12,679,052 more than originally proposed, and, consequently, Verizon would have to increase its basic local revenues by a corresponding amount. The result would be an increase to Verizon's basic local rates of \$0.86 more than Verizon originally proposed.

AT&T and MCI assert that Verizon's proposal does not correctly reduce its intrastate switched access rates to interstate parity. AT&T witness Fonteix contends that Verizon's inclusion of the PICC is inappropriate for two reasons. He contends that the PICC is not part of the intrastate rate elements. Witness Fonteix asserts that even if the PICC was appropriate for inclusion in the calculation, Verizon should have used the interstate minutes of use in calculating the ARPM rather than the intrastate minutes of use. Finally, Witness Fonteix argues that the PICC should have been excluded because the PICC charge applies to multiline business customers and the access charge reductions allow Verizon to collect business line revenue from all Florida residents.

AARP, Common Cause Florida, and Sugarmill Woods also contend that Verizon's inclusion of the interstate PICC end-user charge in its calculation of intrastate access charges for the purpose of

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rebalancing means that Verizon has failed to comply with the provisions of the Act requiring parity and revenue neutrality. They assert that Verizon's petition should be denied on these grounds.

Sprint asserts that its proposal will reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four. Sprint contends that its petition, testimony, and exhibits demonstrate that rebalancing prices over a two-year period (three annual increments) will provide the marketplace with the appropriate competitive signals and will not result in consumer rate shock. Sprint's initial proposal was to reduce its access rate by \$62,319,890 the first year, \$56,211,862 the second year, and \$23,541,711 the third year. Sprint's total proposed reduction is \$125.2 million. However, during closing arguments Sprint agreed to spread its reduction and corresponding increase in four steps over a period of three years, consistent with the position advocated by Commission staff witness Shafer. Under Sprint's revised proposal, the basic local telecommunications services increases will be \$2.25 the first year, \$2.25 the second year, \$1.50 the third year, and \$0.86 the fourth year.

BellSouth contends that its proposal will reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four. BellSouth asserts that its proposed increases will occur over three installments, 1<sup>st</sup> quarter 2004, 1<sup>st</sup> quarter 2005, and 1<sup>st</sup> quarter 2006. BellSouth presents two alternative methodologies by which parity can be achieved: "mirroring" and the "typical network." Witness Ruscilli testified that BellSouth's proposed reductions under either methodology will be 40% in the 1<sup>st</sup> quarter of 2004, 35% in the 1<sup>st</sup> quarter of 2005, and 25% in the 1<sup>st</sup> quarter of 2006. Witness Ruscilli further testified that BellSouth's proposal reaches parity in 24 months, consistent with the requirement in Section 364.164(1)(c), Florida Statutes, that parity be reached in not less than 2 years and not more than 4 years.

AT&T and MCI assert that BellSouth's "mirroring" proposal appears to correctly reduce its switched access rates to interstate parity, but they contend that BellSouth's "typical network" proposal does not. Witness Fonteix explains that BellSouth's

"mirroring" methodology appropriately quantifies the revenue impact of the intrastate rate reductions necessary to achieve parity by multiplying the demand times the difference between its intrastate and interstate tariffed rates. However, witness Fonteix asserts that BellSouth's "typical network" methodology is inappropriate because it targets only a select set of rate elements to equal interstate rate levels, and thus fails to address all of the rate elements in the statutory definition of intrastate switched network access rate.

Witness Shafer contends that Sprint should extend its implementation of access reductions and increases to basic local service rates by 12 months in order to mitigate rate shock to consumers. Witness Shafer testified that while the statute did not directly address or define rate shock, the statute does provide for a transition period for the access charge and basic local service rate adjustments of not less than 2 years and not more than 4 years. He asserts that due to this range it is reasonable to infer that the Legislature recognized the concept of rate shock or rate reasonableness. Witness Shafer asserts that it would be appropriate for Sprint to implement an additional incremental rate adjustment 36 months after the initial adjustment in order to complete its transition to parity. He argues that this would put Sprint's residential customers more on par with those of BellSouth and Verizon in terms of the amount of the increase they receive at any one time.

#### B. Findings and Decision

Section 364.164(1)(c), Florida Statutes, requires that we consider whether the Petitions will require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years. We find that each of the three amended Petitions meets the requirement of 364.164(1)(c), Florida Statutes.

As noted above, there was testimony regarding whether it was appropriate for Verizon to include the PICC in its access charge reduction calculation. Section 364.164(6), Florida Statutes,

defines the term "intrastate switched network access rate" as:

. . . the composite of the originating and terminating network access rate for carrier common line, local channel/entrance facility, switched common transport, access tandem switching, interconnection charge, signaling, information surcharge, and local switching.  
(Emphasis added.)

Based on the definition in the statute, as well as the testimony of witness Fulp, we are persuaded that the PICC can be included in the calculation of the interstate rate target, since it was developed to recover nontraffic sensitive charges that were originally in the traffic sensitive carrier common line charge. In construing the statute in this manner, we are mindful that the interpretation advocated by other parties would result in a higher overall charge to the consumer. Thus, we conclude that Verizon's explanation for inclusion of the PICC is not inconsistent with the statute and find that Verizon's methodology for calculating its switched access charge reduction complies with Section 364.164(1)(c), Florida Statutes.

We note that witness Shafer testified that it would be appropriate for Sprint to implement an additional incremental rate adjustment 36 months after the initial adjustment in order to complete its transition to parity. However, we find that Sprint's original proposal met the criteria set forth in Section 364.164(1)(c), Florida Statutes. We also note that Sprint subsequently agreed to spread its reduction and corresponding increase over a period of three years and that this revised proposal also meets the statutory criteria.

Finally, we address which of BellSouth's methodologies, "mirroring" or "typical network," is the appropriate method to be applied in the next section. However, we find that either method meets the "parity" criteria set forth in Section 364.164(1)(c), Florida Statutes.

IX. REVENUE NEUTRALITY

In this section, we address whether the ILECs' proposals will achieve revenue neutrality as required by Section 364.164(1)(d), Florida Statutes.

A. Arguments

Verizon contends that its rate rebalancing plan is revenue neutral, as defined in the statute. Verizon asserts the plan will reduce Verizon's intrastate switched network access rates by \$76.2 million and offset that reduction with a corresponding increase in basic local rates. Verizon proposes incremental residential local service rate increases of \$1.58 in its first increment, \$1.58 in its second increment, and \$1.57 in its third increment.<sup>6</sup> Verizon asserts that single-line business recurring rates will be raised to \$32.00 per month. Verizon proposes to raise its network establishment charge and central office connection charges by \$5.00 over three increments. Verizon proposes to raise its non-recurring single line business network establishment charges by \$0.10.

Sprint asserts that, as demonstrated by the testimony and exhibits it filed, rebalancing will be accomplished in a revenue neutral manner. Sprint testified that it will be reducing its switched network access charges by a total of \$142.1 million. Sprint initially proposed basic residential rate increases of \$2.95 for increment one, \$2.75 for increment two, and \$1.16 for increment three for a total of \$6.86. However, as noted previously, Sprint agreed in its closing argument to four incremental increases of \$2.25 in 2004, \$2.25 in 2005, \$1.36 in 2006, and \$1.00 in 2007. Sprint also proposes to increase its single-line business rates by \$2.70 in the first increment, \$2.40 in the second increment, and \$0.90 in the third increment.

BellSouth argues that its proposal, using either methodology, reflects a reduction in intrastate access that will be rebalanced through increases in basic local exchange rates. Witness Hendrix

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<sup>6</sup> We note that Verizon in its closing argument agreed to increase the amount it recoups through non-recurring revenues from \$1.2 million to \$2.4 million, so that basic local rates will be raised by \$1.2 million less than originally requested.

explains that the "mirroring" methodology actually mirrors the recurring rate elements listed in Section 364.164(6), namely the carrier common line, local channel/entrance facility, switched common transport, access tandem switching, interconnection charge, signaling, information surcharge, and local switching. He testified that the revenue impact of reducing these elements to interstate parity is \$136.4 million. Under the "mirroring" methodology, BellSouth would raise residential recurring rates a \$1.39 in the first increase, \$1.38 in the second increase, and \$1.09 in the third increase, for a total of \$3.86 per month. BellSouth proposes to raise single line business to \$25 (rate groups 1-3), \$28 (rate groups 4-6), and \$30.20 (rate groups 7-11, X2, X4) in two equal installments. BellSouth also proposes to raise its non-recurring charges in three installments.

Witness Hendrix also explained that BellSouth's "typical network" methodology achieves parity by comparison of the "typical network" composite rate for interstate switched access with the composite rate for intrastate switched network access utilizing the rate elements in BellSouth's annual filing with this Commission, the Florida Access and Toll Report, Tables 1 and 2. He further testified that the revenue reduction resulting from the achievement of parity using the "typical network" methodology is \$125.2 million. Under the "typical network" methodology, BellSouth would raise residential recurring rates a total of \$3.50; \$1.25 for the first increase, \$1.25 for the second increase; and \$1.00 for the third increase.<sup>7</sup> BellSouth's proposal to raise single line business rates remains the same as set forth under the "mirroring" methodology, as does its proposed increase in non-recurring charges.

Witness Hendrix asserts that the difference in the revenue impact between these two methodologies stems from the number of rate elements utilized in each methodology. He contends that both methodologies use the most recent 12-months' demand to determine the intrastate switched network access revenue reduction. He asserts that the "mirroring" methodology uses all of the recurring switched network access rate elements, whereas the "typical network" methodology uses the limited, specific rate elements that

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<sup>7</sup>BellSouth agreed to increase its non-recurring charge so that the single line residential rates would be lowered by approximately \$0.36.

are considered to be representative of averages for BellSouth's network. Witness Hendrix testified that use of composites from a typical network is consistent with the Commission's past practice for determination of switched access revenue reductions.

AT&T and MCI contend that the ILECs' rebalancing proposals appear to be revenue neutral notwithstanding any failures to correctly reach interstate parity. Under the parity section, AT&T and MCI argued that BellSouth's "mirroring" methodology, but not the "typical network" methodology, meets the criteria for parity. As noted previously, witness Fonteix claims that BellSouth's "typical network" methodology targets only a select set of rate elements to equal interstate rate levels, and thus fails to address all of the rate elements in the statutory definition of intrastate switched network access rate.

AARP, Common Cause Florida, and Sugarmill Woods assert that the ILECs have not substantiated that their respective intrastate long distance rate reductions for residential customers will equal their corresponding basic long distance telecommunications service increases. They further assert that Verizon's inclusion of the interstate PICC end-user charge in its calculation of intrastate access charges for the purpose of rebalancing results in Verizon's failure to comply with the provisions of the Act requiring both parity and revenue neutrality. They conclude that Verizon's petition should be denied on these grounds.

The Attorney General argues that the ILECs have not substantiated that their respective intrastate long distance rate reductions for residential customers will equal their corresponding basic local telecommunications services increase. He argues that the ILECs have failed to demonstrate that the increase is revenue neutral.

#### B. Findings and Decision

AARP, Common Cause Florida, and Sugarmill Woods, articulate their specific position that because the PICC should not have been included in Verizon's switched network access charge reduction, Verizon's petition is not revenue neutral. For the reasons noted in the previous section, we find that it is appropriate for Verizon to include the PICC in its switched network access charge reduction

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calculation. Given that the PICC is appropriately included, we find that Verizon's proposed revenue reduction and basic rate increases are revenue neutral. Thus, we find that Verizon's proposal meets the criteria set forth in Section 364.164(1)(d), Florida Statutes. We also find that Sprint's proposed revenue reduction and basic rate increases are revenue neutral.

BellSouth has proposed two methodologies, "mirroring" and "typical network," which could be used to achieve revenue neutrality. We find that both the "mirroring" and "typical network" methodologies meet the statutory requirements for revenue neutrality. We note that the "typical network" methodology provides for less of an increase in basic local residential rates. Thus, we find it appropriate to approve the "typical network" methodology as the methodology which has a lesser impact on the local rates. In addition, we find that BellSouth's proposal meets the criteria set forth in Section 364.164 (1)(d), Florida Statutes.

Section 364.164(1)(d), Florida Statutes, requires that we consider whether approving the ILECs' proposals will be revenue neutral as defined in subsection (7) within the revenue category defined in subsection (2). Subsection (7) states that "revenue neutrality" means that the total revenue within the revenue category established by the statute remains the same before and after the local exchange telecommunications company implements any rate adjustments under this section. Subsection (2) states that once the ILEC petitions are granted, the local exchange telecommunications company is authorized to immediately implement a revenue category mechanism consisting of basic local telecommunications service revenues and intrastate switched network access revenues to achieve revenue neutrality. We find that each of the three amended Petitions meet the revenue neutrality requirement of 364.164(1)(d), Florida Statutes.

Furthermore, contrary to the position taken by the Attorney General in these proceedings as further elucidated in Section VI(C) of this Order, we find the statute does not require that implementation of the proposals be "bill neutral" to any particular customer or class of customers.

X. FLOW-THROUGH CONSIDERATIONS

In this section, we consider the proper application of Section 364.163, Florida Statutes. We note that for each of the flow-through issues, Common Cause Florida and Sugarmill Woods adopted the position of AARP.

A. Applicability and Content of Flow-Through Tariffs.

This section addresses which IXCs should be required to file flow-through tariffs and what information should accompany those filings.

1. Argument

AT&T and MCI argue that all IXCs should be required to flow through the switched access reductions they receive in order to keep long distance carriers on a level playing field. For competitive neutrality, any flow-through conditions imposed must be applied to all IXCs. However, AT&T and MCI would not be opposed to a de minimus threshold established by this Commission for those IXCs for which the flow-through would have no meaningful impact. Such threshold, however, should be set sufficiently low to allow only those IXCs with very low volume of access use to qualify.

BellSouth Long Distance notes that Section 364.163, Florida Statutes, requires that all IXCs who benefit from the access reductions must flow through the benefits. Also, a company's tariff filings should specify the rates to be reduced and contain a statement of the particular company's corresponding anticipated revenue reduction.

Sprint Communications Company's conditional position is that any IXC paying more than \$1 million in access charges should be required to demonstrate that the required flow-through has occurred. It is not clear that the demonstration of flow-through should occur in the tariff filings. The demonstration of compliance with the statutory requirements should be up to each company and should insure that confidentiality is maintained where needed. Tariffs should reflect rates and charges that flow through benefits of reduced access charge prices.

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Verizon Long Distance argues that any IXC that receives the benefit of intrastate switched access rate reductions must file intrastate tariffs (if tariff filings are required) flowing through such reductions. An IXC reseller should not be required to reduce prices to its customers unless it receives a reduction in the prices it is charged by its facilities-based supplier. IXCs should have the discretion to determine how to flow through the access charge reductions by lowering the in-state per minute rates, or monthly recurring plan charges, or both. If this Commission should decide to deregulate long distance services and eliminate long distance tariffing obligations, Verizon contends the reductions should be passed through to end users under end user service agreements.

OPC and AARP urge that all IXCs in Florida should be required to file tariffs and flow through the impacts of access rate reductions, except for those IXCs whose intrastate access expense reduction is \$100 or less, per month. Those IXCs which are not required to flow through the reductions should attest to such, via a letter filed with this Commission. These flow-through reductions should be directed to residential customers in the same proportion as the basic local telephone service revenue increases proposed by the ILECs. Included in these tariff filings should be the information delineated in the testimony of witness Ostrander.

The Attorney General argues that all IXCs in Florida should be required to file tariffs and flow through the impacts of access rate reductions, except for those IXCs whose intrastate access expense reduction is \$100 or less, per month. Those IXCs which are not required to flow through the reductions should attest to such, via a letter filed with this Commission.

## 2. Findings and Decision

There appears to be little disagreement among the parties as to the fact that the savings must be flowed through. There is disagreement, however, as to the type of documentation that should be required to demonstrate that this requirement has been met.

Upon consideration, all IXCs that paid \$1 million or more in intrastate switched access charges within the most recent 12 month period shall include in their tariff filings: (1) a calculation of

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the dollar benefit associated with the LEC's intrastate access rate reductions; (2) separate demonstrations that residential and business long distance rates have been reduced and the estimated annualized revenue effect, residential and business, including how those estimates were made; and (3) a demonstration that all rate reductions have been flowed through.

Further, IXCs that paid less than \$1 million in intrastate switched access charges within the most recent 12-month period shall include in their tariff filings a letter certifying that they paid less than \$1 million in intrastate switched access charges within the most recent 12 month period, and that they have complied with each of the flow-through requirements as specified in Section 364.163(2), Florida Statutes. Any IXC whose intrastate switched access expense reduction is \$100 or less per month shall not be obligated to flow through its reduction, but must attest to such through a letter filed with this Commission.

Finally, we direct our staff to work with the parties on an appropriate reporting format with consideration given to the formats used to demonstrate the 1998 access charge reduction flow throughs. In addition, our staff shall be diligent in assuring compliance with the requirements of this Order.

#### B. Timing

This section of our Order addresses the appropriate timing for filing of the IXC flow-through tariffs required by this Order.

##### 1. Argument

AT&T and MCI state that it is unnecessary to set the exact same filing dates for both the ILECs and IXCs. They maintain the statute clearly requires the IXC's revenues to be reduced by the amount of access reductions it receives, but does not specify a time frame for making the reduction. They believe IXCs need a sufficient amount of time to both calculate the savings they will receive and to prepare tariffs for filing. As such, they argue that IXCs should be allowed 60 days from the date the ILEC files its access tariff revisions to file any IXC tariff revisions for flow-through. If this Commission chooses to mandate the ILEC and IXC tariffs be effective simultaneously, the ILEC access tariff

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revisions should be filed 60 days in advance of the effective date so that IXCs have the time necessary to conduct their analysis and file their tariffs, according to AT&T and MCI.

BellSouth Long Distance notes that affected IXCs should file their tariffs to flow through the access reductions within 15 days of the effective date of the last of the three ILECs' filings. This would allow the carriers to avoid unnecessary multiple filings.

Sprint Communications Company's position is that IXCs should be allowed to have up to 60 days from the time that ILECs access reductions are effective in order to implement the tariff, billing and other administrative changes necessary to flow through the price adjustments.

Verizon Long Distance argues that facilities-based IXCs that benefit from reductions in the price of access should be required to pass through rate reductions via their intrastate tariffs (if tariffs are required), as soon as possible after the approved ILEC access rate reductions. Non-facilities-based IXCs should be required to flow through access charge reductions when they are received from the underlying facilities-based carrier. Since the flow-through of the access charges will require facilities-based carriers as well as IXC resellers, to make modifications to, for example, billing systems, rate tables, marketing and fulfillment materials, carriers should be given a reasonable amount of time to implement necessary plan and system changes before they are required to pass through access rate reductions.

On cross-examination, most of the IXC witnesses conceded that tariffs could be filed within 44 days after an ILEC's access charge tariff filing.

OPC, AARP and the AG all simply state that IXCs should be required to flow through the benefits of any rate reductions, via the tariffs, simultaneously with the approved ILEC access rate reductions.

## 2. Findings and Decision

Based on past experience with the 1998 access charge reduction flow-through, IXCs have not had difficulty complying with filing requirements as short as 21 and 30 days. We have heard no compelling testimony as to why, for the present dockets, 44 days from the filing of the LEC tariffs is not a reasonable time frame for filing of the IXC tariffs. The ILECs are required by Section 364.164(2), Florida Statutes, to give 45 days notice before tariffs go into effect, but IXCs need give only one day's notice. The goal of this requirement would be to have the ILEC and IXC tariffs become effective simultaneously. Accordingly, the IXC tariffs shall be required within 44 days after the filing of the ILECs tariffs, and the ILEC and IXC tariffs shall become effective simultaneously.

### C. Duration of Revenue Reductions

Here, we address the appropriate duration of the IXC revenue reductions necessary to fully flow through the benefits of the access charge reductions to customers.

#### 1. Argument

AT&T and MCI state that the highly competitive long distance market should and will decide this issue. They urge that specific restrictions have been unnecessary in the past, and could have negative consequences. In a highly competitive market, imposing any restrictions on the length of time a revenue reduction is in place could place the IXCs at a disadvantage in that it could prevent an IXC from implementing a pricing strategy that maximizes its competitive position. AT&T and MCI state that, should this Commission mandate the time period over which the reductions should be maintained, it would be the first time such a mandate has been imposed. In the earlier flow-throughs identified in these proceedings, this Commission did not impose a period of time that the rate reductions must be in place.

BellSouth Long Distance argues that, given the completely and irrevocably competitive nature of the intrastate interexchange long distance market in Florida, market forces will ensure that any long distance revenue reductions resulting from the flow-through of

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access charges will remain in place. There is significant and considerable competition among traditional long distance carriers as well as competition from other providers, such as voice over internet protocol providers and wireless carriers. According to BellSouth Long Distance, this competition will cause carriers to move their prices toward cost and prevent them from raising rates. Intrastate interexchange carriers should have the flexibility to change rates to meet market conditions, as long as they reduce their revenues in an amount equal to their access charge reductions.

Sprint Communications Company's conditional position is that market forces will insure that the revenue benefits of access reductions will be effective in maintaining the revenue benefits of the access reductions. Nevertheless, each provider required to make a flow-through filing should reduce average prices by an amount at least equivalent to the access reduction on a per minute basis and should maintain those average price reductions for all three years of the access reductions plus at least one additional year.

Verizon Long Distance urges that the long distance market is highly competitive in that the traditional wireline long distance carriers compete against each other as well as with wireless carriers, cable companies and IP telephony providers. Competition will ensure that IXCs flow through access reductions without any need for Commission intervention. Nevertheless, to remove any doubt about whether customers will actually receive the benefit of the access reductions, Verizon Long Distance (and its affiliates) agree to flow through the reductions for three years. After that time, Verizon Long Distance argue IXCs should be free to change their long distance rates in accordance with the demands of the marketplace.

OPC, AARP and the AG argue that the IXCs should be required to cap and maintain their long distance rate reductions for a period of three years after parity is achieved, as required by Section 364.163, Florida Statutes, and as further described by witness Ostrander.

## 2. Findings and Decision

We find that, in order to implement the intent of the statutory requirements, there needs be a period of rate certainty after parity is achieved. We are not, however, persuaded by the arguments that we should mandate that the reductions remain in effect for a period of three years after parity is achieved. This is contrary to the fact that the long distance market is highly competitive, and as noted by witness Kapka, market forces will likely prove effective in keeping long distance rates low over the long term. Accordingly, we find that rate reductions shall remain in effect for no less than one year subsequent to parity being accomplished.

### D. Allocation of the Flow-Through Benefits between Residential and Business Customers.

Here, we address the proper method for allocating the flow-through benefits between residential and business customers.

#### 1. Argument

AT&T and MCI argue that the 2003 Act simply requires the IXCs to return the benefits of access reductions to both residential and business customers. However, it does not micro-manage the IXC market by mandating a methodology or specific allocation between the customer classes. In doing so, the Act recognizes the competitive market will determine the specifics of the access flow-through. They argue the 2003 Act specifically has given IXCs the maximum flexibility to determine how best to make reductions that meet the needs of the market place. As long as both residential and business customers benefit, each IXC should be left to accomplish its flow-through consistent with its market needs, according to the companies. In addition, each IXC must eliminate any in-state connection fee by July 1, 2006.

BellSouth Long Distance urges that both residential and business customers must receive benefits from the reduction in access charges, but emphasizes that Section 364.163, Florida Statutes, does not require any specific allocation. Nonetheless, under current market conditions, and so long as the other carriers agree to do so, BellSouth Long Distance will allocate the revenue

ORDER NO. PSC-03-1469-FOF-TL

DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI

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reductions in an approximately pro rata manner between residential and business customers based upon access minutes of use.

Sprint Communications Company states that the methodology contained in witness Kapka's direct testimony should be a guide for flow-through. In his testimony, witness Kapka explained his methodology as follows:

For services which are substantially used by residential subscribed customers, Sprint would determine the average revenue per minute for these services in the aggregate. With each reduction in access charges, Sprint would adjust the average revenue per minute for this base of customers such that the average revenue per minute would be reduced by an amount at least equal to the reduction in access charges per minute. . . . This general approach will ensure that the residential subscriber base will experience a reduction in long distance prices at a level at least as much as the reduction in access costs associated with long distance minutes that customer segment consumes.

Verizon Long Distance (and the Verizon affiliates) plan to flow through the benefits realized from access reductions to both residential and business customers based on the relative proportion of access minutes associated with those classes of customers. The amount of intrastate switched access that Verizon Select Services uses is significantly less than the amount that Verizon Long Distance uses.

The position of OPC, AARP and the AG is that the IXC's should allocate rate reductions between residential and business customers in the same proportion as the respective percent revenue increases for those two classes of customers that have been proposed by the ILECs.

## 2. Findings and Decision

Each of the IXC's has agreed that the allocation of rate reductions between the residential and business customer classes should be in proportion to the respective access minutes of use. While we have considered the argument that the reductions should be

allocated in accordance with the increases on the local exchange side, we are not persuaded that this is feasible, economically appropriate, or even contemplated by the statute. Accordingly, we acknowledge the reasonableness of the IXC proposals that the allocation of the rate reductions being flowed through to residential and business customers on a pro-rata basis according to access minutes of use is reasonable.

XI. CONCLUSION

Based on the foregoing, we hereby grant the Petitions of Verizon, Sprint, and BellSouth as filed in Dockets Nos. 030867-TL, 030868-TL, and 030869-TL, as amended by commitments made on the record at the final hearing. In doing so, we find that these Petitions meet the statutory criteria set forth in Section 364.164, Florida Statutes, and that granting the Petitions furthers the Legislature's stated policy of furthering competition in the local exchange market and promoting new offerings and innovations in the telecommunications market for Florida consumers.

We hereby accept and approve the additional proposals offered by the companies as listed below:

BELLSOUTH	SPRINT	VERIZON
Increase non-recurring charges so that the single line residential rates would be lowered by approximately 36 cents.	Increases to basic residential recurring and non-recurring rates would be in four steps spread over three years.	Increase non-recurring revenues from \$1.2 million to \$2.4 million so that basic local rates can be raised by \$1.2 million less than requested.
Increase Lifeline eligibility to 135% of the federal poverty level.	Increase Lifeline eligibility to 135% of the federal poverty level.	Increase Lifeline eligibility to 135% of the federal poverty level.
	Lifeline rates would not be increased for four years.	Lifeline rates would not be increased for four years.

BELLSOUTH	SPRINT	VERIZON
Will work with PSC to review ECS in a Commission workshop.	Will work with PSC to review ECS in a Commission workshop.	Will work with PSC to review ECS in a Commission workshop.

The tariffs reflecting the ILECs' agreement to increase Lifeline eligibility to 135% of the federal poverty level shall be effective concurrently with the ILECs' 45-day tariff filings.

In addition, the IXCs shall flow through the benefits resulting from the granting of the ILECs' Petitions in accordance with the specific requirements set forth in Section X of this Order.

Finally, Commission staff is hereby authorized to administratively review and approve the tariff filings received implementing these proposals.

It is therefore

ORDERED by the Florida Public Service Commission that the Petitions filed by Verizon Florida, Inc., Sprint-Florida, Incorporated, and BellSouth Telecommunications, Inc., in respective Dockets Nos. 030867-TL, 030868-TL, and 030869-TL are hereby approved as set forth in the body of this Order. It is further

ORDERED that the modifications proposed by these companies are also accepted and approved as set forth herein. It is further

ORDERED that the tariffs implementing the increased Lifeline eligibility criteria shall be effective concurrently with the Petitioners' 45-day tariff filings. It is further

ORDERED that the flow through of the access charge reductions by the interexchange carriers shall proceed in accordance with the provisions set forth herein and within the timeframes specified. It is further

ORDERED that a Commission workshop shall be conducted to investigate Extended Calling Service, as prescribed herein. It is further

ORDER NO. PSC-03-1469-FOF-TL

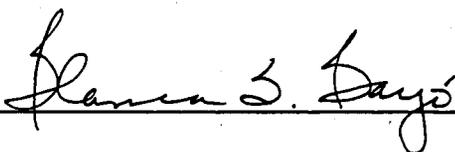
DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI

PAGE 58

ORDERED that Commission staff is hereby authorized to administratively review and approve the tariffs implementing these decisions. It is further

ORDERED that these Dockets shall be closed after the time for filing an appeal has run.

By ORDER of the Florida Public Service Commission this 24th day of December, 2003.



---

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

RDM/BK/FRB/PAC/CLF

ORDER NO. PSC-03-1469-FOF-TL  
DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI  
PAGE 59

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**MEMORANDUM**

January 14, 2004

RECEIVED-PPSC

04 JAN 14 PM 2:41

COMMISSION  
CLERK

**TO:** ✓ KAY FLYNN/CCA  
SANDY MOSES/CCA  
MARY DISKERUD/GCL-APP  
WANDA TERRELL/GCL-APP

**FROM:** DAVID E. SMITH, ATTORNEY SUPERVISOR, GENERAL  
COUNSEL/APPEALS, RULES & MEDIATION *DES us*

**RE:** CHARLES J. CRIST, JR., ATTORNEY GENERAL, STATE OF FLORIDA,  
AND HAROLD MCLEAN, PUBLIC COUNSEL v. LILA A. JABER,  
CHAIRMAN, et al.; DOCKET NOS. 030867-TL, 030868-TL, 030869-  
TL, AND 030961-TI); FLORIDA SUPREME COURT.

---

Please note that Rick Melson is handling the above appeal. The Notice of Administrative Appeal was filed on January 7, 2004 . The case schedule is as follows:

<u>Date</u>	<u>Item</u>
<u>From day of filing:</u>	
<u>02/12/04</u>	Draft of Index of Record from CCA to Appeals Attorney.
<u>02/26/04</u>	Index of Record served on Parties.
<u>03/07/04</u>	Copy of Record to Appeals.
<u>03/17/04</u>	Appellant's Initial Brief Due.
<u>04/01/04</u>	Draft Commission Answer Brief Due.
<u>04/06/04</u>	Commission's Answer Brief Due.
<u>04/26/04</u>	Appellant's Reply Brief Due.

STATE OF FLORIDA

COMMISSIONERS:  
BRACLIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

## Public Service Commission

January 22, 2004

Cecilia Bradley, Esq.  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399-1050

**Re: Dockets 030867-TL, 030868-TL, 030869-TL, and 030961-TI on appeal -  
Directions to Clerk**

Dear Ms. Bradley::

Because of the complexity of the record in these cases, I want to be sure we correctly understand the Directions to Clerk that you filed on January 20, 2004.

With regard to the general direction to include documents described in Rule 9.200(a)(1), and based on a conversation between you and our General Counsel, we understand that you do not intend for us to include:

- (a) the original filed copy of "prefiled testimony" if that testimony was subsequently inserted into the record and included in the transcript of the final hearing; or
- (b) notices of service of discovery and notices of service of discovery responses.

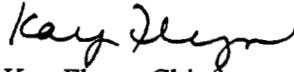
With regard to the direction to include various discovery requests and responses (Items 2, 3, and 4), I want to point out that these documents are not on file with the Commission –and therefore will not be included in the record – except to the extent that they were admitted into the record at the final hearing and/or were subject to a claim of confidentiality.

With regard to the direction to include Item 1 (all correspondence), we intend to include these documents in a separate pouch or pouches that will be described in the index to the record as a single item, e.g., "Pouches Containing Customer Correspondence."

Cecilia Bradley, Esq.  
Page 2  
Thursday, January 22, 2004

Please let me know as soon as possible if you believe any of the above is inconsistent with your directions.

Sincerely,



Kay Flynn, Chief  
Bureau of Records  
Commission Clerk & Administrative Services

cc: Blanca S. Bayó, CCA Director  
Rick Melson, General Counsel  
All parties of record

**Kay Flynn**

**From:** Beth Keating  
**Sent:** Tuesday, February 17, 2004 3:53 PM  
**To:** Charles Beck  
**Cc:** Cecilia Bradley (Cecilia\_Bradley@oag.state.fl.us); MANN.RICK; Kay Flynn  
**Subject:** RE: Docket 030869 et. al.: Confidential Documents Used by Staff at Ag enda

*Handwritten:* 2-18-04  
 [Signature]

O.k., you will want to work directly with Kay on this, but it shouldn't be a problem. Her number is 413-6744.

-----Original Message-----

**From:** BECK.CHARLES [mailto:BECK.CHARLES@leg.state.fl.us]  
**Sent:** Tuesday, February 17, 2004 3:34 PM  
**To:** Beth Keating (bkeating@psc.state.fl.us)  
**Cc:** Cecilia Bradley (Cecilia\_Bradley@oag.state.fl.us); MANN.RICK  
**Subject:** Docket 030869 et. al.: Confidential Documents Used by Staff at Ag enda

Beth -- I'd like to get a copy of, or at least take a look at, the confidential documents used by staff during the agenda conference in dockets 030869-TP et. al. Should I work directly with Kay Flynn on this? These are the documents indicated on the PSC web page for docket 030869:

\*\*\*\*\*

13194-03  
 12/19/2003

*Handwritten:* 10:00  
 Charlie Beck is coming  
 C. Bradley "

PSC/Staff - (CONFIDENTIAL) Information from 12/16/03 ag conference: Issue 1(a), spreadsheets; Issue 3, reduction in access charges as filed by companies; Issue 4, amounts included in ILEC petitions; Issue 9, IXCs split of flow-through reductions; Issue 10, in-state connection fee and revenue reductions. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.]

\*\*\*\*\*

Thanks.

Charlie

RECEIVED  
24 FEB 27 PM 12:05

COMMISSION  
CLERK



**JACK SHREVE**  
**SENIOR GENERAL COUNSEL**

OFFICE OF THE ATTORNEY GENERAL      TELEPHONE: (850) 414-3300  
THE CAPITOL, SUITE PL-01              FACSIMILE: (850) 410-3872  
TALLAHASSEE, FL 32309-1000

---

Needed Confidential Documents  
For Docket Number 030867

00592-04 01/14/2004 PSC/Staff - (CONFIDENTIAL) Hearing Exhibit No. 86.  
[CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867  
only.]

00616-04 01/15/2004 (CONFIDENTIAL) Exhibit 56 from December 2003  
hearing.

00617-04 01/15/2004 (CONFIDENTIAL) Exhibit 75 from December 2003  
hearing.

08993-03 09/19/2003 AUS/Vandiver - Memo dated 9/19/03 to CCA/Lockard  
forwarding confidential index of audit for Verizon's petition, per Section 364.164,  
F.S. (Audit Control No. 03-247-2-1).

08994-03 09/19/2003 AUS/Vandiver - (CONFIDENTIAL) Volume 2 of 2, of  
audit work papers of Verizon's petition per Section 364.164, F.S. (Audit Control  
No. 03-247-2-1). [x-ref. DN 09301-03]

09301-03 09/29/2003 Verizon (Chapkis) - (CONFIDENTIAL) Certain  
information contained in workpapers [Summaries 3/5, 4/5, and 5/5] prepared by  
Commission during billing units audit (Audit Control No. 03-247-2-1). [x-ref. DN  
08994-03]

10129-03 10/16/2003 Verizon (Chapkis) - Redacted version of confidential DN  
10128-03. [CCA note: Provided on CD.]

10823-03 10/31/2003 Verizon (Chapkis) - (CONFIDENTIAL) Supplemental  
responses to staff's 2nd set of interrogatories (Nos. 42 and 45).

12634-03 12/08/2003 BellSouth (Mays) - (CONFIDENTIAL) Response to staff's  
6th interrogatories, Item Nos. 103 and 104. [030867, 030868, 030869, 030961;  
entered in 030867 only.] [See DN 12948-03]

12680-03 12/09/2003 AT&T (Hatch) - (CONFIDENTIAL) Supplemental

✓ 00592-04 ✓	✓ 09301-03 ✓	✓ 12697-03 ✓	✓ 13131-03 ✓
✓ 00616-04 ✓	✓ 10129-03-CD	✓ 12700-03 ✓	✓ 13132-03 ✓
✓ 00617-04	✓ 10823-03 ✓	✓ 12703-03 ✓	✓ 13133-03 ✓
x 08993-03 ✓	✓ 12634-03 ✓	✓ 12706-03 ✓	✓ 13134-03 ✓
✓ 08994-03 ✓	✓ 12680-03 ✓	✓ 12712-03 ✓	✓ 13135-03 ✓
		✓ 12716-03 ✓	✓ 13136-03 ✓
		✓ 12948-03 ✓	✓ 13137-03 ✓
			✓ 13138-03 ✓
			✓ 13139-03 ✓
			✓ 13194-03

02/26/2004 17:36 0000000000

PAGE 02/04

responses to staff's 2nd set of interrogatories (Nos. 74-87). [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.]

12697-03 12/10/2003 BellSouth (Mays) - (CONFIDENTIAL) Response to staff's late-filed deposition request made during 11/25/03 deposition of W. Bernard Shell. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [x-ref. DN 12258-03]

12700-03 12/10/2003 BellSouth (Mays) - (CONFIDENTIAL) Information contained in rebuttal testimony of Steve Bigelow, John A. Ruscilli, and Exhibit WBS-1 of Bernard Shell rebuttal testimony. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [x-ref. DNs 11683-03 (Ruscilli); 11684-03 (Bigelow); and 11685-03 (Shell)]

12703-03 12/10/2003 BellSouth (Mays) - (CONFIDENTIAL) Response to staff's late-filed deposition request (Documentation and work papers provided in response to billing units verification audit). [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [See DNs 08022-03 and 09412-03]

12706-03 12/10/2003 BellSouth (Mays) - (CONFIDENTIAL) Responses to staff's 4th set of interrogatories, Item No. 81 and attachment to Item No. 89. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [x-ref. DN 12053-03]

12712-03 12/10/2003 BellSouth (Mays) - (CONFIDENTIAL) Response to staff's 3rd set of interrogatories, Item Nos. 56, 64, 65, and attachment to Item No. 57. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [x-ref. DN 11783-03]

12716-03 12/10/2003 BellSouth (Mays) - (CONFIDENTIAL) Supplemental responses to OPC's 2nd and 3rd set of interrogatories, Nos. 25, 27, 39, 41, 42, 43, 44, 46, and 47 [on hard copy]; and 2nd request for PODs, Nos. 26, 27, and 28 [on CD only]. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.]

12948-03 12/12/2003 BellSouth (White) - (CONFIDENTIAL) 1st supplemental response to staff's 6th set of interrogatories, Item Nos. 103 and 104. [CCA note:

Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [See DN 12634-03]

13131-03 12/17/2003 PSC/Staff - (CONFIDENTIAL) Hearing Exhibit No. 39. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Exhibit

13132-03 12/17/2003 PSC/Staff - (CONFIDENTIAL) Hearing Exhibit No. 41. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Exhibit contains DNs 09829-03, 10142-03, 10288-03, 11531-03, 11533-03, 12155-03, 11885-03, and 11794-03.]

13133-03 12/17/2003 PSC/Staff - (CONFIDENTIAL) Hearing Exhibit No. 40. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Exhibit contains DNs 11783-03 and 12053-03.]

13134-03 12/17/2003 PSC/Staff - (CONFIDENTIAL) Hearing Exhibit No. 42. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Exhibit contains DN 12258-03.]

13135-03 12/17/2003 PSC/Staff - (CONFIDENTIAL) Hearing Exhibit No. 43. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Exhibit contains DN 12499-03.]

13136-03 12/17/2003 PSC/Staff - (CONFIDENTIAL) Hearing Exhibit No. 44. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Exhibit contains DN 12491-03.]

13137-03 12/17/2003 Verizon - (CONFIDENTIAL) Hearing Exhibit No. 64. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Hearing Exhibit contains part of DN 08008-03.]

13138-03 12/17/2003 Sprint - (CONFIDENTIAL) Hearing Exhibit No. 66. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.] [CCA note: Exhibit contains part of DN 08011-03.]

13139-03 12/17/2003 Sprint - (CONFIDENTIAL) Hearing Exhibit No. 70. [CCA

note: Dockets 030867, 030868, 030869, and 030961; entered in 030867 only.]  
[CCA note: Exhibit contains part of DN 08011-03.]

13194-03 12/19/2003 PSC/Staff - (CONFIDENTIAL) Information from 12/16/03  
ag conference: Issue 1(a), spreadsheets; Issue 3, reduction in access charges as  
filed by companies; Issue 4, amounts included in ILEC petitions; Issue 9, IXC's  
split of flow-through reductions; Issue 10, in-state connection fee and revenue  
reductions. [CCA note: Dockets 030867, 030868, 030869, and 030961; entered in  
030867 only.]

Attn: Kay Flynn/CCA

OFFICE OF THE SOLICITOR GENERAL



THE CAPITOL

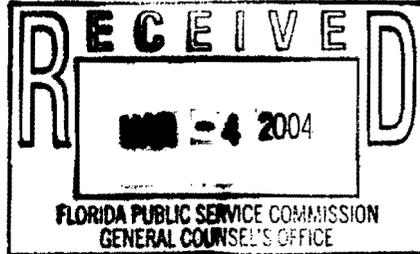
TALLAHASSEE, FLORIDA 32399-1050

CHRISTOPHER M. KISE
Solicitor General
State of Florida

Reply to:
Office of the Attorney General
PL 01, The Capitol
Tallahassee, Florida 32399-1050
(850)414-3681; SunCom 994-3681
email: Lynn\_Hearn@oag.state.fl.us

Via e-mail and first class mail

March 2, 2004



Richard D. Melson, General Counsel
Public Service Commission
Capital Circle Office Center
2540 Shumard Oa Boulevard
Tallahassee, FL 32399-0850

Dear Mr. Melson:

We have received and reviewed the draft index to the record on appeal in Case No. SC04-9. As I mentioned during our telephone call yesterday, we found it difficult to cross-reference the index with the docket listing due to the fact that the draft index omits the document numbers. Thank you for providing a copy of the draft index hand-notated with document numbers; this has been helpful. We urge you to consider including the document numbers in the final index filed with the court, or, at a minimum, listing the filing date in the left margin so it is easier to locate particular items.

As we discussed, we have identified several documents that were omitted from the index which we believe should be included. These documents are:

- 08063-03 Citizens' Motion to Expedite Discovery
08204-03 Memo dated 9/3/03 from Chairman Jaber to Clerk Bayo forwarding correspondence from Attorney General Charles J. Crist, Jr.
08256-03 9/3/03 letter to BellSouth advising FPSC will conduct audit to verify billing units
08257-03 9/3/03 letter to Verizon advising FPSC will conduct audit to verify billing units
08258-03 9/3/03 letter to Sprint advising FPSC will conduct audit to verify billing units
08993-03 9/19/03 memo to CCA forwarding confidential index of audit for Verizon's petition
08994-03 Volume 2 of 2, audit work papers of Verizon's petition

Mr. Richard D. Melson  
March 2, 2004  
Page 2

08995-03 9/19/03 memo to CCA forwarding confidential index of audit for Sprint's petition

08996-03 Volume 2 of 2, audit work papers of Sprint's petition

09001-03 9/18/03 memo to CMP with attached memo addressing review of billing units

09002-03 9/18/03 memo to CMP with attached memo addressing review of billing units

09301-03 Information contained in workpapers prepared by Commission during billing units audit

10675-03 Request for change to agenda conference, with attached materials.

11951-03 11/24/03 memo to CMP forwarding final audit to BellSouth on verification of pricing units

11952-03 11/24/03 memo to CCA forwarding confidential document index for BellSouth audit

12347-03 12/3/03 letter from BellSouth submitting comments to final audit report

12958-03 12/12/03 memo to CMP regarding review of revised billing unit testimony of Fulp

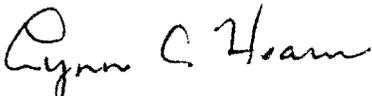
Additionally, as we discussed yesterday, it is necessary that the category "All non-confidential exhibits admitted in record at December 2003 hearing" be expanded to individually list each of these exhibits. It will be impossible to provide the court meaningful citations to these exhibits unless they are individually identified in the record.

You also confirmed yesterday that the correspondence referred to on the last page of the index will be individually paginated.

Finally, it appears that document 12840 should be moved to be included with the rest of the transcripts.

Please advise when you expect to have the index ready for filing with the Florida Supreme Court. Obviously, the index to the record lays the foundation for all subsequent stages of the appeal. If you have any questions regarding this letter or would like to discuss any of these items further, please call.

Very Truly Yours,



Lynn C. Hearn  
Deputy Solicitor General

Image Not Available

# OFFICE OF THE SOLICITOR GENERAL

## THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

CHRISTOPHER M. KISE  
*Solicitor General  
State of Florida*

Reply to:  
Office of the Attorney General  
PL 01, The Capitol  
Tallahassee, Florida 32399-1050  
(850)414-3681; SunCom 994-3681  
email: Lynn\_Hearn@oag.state.fl.us

Via e-mail and first class mail

March 2, 2004

Richard D. Melson, General Counsel  
Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oa Boulevard  
Tallahassee, FL 32399-0850

Dear Mr. Melson:

We have received and reviewed the draft index to the record on appeal in Case No. SC04-9. As I mentioned during our telephone call yesterday, we found it difficult to cross-reference the index with the docket listing due to the fact that the draft index omits the document numbers. Thank you for providing a copy of the draft index hand-notated with document numbers; this has been helpful. We urge you to consider including the document numbers in the final index filed with the court, or, at a minimum, listing the filing date in the left margin so it is easier to locate particular items.

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- ✓ 08204-03 Memo dated 9/3/03 from Chairman Jaber to Clerk Bayo forwarding correspondence from Attorney General Charles J. Crist, Jr.
- ✓ 08256-03 9/3/03 letter to BellSouth advising FPSC will conduct audit to verify billing units
- ✓ 08257-03 9/3/03 letter to Verizon advising FPSC will conduct audit to verify billing units
- ✓ 08258-03 9/3/03 letter to Sprint advising FPSC will conduct audit to verify billing units
- ✓ 08993-03 9/19/03 memo to CCA forwarding confidential index of audit for Verizon's petition
- ✓ 08994-03 Volume 2 of 2, audit work papers of Verizon's petition

also:

02203-04

03115-04

Charles J. Crist, Jr., Attorney General  
State of Florida, Department of Legal Affairs  
AN AFFIRMATIVE ACTION / EQUAL OPPORTUNITY EMPLOYER

Mr. Richard D. Melson  
March 2, 2004  
Page 2

- ✓08995-03 9/19/03 memo to CCA forwarding confidential index of audit for Sprint's petition
- ✓08996-03 Volume 2 of 2, audit work papers of Sprint's petition
- ✓09001-03 9/18/03 memo to CMP with attached memo addressing review of billing units
- ✓09002-03 9/18/03 memo to CMP with attached memo addressing review of billing units
- ✓09301-03 Information contained in workpapers prepared by Commission during billing units audit
- ✓10675-03 Request for change to agenda conference, with attached materials.
- ✓11951-03 11/24/03 memo to CMP forwarding final audit to BellSouth on verification of pricing units
- ✓11952-03 11/24/03 memo to CCA forwarding confidential document index for BellSouth audit
- ✓12347-03 12/3/03 letter from BellSouth submitting comments to final audit report
- ✓12958-03 12/12/03 memo to CMP regarding review of revised billing unit testimony of Fulp

Additionally, as we discussed yesterday, it is necessary that the category "All non-confidential exhibits admitted in record at December 2003 hearing" be expanded to individually list each of these exhibits. It will be impossible to provide the court meaningful citations to these exhibits unless they are individually identified in the record.

You also confirmed yesterday that the correspondence referred to on the last page of the index will be individually paginated.

Finally, it appears that document 12840 should be moved to be included with the rest of the transcripts.

Please advise when you expect to have the index ready for filing with the Florida Supreme Court. Obviously, the index to the record lays the foundation for all subsequent stages of the appeal. If you have any questions regarding this letter or would like to discuss any of these items further, please call.

Very Truly Yours,

---

Lynn C. Hearn  
Deputy Solicitor General

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

Public Service Commission

March 2, 2004

Jack Shreve, Esq.  
Office of the Attorney General  
PL -01, The Capitol  
Tallahassee, Florida 32399-1050

Re: Dockets 030867-TL, 030868-TL, 030869-TL, 030961-TI

Dear Mr. Shreve:

Accompanying this letter are copies of the following documents filed by parties as confidential in the referenced dockets:

08993-03	12712-03	13139-03
08994-03	12716-03	13194-03
09301-03	12948-03	00592-04
10129-03 (CD)	13131-03	00616-04
10823-03	13132-03	00617-04
12634-03	13133-03	
12680-03	13134-03	
12697-03	13135-03	
12700-03	13136-03	
12703-03	13137-03	
12706-03	13138-03	

These documents are labeled "confidential" and must be maintained as confidential during the pendency of the cases on appeal, and returned to my office when the appeal concludes.

Sincerely,

Kay Flynn  
Chief of Records

Enclosure

cc: Blanca S. Bayó  
Richard Melson, Esq.  
Beth Keating, Esq.  
Beth Salak  
Parties of Record

Letter to Jack Shreve, Esq. (In re: Dockets 030867-TL, et al.)  
March 2, 2004  
Page 2

Your signature below indicates you are taking possession of the confidential documents listed on the previous page:

Signature:  X  
Date: 3/03/04

To: Kay Flynn Date: April 23, 2004  
Fax #: 413-7118 Pages: 2, including this cover sheet.  
From: Lynn Hearn <sup>et al</sup>  
Subject: Confidential Documents

COMMENTS:

Please see attached letter from Jack Shreve dated December 8, 2003 regarding treatment of confidential documents.

I will plan to pick up a copy of Exhibit #80 on Monday morning unless I hear from you otherwise. Thank you for your assistance!

**CONFIDENTIALITY STATEMENT**

The information contained in this communication is confidential and is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone. Thank you.

AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER



OFFICE OF THE ATTORNEY GENERAL

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

CHARLIE CRIST  
Attorney General  
State of Florida

Reply to:  
Office of the Attorney General  
Civil Division  
(850)414-3300; SunCom 994-3300

December 8, 2003

Ms. Blanca Bayo, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RECEIVED-FPSC  
APR 26 AM 7:51  
COMMISSION  
CLERK

Re: Docket Nos. 030867-TL, 030868-TL, 030869-TL

Dear Ms. Bayo:

The Attorney General recognizes and acknowledges its obligation under Section 364.183, F.S., to protect the proprietary and confidential information deemed exempt from Section 119.07(1), F.S., under Section 364.183, F.S.

The Attorney General recognizes that their obligation extends to documents and information received from the Public Service Commission and other parties.

Sincerely,

*Jack Shreve*  
Jack Shreve  
Senior General Counsel

JS/mkc

Key,  
This was jammed in our fax.

2

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

Public Service Commission

April 26, 2004

Jack Shreve, Esq.  
Office of the Attorney General  
Attention: Lynn Hearn  
PL -01, The Capitol  
Tallahassee, Florida 32399-1050

Re: Dockets 030867-TL, 030868-TL, 030869-TL, 030961-TI

Dear Ms. Hearn:

Accompanying this letter is a copy of confidential Hearing Exhibit No. 80 from Document No. 12083-03, provided pursuant to your request of April 23, 2004.

This document is labeled "confidential" and must be maintained as confidential during the pendency of the cases on appeal, and returned to my office when the appeal concludes.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn  
Chief of Records

Enclosure

cc: Blanca S. Bayó  
Richard Melson, Esq.  
Beth Keating, Esq.  
Beth Salak  
Parties of Record

Your signature below indicates you are taking possession of Document No. 12083-03:

Signature: Barbara Durbin

Date: 4-26-04

Kay Flynn

030961-TJ

To: Felicia Banks  
 Cc: Beth Keating; Rick Melson; Marguerite Lockard  
 Subject: RE: exhibit from 030867 et al. hearing

Thanks, Felicia. This is exactly the information we need. I'll update the status of the document and include it in the confidential portion of the index and record going to the court.

Kay

-----Original Message-----

From: Felicia Banks  
 Sent: Tuesday, April 27, 2004 11:51 AM  
 To: Kay Flynn  
 Cc: Beth Keating; Rick Melson; Marguerite Lockard  
 Subject: RE: exhibit from 030867 et al. hearing

This is a follow up to the e-mails below.

The Hearing Exhibit 80, which is a confidential exhibit of witness Ostrander's Exhibit BCO-1, contains confidential information from Verizon, Sprint, MCI and AT&T. All of the companies have filed separate requests for their respective information and all of the requests have been granted by Order. More details below.

COMPANY	DOCUMENT NO.	REQUEST NO.	ORDER NO./ISSUED
VERIZON	11660-03	11662-03	PSC-03-1403-
CFO0TL (12/12/03)			
SPRINT	11686-03	11687-03	PSC-03-1404-CFO-
TL (12/12/03)			
AT&T	11694-03	00179-03	PSC-04-0244-CFO-
TL (03/4/04)			
MCI	11691-03(x-reference 12023-03)	00032-04	PSC-04-0243-CFO-TL
(03/4/04)			

Please note that the Order for MCI's request did not include all of the cross reference numbers. Therefore, Lee will be preparing an amendatory order.

Also, I noticed for the Order granting confidential classification issued for AT&T, the description refers to Document No. "11694-032" instead of "11694-03." There is an extra number("2") at the end of this reference.

Thanks. Let me know if you need anything further.

-----Original Message-----

From: Felicia Banks  
 Sent: Monday, April 26, 2004 9:03 AM  
 To: Kay Flynn  
 Cc: Beth Keating; Rick Melson; Marguerite Lockard  
 Subject: RE: exhibit from 030867 et al. hearing

Good Morning Kay,

Let me check on this one. We had four attorneys working on various confidential filings in this docket. I am going to have to check further to find out the status of this document.

When do you need the information? Please advise me. Thanks.

-----Original Message-----

From: Kay Flynn

Sent: Monday, April 26, 2004 8:57 AM

To: Felicia Banks

Cc: Beth Keating; Rick Melson; Marguerite Lockard

Subject: exhibit from 030867 et al. hearing

Felicia, good morning. I'm getting a 1-page document ready to provide to the AG's office per their request. They requested Exhibit 80 from the hearing, and I found that it was described as "(Confidential) BCO-1 from Ostrander's Rebuttal Testimony" (see p. 1674 of TR) and filed by OPC.

I located the exhibit/document as part of DN 12083-03. However, I cannot find any indication of which company "owns" the confidential info, nor can I find that any company filed a formal request for confidentiality. Can you check further on this, or perhaps you already know that a request was filed?

If no request was filed, this document will need to be declassified and placed in the docket file before we send the record to the Supreme Court. I also need to be able to properly place it in the record index.

Thanks in advance for your help!

Kay

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

## Public Service Commission

June 2, 2004

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: Charles J. Crist, Jr., Attorney General, State of Florida,  
vs. Lila A. Jaber, Chairman, et al. (Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TL)**

Dear Mr. Hall:

Enclosed is a certified copy of an Amended Notice of Appeal, filed in this office on June 1, 2004, on behalf of Charles J. Crist, Jr., Attorney General, State of Florida. Also enclosed are copies of Order Nos. PSC-03-1469-FOF-TL and PSC-04-0456-FOF-TL, the orders on appeal.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records

Enclosure

cc: David Smith, Esq., Office of the General Counsel  
Charles J. Crist, Jr., Esq., Attorney General, State of Florida  
Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED FPSC

04 JUN -1 PM 4:45

SC Case No. SC04-9

COMMISSION

Docket No. 030867-FL

CLERK

In re: Petition by Verizon Florida, Inc. to Reform Intrastate Network Access and Basic Local Telecommunications Rates in Accordance with Section 364.164, Florida Statutes.

In re: Petition by Sprint-Florida, Incorporated to Reduce Intrastate Switched Network Access Rates to Interstate Parity in Revenue - Neutral Manner Pursuant to Section 364.164(1), Florida Statutes.

Docket No. 030868-TL

In re: Petition for Implementation of Section 364.164, Florida Statutes, by Rebalancing Rates in a Revenue - Neutral Manner Through Decreases In Intrastate Switched Access Charges With Offsetting Rate Adjustments for Basic Services, By BellSouth Telecommunications, Inc.

Docket No. 030869-TL

In re: Flow-through of the LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.

Docket No. 030961-TI

**AMENDED NOTICE OF APPEAL OF CHARLES J. CRIST,  
ATTORNEY GENERAL OF THE STATE OF FLORIDA**

NOTICE IS GIVEN that Charles J. Crist, Jr., Attorney General of the State of Florida, Appellant, appeals to the Florida Supreme Court the orders of this Commission rendered December 23, 2003 and May 4, 2004.

The nature of the December 24, 2003, order is a final order of this Commission which approves the Access Charge Reduction Petitions of Sprint, Verizon, and BellSouth and allows these companies to raise their basic rates and approves the flow-through of LEC switched access

A TRUE COPY  
ATTEST <sup>1</sup>  
*Kay Deen*  
Chief Bureau of Records

DOCUMENT NUMBER-DATE

06243 JUN-1 8

FPSC-COMMISSION CLERK

reductions by IXCs in the manner set forth in the petitions. The Attorney General timely appealed this order on January 7, 2004.

The nature of the May 4, 2004 order is a final Order on Motions for Reconsideration.

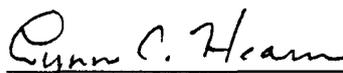
Conformed copies of these orders are attached.

DATED this 1<sup>st</sup> day of June, 2004.

Respectfully submitted,

CHARLES J. CRIST, JR.  
ATTORNEY GENERAL

CHRISTOPHER M. KISE  
Solicitor General  
Florida Bar No. 0855545



LYNN C. HEARN  
Deputy Solicitor General  
Florida Bar No. 0123633

Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399-1050  
Tel: (850) 414-3300  
Fax: (850) 410-2672

## CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy hereof has been furnished by United States mail to the following on this 1<sup>st</sup> day of June, 2004:

Public Counsel

Harold McLean  
Charles Beck  
H. F. Rick Mann  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Rm. 812  
Tallahassee, FL 32399-1400

Counsel for Public Service Commission

Beth Keating  
Richard Melson  
David E. Smith  
Division of Legal Services, Room 370  
Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Counsel for AARP

Mark Cooper  
AARP  
504 Highgate Terrace  
Silver Spring, MD 20904

Michael B. Twomey  
P. O. Box 5256  
Tallahassee, FL 32314-5256  
(Counsel for AARP & Sugar Mill Woods)

Counsel for Sugar Mill Woods

Michael B. Twomey  
P. O. Box 5256  
Tallahassee, FL 32314-5256  
(Counsel for AARP & Sugar Mill Woods)

Counsel for AT&T

Tracy W. Hatch  
AT&T Communications of the  
Southern States, LLC  
101 N. Monroe Street, Suite 700  
Tallahassee, FL 32301

Lisa Sapper  
AT&T  
1200 Peachtree Street, NE, Suite 8100  
Atlanta, GA 32309

Floyd R. Self  
Messer Caparello & Self, P.A.  
215 S. Monroe St., Ste. 701  
Tallahassee, FL 32302-1876  
(Counsel for AT&T & MCI)

Counsel for BellSouth Telecommunications, Inc.

Nancy White  
c/o Ms. Nancy H. Sims  
BellSouth Telecommunications, Inc.  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301-1556

Susan F. Clark  
Donna E. Blanton  
Radey Thomas Yon & Clark, P.A.  
313 N. Monroe Street, Suite 200  
Tallahassee, FL 32301

Counsel for Florida Cable Telecommunications Assn

Michael A. Gross  
Florida Cable Telecommunications Assn.  
246 East 6<sup>th</sup> Avenue  
Tallahassee, FL 32303

Counsel for Knology

John Feehan  
Knology of Florida, Inc.  
1241 O.G. Skinner Drive  
West Point, GA 31833

George N. Meros, Jr.  
GrayRobinson, P.A.  
P. O. Box 11189  
Tallahassee, FL 32302-3189

Counsel for MCI

Donna McNulty  
MCI World Com Communications, Inc.  
1203 Governors Square Blvd., Suite 201  
Tallahassee, FL 32301-2960

De O'Roark  
MCI World Com Communications  
6 Concourse Parkway  
Suite 3200  
Atlanta, GA 30328

Floyd R. Self  
Messer Caparello & Self  
215 S. Monroe St., Ste. 701  
Tallahassee, FL 32302-1876  
(Counsel for AT&T & MCI)

Counsel for Sprint-Florida, Inc

Susan S. Masterson  
Sprint-Florida, Inc  
P. O. Box 2214  
Tallahassee, FL 32316-2214

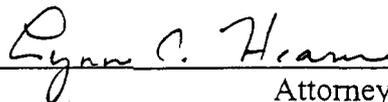
Charles Rehwinkel  
Sprint-Florida, Inc.  
1313 Blairstone Road  
Tallahassee, FL 32301

John P. Fons  
Jennifer L. Heckman  
Ausley & McMullen  
P. O. Box 391  
Tallahassee, FL 32302

Counsel for Verizon Florida, Inc.

Richard Chapkis  
Kimberly Caswell  
Verizon Florida, Inc.  
201 North Franklin Street, FLTC0717  
Tampa, FL 33601

Elizabeth B. Sanchez  
Verizon Florida, Inc.  
201 North Franklin Street, FLTC0007  
Tampa, FL 33602

  
\_\_\_\_\_  
Attorney

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

# Public Service Commission

June 2, 2004

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: Harold McLean, Public Counsel, vs. Lila A. Jaber, Chairman, et al.  
(Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI)**

Dear Mr. Hall:

Enclosed is a certified copy of an Amended Notice of Appeal, filed in this office on June 1, 2004, on behalf of Harold McLean, Public Counsel. Also enclosed are copies of Order Nos. PSC-03-1469-FOF-TL and PSC-04-0456-FOF-TL, the orders on appeal.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records

Enclosure

cc: David Smith, Esq., Office of the General Counsel  
Harold McLean, Esq., Public Counsel  
Parties of Record

ORIGINAL

JAMES E. "JIM" KING, JR.  
President

JOHNNIE BYRD  
Speaker



STATE OF FLORIDA  
OFFICE OF PUBLIC COUNSEL



c/o THE FLORIDA LEGISLATURE  
111 WEST MADISON ST.  
ROOM 812  
TALLAHASSEE, FLORIDA 32399-1400  
850-488-9330

Harold McLean  
Public Counsel

H F. Mann  
Associate Public Counsel

June 1, 2004

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

RECEIVED FPSC  
04 JUN - 1 PM 4:41  
COMMISSION  
CLERK

RE: Harold McLean, Public Counsel v. Lila A. Jaber, etc., et al.,  
Florida Supreme Court Case No. SC04-10

Dear Ms. Bayó:

Enclosed for filing this date is an Amended Notice of Appeal directed to Order No. PSC-03-1469-FOF-TL, rendered December 24, 2003 and Order No. PSC-04-0456-FOF-TP, rendered May 4, 2004, in Docket Nos. 030867-TL, 030868-TL, 030869-TL and 030961-TI. A copy of the notice is being filed with the Clerk of the Supreme Court of Florida pursuant to Rule 9.110(c), Florida Rules of Appellate Procedure.

Please indicate receipt of this notice by date-stamping the attached duplicate of this letter and returning it to this office. Thank you for your attention to this matter.

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_ HFM/dsb
- SCR \_\_\_\_\_ Enclosure
- SEC 1
- OTH Marguerite

Sincerely,

H F. Rick Mann  
Associate Public Counsel

A TRUE COPY  
ATTEST Kay Fleck  
Chief Bureau of Records

RECEIVED & FILED

DOCUMENT NUMBER-DATE  
06244 JUN-13

Leach det. FPSC BUDWALL

ORIGINAL

IN THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida, Inc. to Reform Intrastate Network Access and Basic Local Telecommunications Rates in Accordance With Section 364.164, Florida Statutes.

Docket No. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to Reduce Intrastate Switched Network Access Rates to Interstate Parity in Revenue - Neutral Manner Pursuant to Section 364.164(1), Florida Statutes.

Docket No. 030868-TL

In re: Petition for Implementation of Section 364.164, Florida Statutes, by Rebalancing Rates in a Revenue - Neutral Manner Through Decreases In Intrastate Switched Access Charges With Offsetting Rate Adjustments for Basic Services, By BellSouth Telecommunications, Inc.

Docket No. 030869-TL

In re: Flow-through of the LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.

Docket No. 030961-TI

FLORIDA SUPREME  
COURT CASE NO.  
SC04-10

**AMENDED NOTICE OF APPEAL OF HAROLD MCLEAN,  
PUBLIC COUNSEL, STATE OF FLORIDA**

NOTICE IS GIVEN that Harold McLean, Public Counsel, State of Florida, Appellant, appeals to the Florida Supreme Court, the two orders of the Florida Public Service Commission ("Commission"), rendered on December 24, 2003, and on May 4, 2004.

A TRUE COPY  
ATTEST   
Chief Bureau of Records

DOCUMENT NUMBER-DATE

06244 JUN-18

The nature of Order No. PSC-03-1469-FOF-TL, rendered on December 24, 2003, is a Final Order of the Commission, which approved the Access Charge Reduction Petitions of Sprint-Florida, Incorporated, Verizon Florida, Inc. and BellSouth Telecommunications, Inc. (together, "ILECs"), and allows these ILECs to raise their basic local telephone service rates and approves the flow-through of ILEC intrastate switched network access charge reductions by the interexchange telecommunications companies ("IXCs"). The Public Counsel timely appealed this order on January 7, 2004. The nature of Order No. PSC-04-0456-FOF-TP, rendered on May 4, 2004, is a final Order on Motions for Reconsideration.

Conformed copies of these orders are attached.

DATED this 15<sup>th</sup> day of June, 2004.

Respectfully submitted,

HAROLD MCLEAN  
PUBLIC COUNSEL



H F. RICK MANN  
Associate Public Counsel  
Florida Bar No. 763225  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399  
Tel: (850) 488-9330  
Fax: (850) 488-4491

Susan S. Masterson  
Sprint-Florida, Inc.  
P.O. Box 2214  
Tallahassee, FL 32316-2214

Floyd R. Self  
Messer Caparello & Self  
P.O. Box 1876  
Tallahassee, FL 32302-1876

De O'Roark  
MCI World Com Communications  
6 Concourse Parkway  
Suite 3200  
Atlanta, GA 30328

Susan F. Clark  
Donna E. Blanton  
Radey Thomas Yon & Clark, P.A.  
313 N. Monroe Street, Suite 200  
Tallahassee, FL 32301

Charles J. Crist, Jr., Attorney General  
Lynn C. Hearn  
Jack Shreve  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, FL 32399

Mr. John Feehan  
Knology of Florida, Inc.  
1241 O.G. Skinner Drive  
West Point, GA 31833

Tracy W. Hatch, Esquire  
AT&T Communications of the  
Southern States, LLC  
101 N. Monroe Street, Suite 700  
Tallahassee, FL 32301

Donna McNulty  
MCI World Com Communications, Inc.  
1203 Governors Square Blvd.,  
Suite 201  
Tallahassee, FL 32301-2960

Elizabeth B. Sanchez  
Verizon Florida, Inc.  
201 North Franklin Street, FLTC0007  
Tampa, FL 33602



---

H F. Rick Mann  
Associate Public Counsel

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

**Public Service Commission**

June 4, 2004

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: AARP vs. Lila A. Jaber, Chairman, et al. (Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TL)**

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Appeal, filed in this office on June 3, 2004, on behalf of AARP. Also enclosed is a copy of Order No. PSC-04-0456-FOF-TL, the order on appeal.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records

Enclosure

cc: David Smith, Esquire, Office of the General Counsel  
Michael B. Twomey, Esquire  
Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

04 JUN -3 PM 4:

COMMISSION  
CLERK

In re: Petition of Verizon Florida Inc. to Reform )  
Its Intrastate Network Access and Basic Local )  
Telecommunications rates in Accordance with )  
Florida Statutes, Section 364.164 )

Docket No. 030867TL

In re: Petition of Sprint-Florida, Incorporated, )  
To reduce intrastate switched network )  
Access rates to interstate parity in )  
Revenue neutral manner pursuant to )  
Section 364.164(1), Florida Statutes )

Docket No. 030868-TL

In re: Petition by BellSouth )  
Telecommunications, Inc., )  
To Reduce Its Network Access Charges )  
Applicable To Intrastate Long Distance In )  
A Revenue-Neutral Manner )

Docket No. 030869-TL

In re: Flow-through of LEC Switched Access )  
Reductions by IXCs, Pursuant to Section )  
364.163(2), Florida Statutes )

Docket No. 030961-TO

AARP NOTICE OF APPEAL

NOTICE IS GIVEN that AARP, through its undersigned counsel, appeals to the Florida Supreme Court, the order of this Public Service Commission rendered on May 4, 2004. A copy of this order is attached. The nature of the order is an Order On Motions For Reconsideration which considered, and confirmed, the Access Charge Reduction Petitions of Sprint, Verizon and BellSouth earlier approved by the Public Service Commission in Order No. PSC-03-1469-FOF-TL, issued December 24, 2003. These Public Service Commission approvals allow these companies to raise their basic rates and

A TRUE COPY  
ATTEST Kay Hays  
Chief Bureau of Records

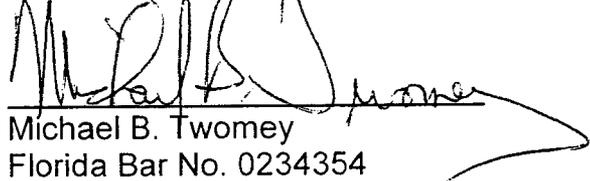
DOCUMENT NUMBER-DATE

06287 JUN-3 3

approved the flow-through of local exchange company switched access  
reductions by inter-exchange companies in the manner set forth in their petitions.

DATED this 3<sup>rd</sup> day of June, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael B. Twomey", written over a horizontal line. The signature is stylized and extends to the right with a long, sweeping tail.

Michael B. Twomey  
Florida Bar No. 0234354  
Post Office Box 5256  
Tallahassee, FL 32314-5256  
(850) 421-9530

Attorney for AARP

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing document has been furnished by U.S. Mail to the following parties on this 3<sup>rd</sup> day of June, 2004.

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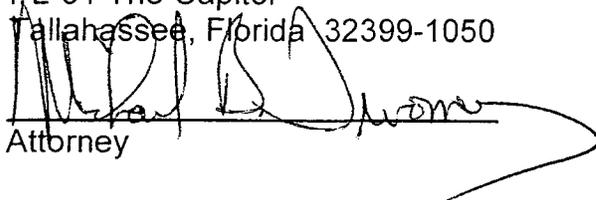
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BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL

In re: Flow-through of LEC switched access reductions by IXCs, pursuant to Section 364.163(2), Florida Statutes.

DOCKET NO. 030961-TI

ORDER NO. PSC-04-0456-FOF-TL

ISSUED: May 4, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER ON MOTIONS FOR RECONSIDERATION

BY THE COMMISSION:

I. CASE BACKGROUND

On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth), each filed petitions pursuant to Section 364.164, Florida Statutes. Dockets Nos. 030867-TL (Verizon), 030868-TL (Sprint), and

ORDER NO. PSC-04-0456-FOF-TL  
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030869-TL (BellSouth) were opened to address these petitions in the time frame provided by Section 364.164, Florida Statutes. On September 10, 2003, this Commission dismissed the initial petitions, because they each failed to make the proposed rate changes over at least the required two-year minimum set forth in Section 364.164(1)(c), Florida Statutes. The companies were allowed to refile, and did so on September 30 (BellSouth), October 1 (Sprint) and October 2 (Verizon).

By Order No. PSC-03-1240-PCO-TL, this Commission consolidated Docket No. 030961-TI, which was opened to address questions regarding the IXCs' flow-through to customers of any access charge reductions, into this proceeding for hearing. A hearing on this matter was held on December 10-12, 2003. Our final order, Order No. PSC-03-1469-FOF-TL, was issued on December 24, 2003.

On January 7, 2004, Charles J. Crist, Jr., Attorney General, State of Florida (AG) filed his Notice of Appeal. On the same day, the Office of Public Counsel (OPC) filed its Notice of Appeal.

On January 8, 2004, the AG filed his Motion for Reconsideration of the final order. In his Motion for Reconsideration, the AG asserts that we should reconsider our decision because: (1) we did not properly consider the impacts on the public health, safety, and welfare, as required by Section 364.01, Florida Statutes; (2) the rate increase proposed by BellSouth is anticompetitive because there will be no rate increase for bundled service packages; and (3) we failed to consider the impact of the rate increases on senior and low-income consumers. On January 12, 2004, the AG filed a Request for Oral Argument, and on March 17, 2004, he filed an Amended Request for Oral Argument.

On January 8, 2004, AARP filed its Motion for Reconsideration of the final order, as well as a Request for Oral Argument. AARP seeks reconsideration of our decision on five points in the Order: (1) our delegation to staff of the authority to review and approve the 45-day tariffs that would be filed as a result of approval of the ILECs' petitions; (2) our approval of the ILECs' additional concessions; (3) our decision that the costs of the local loop are properly borne by basic local service; (4) our decisions that basic local service is artificially supported and that removal of support will induce enhanced market entry; and (5) our decision that residential customers will benefit from approval and implementation of the ILECs' petitions as contemplated by the statute.

On March 3, 2004, the Florida Supreme Court relinquished jurisdiction to this Commission for the limited purpose of ruling on the AG and AARP motions for reconsideration. The Court set a deadline of May 3, 2004 for us to make our ruling.

On March 15, 2004, Verizon, Sprint, BellSouth/BellSouth Long Distance (BellSouth), and AT&T/MCI ("respondents") filed their Responses to the AG's Motion for Reconsideration

and to AARP's Motion for Reconsideration and to the initial Requests for Oral Argument.<sup>1</sup> Thereafter, on March 29, 2004, Verizon, BellSouth/BellSouth Long Distance, AT&T/MCI, and Sprint filed responses to the AG's Amended Motion for Oral Argument. On April 20, 2004, the AG filed a Notice of Supplemental Authority, referring us to the decision in United States Telecom Ass'n v. Federal Communications Commission, 359 F.3d 554 (D.C. Cir. 2004), decided March 2, 2004.

This Order addresses the Motions for Reconsideration, Responses, and Requests for Oral Argument. By this decision, we comply with the Supreme Court's direction in its March 3 Order.

## II. ORAL ARGUMENT/REQUEST FOR RELEASE OF CONFIDENTIAL MATERIAL

We received oral argument on the motions addressed in this Order, as requested by AARP and the Attorney General. However, the Attorney General's request for oral argument also contained a request that we release confidential material. We find that that request cannot be granted, as it is untimely and not proper within the context of a Motion for Oral Argument. We are concerned by the fact that the Attorney General has not specified what material he would like released. Moreover, the prehearing officer has already issued Orders addressing all pending Requests for Confidential Classification. Thus, to the extent that material is currently being treated as confidential, it has been accorded that treatment by an Order issued in this proceeding.

The most recent Orders addressing Requests for Confidentiality were issued on March 8, 2004. The time for seeking reconsideration of those Orders ran on March 18, 2004. No party responded in opposition to any of the requests for confidential classification, and no party sought reconsideration of any of the Orders granting confidentiality. Florida case law is clear that we are without authority to extend the time for seeking reconsideration of an Order, even if it were otherwise inclined to do so. See City of Hollywood v. Public Employee Relations Commission, 432 So. 2d 79 (Fla. 4<sup>th</sup> DCA 1983).

## III. MOTIONS FOR RECONSIDERATION

### A. Standard of Review

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which this Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d

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<sup>1</sup> By Order No. PSC-04-0037-PCO-TL, issued January 13, 2004, the prehearing officer extended the time for filing responses until such time as the Supreme Court relinquished jurisdiction to allow us to consider the outstanding motions.

162 (Fla. 1<sup>st</sup> DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3<sup>rd</sup> DCA 1959), citing State ex.rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1<sup>st</sup> DCA 1958). Furthermore, a motion for reconsideration should not be granted “based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review.” Stewart Bonded Warehouse, Inc., 294 So. 2d at 317.

**B. Attorney General’s Motion**

1. Consideration of Section 364.01(4)

a. Arguments

The Attorney General contends that we erred by failing to consider our legislative mandate, as set forth in Section 364.01(4)(a), Florida Statutes, to protect the health, safety and welfare of all consumers by ensuring they have access to basic local service at reasonable and affordable rates. Referring to the testimony of Verizon witness Danner, the Attorney General argues that the proposed increase in basic rates will be five times greater for seniors aged 76 and over, compared to the increase for consumers aged 26 to 35 years of age. The Attorney General adds that those who can least afford the increase in the basic rates will not enjoy any of the alleged benefits arising from the theoretical competition that might be seen in the future. Consequently, the Attorney General contends that we must have “. . . overlooked the requirement to ensure reasonable and affordable basic rates for all consumers.” Motion at p. 5.

The respondents universally reject the Attorney General’s contention on this point. Specifically, BellSouth contends that the Order contradicts this assertion, as it is replete with analysis of evidence concerning how granting the petitions of the incumbent local exchange companies (ILECs) will benefit the residential telecommunications consumers in Florida, including those who desire only basic local service.

The respondents also contend that we did not err in our application of the appropriate statutory considerations. Of note, BellSouth argues that Section 364.164 is the latest expression of legislative intent concerning basic local telecommunications services and the impact of rates on Florida consumers, and that this specific statutory provision takes precedence over a prior, general expression of legislative intent.<sup>2</sup> BellSouth argues, therefore, that this Commission properly considered the benefit to residential customers as contemplated by Section 364.164(1), Florida Statutes.

Similarly, Sprint states that it is a well-settled rule of statutory construction that a special statute covering a particular subject matter is controlling over a more general statutory provision covering the same and other subjects. The more specific statute is considered to be an exception

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<sup>2</sup> Citing McKendry v. State, 641 So. 2d 45, 46 (Fla. 1994).

to the general terms of the more comprehensive statute. Under this rule, Sprint asserts, the specific provisions of Section 364.164 (1) prevail over Section 364.01(4)(a), which provides the general manner in which the Commission should exercise its authority to protect the public health, safety, and welfare. To arrive at another conclusion, Sprint states, would render the specific language of Section 364.164(1) meaningless.<sup>3</sup>

AT&T and MCI join Verizon in arguing that we did consider Section 364.01. AT&T and MCI state that although the Commission's Order does not specifically cite to Section 364.01(4), the Commission fulfilled the legislative purpose embodied in Section 364.01(4) by implementing Section 364.164. They emphasize that the legislative intent of Section 364.01(4) is addressed throughout the Order.

b. Decision

Upon consideration, we find that the Attorney General has not demonstrated that in acting on the petitions we overlooked or failed to consider our obligations under Section 364.01(4)(a). A primary rule of statutory interpretation is to harmonize related statutes so that each is given effect. Butler v. State, 838 So. 2d 554, 555 (Fla. 2003). It is also a well-established rule of statutory construction that a special statute covering a particular subject matter is controlling over a general statutory provision covering the same and other subjects. McKendry v. State, 641 So. 2d 45, 46. Furthermore, statutes should be read together to give each provision the maximum force and effect, but when there is unavoidable conflict, the more recent, specific expression of the Legislature's intent is the controlling provision. Id., citing Sharer v. Hotel Corp. of America, 144 So. 2d 813 (Fla. 1962). Thus, while Sections 364.01(4) and 364.164 must be read together, Section 364.164 is the controlling provision to the extent there is any conflict between the two. To arrive at any other conclusion would render the specific language of Section 364.164(1) without meaning. See Saunders vs. Saunders, 796 So. 2d 1253 (Fla. 1<sup>st</sup> DCA 2001).

In this case, however, there is no conflict between Sections 364.164 and 364.01(4)(a). The former section required us to consider, among other things, the impact of proposed rate changes on the creation of a more attractive competitive local exchange market for the benefit of residential consumers. The Order is replete with discussion of our findings and conclusions on this issue. The latter section required us to consider whether our actions ensure that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices. Although the Order did not make specific reference to Section 364.01(4)(a), the Order demonstrates that we did consider the impact of its action on reasonable and affordable prices for basic telecommunications services. For example, we found that:

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<sup>3</sup> Citing McKendry v. State, 641 So. 2d 45, 46 (Fla. 1994); Floyd v. Bentley, 496 So. 2d 862, 864 (Fla. 2d DCA 1986); and Saunders v. Saunders, 796 So. 2d 1253 (Fla. 1<sup>st</sup> DCA 2001).

- Experience from other states shows that approval of the ILECs' proposals will have little, if any, negative impact on the availability of universal service. (Order at 18.)
- [T]he record shows that basic local service will continue to remain affordable for the vast majority of residential customers. (Order at 18.)
- [T]he amended Lifeline provisions in Section 364.10 will help to protect economically disadvantaged customers from the effect of local rate increases. (Order at 19.)

In making these findings, we afforded the testimony of Verizon witness Danner the proper weight. That testimony addressed the difference in net impact on consumers in various age groups and indicated that consumers in all age groups will receive benefits from long distance rate reductions that will offset, to varying degrees, the impact of the increase in basic local service rates. When combined with other evidence, we conclude that the net impact of granting the petitions is consistent with the requirement to ensure that basic local service is available at reasonable and affordable prices. Thus, we reject the Attorney General's Motion on this point.

To avoid any misinterpretation, we shall, nevertheless, clarify the Order by adding a sentence at the end of the first paragraph under the heading "Conclusion" on page 56 to state that:

In granting the Petitions, we have also considered the provisions of Section 364.01(4)(a) and concluded that our action will preserve reasonable and affordable prices for basic local service.

2. BellSouth's Increases Do Not Apply to Bundled Packages

a. Arguments

The premise of the Attorney General's second argument for reconsideration is that BellSouth's proposed rate increase is anticompetitive. The Attorney General contends that BellSouth's proposed increases to basic rates exempt bundled services from increases; thus, the approval of BellSouth's petition encourages customers to purchase bundled services in order to obtain some benefit or exemption from the rate increase. The Attorney General maintains that this emphasis on bundled services has an anticompetitive impact on consumers. The Attorney General states that under Section 364.164, we are required to consider whether a petition will induce enhanced market entry. The Attorney General believes that BellSouth's rate increase will encourage use of bundled services and will not induce enhanced market entry, but instead discourage competition.

In response, BellSouth cites to testimony of AT&T and MCI witness Mayo where he maintains that the ILEC proposals are consistent with Section 364.164. He asserts that the proposals are anticipated to spur competition in telephony and result in more competitive markets. BellSouth also argues that it has applied the basic rate increases in accordance with Section 364.164(2). Further, BellSouth argues that the Attorney General attempts to raise a new argument, which is inappropriate in a motion for reconsideration. BellSouth also contends that the record shows that market entry will be enhanced by removing the access charge support for local services because the CLECs will be able to compete in providing basic and bundled services.

The other respondents offer similar arguments. AT&T and MCI further indicate that the Attorney General fails to cite to any record evidence to support his claim that mere preexisting market share and the ability to bundle services constitute anticompetitive conduct. AT&T and MCI argue to the contrary that, as explained by Knology's witness Boccucci, any carrier's best opportunity to compete is through providing bundled services at competitive prices.

b. Decision

Upon consideration, we conclude that the Attorney General's claim that BellSouth's proposal is anti-competitive must fail. The evidence clearly demonstrates that each of the ILECs' proposals will result in a more competitive market. We find the evidence establishes that the best opportunities to compete in telecommunications exist through a carrier's ability to bundle services. Order at pp. 27 and 38. Furthermore, we have already considered this issue as demonstrated by the discussion set forth at pages 5 and 6 of the Attorney General's Motion. Thus, the Attorney General has not identified a mistake of fact or law in our decision. As such, the Motion on this point is denied.

3. Benefit to Residential Customers

a. Arguments

The Attorney General asserts that Florida citizens will be irrevocably injured by granting the ILECs' petitions, because the drastic increases in the basic phone rates are neither reasonable or affordable for senior and low-income consumers. Thus, the Attorney General contends that we must have failed to properly consider the testimony of the detriment to customers that will result if the ILECs' proposals are implemented.

The respondents generally reject this notion as well. They argue that we considered customer impacts, but found competing testimony regarding ultimate benefits to customers more persuasive. Thus, they believe that the Attorney General's arguments on this point are a rehash of arguments this Commission has already considered and rejected. Further, BellSouth states that this Commission thoroughly considered the impact on seniors by finding that many seniors

on fixed incomes take a number of additional services such as cellular service, cable service and internet services. On that basis, BellSouth concludes that the rate increases are “within the zone of affordability” for this segment of consumers. BellSouth notes that we determined in our Order that 53% to 72% of even Lifeline customers served by the ILECs buy one or more ancillary services. Order at p. 32. AT&T and MCI also note that Knology witness Boccucci asserted that the ability to provide bundled services allows Knology to provide more economical prices to seniors.

b. Decision

Regarding the Attorney General’s third point, we find that this issue was thoroughly considered and addressed. See Order at pp. 26 – 33. We concluded that “. . . Florida consumers as a whole will reap the benefits of competition, and, ultimately, competition will serve to regulate the level of prices consumers will pay.” Order at p. 29. We also found that “. . . even those customers that use calling cards or dial-around service will receive benefits from increased competition, as will older citizens that use 1+ calling.” Order at p. 31. Furthermore, we noted that, while outside the scope of our consideration of the Petitions, the ILECs’ concessions regarding Lifeline will provide additional protection for the economically disadvantaged, while the statute itself provides targeted assistance for those unable to afford the increases. Order at p. 32. We found that

The evidence shows that even with the proposed local rate increases, there will not be a significant number of customers that drop off the network. While the need for continued targeted assistance for some customers may foster its own social welfare concerns, those concerns must be balanced with the Legislature’s clear intent to move Florida’s telecommunications markets towards increased competition.

Order at p. 32. The Attorney General has not identified an error in this conclusion. Rather, he re-argues matters we have already addressed.

As for the Supplemental Authority offered by the Attorney General, we conclude that the D.C. Circuit’s decision in *United States Telecom Ass’n v. Federal Communications Commission* does not rise to the level that would necessitate that we reconsider our decision. While the decision does muddy the waters as to the future of certain UNEs, it does not, by itself, automatically remove any UNEs from the national list. Furthermore, the D.C. Circuit’s decision is currently stayed, and further appeals are possible. While we are concerned about the uncertain state of the FCC’s unbundling rules, even if the D.C. Circuit’s decision remains in place, and UNEs are removed from the list as a result, that process will likely take place over an extended period of time. Furthermore, even if the D.C. Circuit’s decision remains in place, carriers that compete using their own facilities would not be directly affected. For all these reasons, we

conclude that the D.C. Circuit's decision does not require a change to our conclusions in this case.

For all the foregoing reasons, we hereby deny the Attorney General's Motion on this point as well.

C. AARP'S Motion

1. Approval of 45-day Rate Adjustment Filings

a. Arguments

AARP argues that, in our Order, we have improperly allowed our staff to administratively review and approve the tariffs filed implementing this Commission's decision approving the ILECs' Petitions. AARP contends that this is directly contrary to the language of the statute, which requires:

. . . The commission shall, within 45 days after the rate adjustment filing, issue a final order confirming compliance with this section, and such an order shall be final for all purposes.

Section 364.164(2), Florida Statutes. AARP contends that we should modify our Order to reflect that the Commission staff is not authorized to administratively review and approve the tariffs, and that the rate increases contained in such tariff filings will only become effective after we have issued an order approving them.

Generally, those parties responding to AARP's motion believe that AARP has not identified an error on this point, but note that should we see fit, clarification may be in order.

AT&T and MCI note that the authority delegated to our staff to conduct the essentially ministerial task of reviewing and approving the tariffs implementing the ILECs' Petitions is not unlike that delegation of authority to review a tariff which was upheld by the Court in Citizens of the State of Florida v. Wilson, 567 So. 2d 889, 892 (Fla. 1990). In that case, the Court upheld our delegation to staff of authority to review a supplemental tariff rider to ensure that it met certain conditions, and if it did, to then approve the tariff. AT&T and MCI argue that the situation here is very similar in that this Commission has already approved the ILECs' Petitions, which specify the conditions the tariffs must meet, and has only delegated to staff the administrative and ministerial task of ensuring that the tariffs meet the conditions of the approved Petitions. AT&T and MCI also add that it is clear that if the tariffs filed in this case do not conform to our Order, our staff will bring the non-compliant tariffs before us for our consideration.<sup>4</sup>

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<sup>4</sup> Citing U.S. Sprint v. Nichols, 534 So. 2d 698 (Fla. 1998).

b. Decision

Upon consideration, we conclude that AARP has identified a point that requires clarification due to a scrivener's error. We find error in our Order to the extent that the Order, as issued, does not fully and accurately reflect our actual vote, which was to provide administrative authority to our staff to review the 45-day rate adjustment filings and **issue an administrative final order** based upon that review. The Order does not reflect the issuance of an administrative final order. Therefore, the next to last ordering paragraph is amended to read:

ORDERED that Commission staff is hereby authorized to administratively review ~~and approve~~ the tariffs implementing these decisions and to issue administrative final orders approving tariffs that conform to these decisions. It is further

With this correction, the Order accurately reflects our decision. Furthermore, we find that, as corrected, our Order complies with the statute. We find that our delegation of authority to Commission staff is allowable, and is, in fact, not uncommon for the review of similar filings. See Citizens of the State of Florida v. Wilson, supra, (finding delegation to staff to review and approve tariff not improper when conditions for approval clearly set forth by Commission). In this case, review of the tariffs will be limited to ensuring that they conform to the conditions in the approved Petitions. If any tariff does not conform, it will be brought before us as quickly as possible. We further note that the 45-day requirement in the statute is generally not conducive to bringing a recommendation for our consideration at an Agenda Conference, further supporting, as a practical matter, our decision to delegate authority to our staff to approve conforming tariffs. (Transcript, Vol. 16, p. 2060).

2. Approval of ILEC Commitments

a. Arguments

AARP asserts that we erred when we approved the ILEC's additional concessions as set forth in the following chart:

Increase non-recurring charges so that the single line residential rates would be lowered by approximately 36 cents.	Increases to basic residential recurring and non-recurring rates would be in four steps spread over three years.	Increase non-recurring revenues from \$1.2 million to \$2.4 million so that basic local rates can be raised by \$1.2 million less than requested.
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Increase Lifeline eligibility to 135% of the federal poverty level.	Increase Lifeline eligibility to 135% of the federal poverty level.	Increase Lifeline eligibility to 135% of the federal poverty level.
	Lifeline rates would not be increased for four years.	Lifeline rates would not be increased for four years.
Will work with PSC to review ECS in a Commission workshop.	Will work with PSC to review ECS in a Commission workshop.	Will work with PSC to review ECS in a Commission workshop.

AARP contends that these proposals effectively modified the ILECs' petitions, and that approval of the modified petitions appears contrary to Section 364.164(1), Florida Statutes, which specifically provides that this Commission shall issue an order "granting or denying" any petition. AARP contends that we were authorized only to approve or deny the petitions, not to modify them. AARP adds that the only proper way for this Commission to grant the petitions with the offered amendments would have been to deny the petitions, but with specific directions that amended petitions incorporating the above concessions would be considered on an expedited basis. AARP also notes that these proposals were offered late in the proceeding, and that, consequently, AARP and the other consumer representatives had no opportunity to conduct discovery or cross-examination regarding the proposals.

The respondents maintain that AARP has not identified a mistake of fact or law on this point. They argue not only that the statute should not be read to preclude amendments to the petitions, but also that even if the statute is read as suggested by AARP, we considered and approved the proposals as a matter separate and apart from our consideration of the petitions. Thus, no violation occurred even under AARP's reading of the statute.

In addition, AT&T and MCI emphasize that the ILECs' additional proposals are beyond the scope of their specific requests to reduce access charges in a revenue neutral manner; thus, their approval does not result in any violation of Section 364.164(1), Florida Statutes. Sprint adds that its proposal to spread the proposed increases in four steps over three years was made in response to the testimony of Commission staff witness Shafer, and that all parties had the opportunity to cross-examine Mr. Shafer. Furthermore, Sprint notes that AARP did cross-examine Sprint's witnesses regarding Mr. Shafer's proposal.

b. Decision

The Hearing Transcript clearly reflects that the additional commitments of the ILECs were addressed and approved after the ILECs' petitions had been approved, which demonstrates that the Commission did not consider the additional commitments to constitute amendments to

the petitions. See Transcript Vol. 16 at pp. 2057-2060. Thus, to the extent the Order at p. 56 gives the impression that we considered the additional proposals to constitute amendments to the petitions, the Order is in error. Because we accepted and approved the additional ILEC commitments as a matter separate and apart from our approval of the ILEC Petitions under the criteria outlined in Section 364.164, Florida Statutes, we hereby amend our Order such that the first sentence under the heading "Conclusion" on page 56 of the Order shall now read:

Based on the foregoing, we hereby grant the Petitions of Verizon, Sprint, and BellSouth as filed in Dockets Nos. 030867-TL, 030868-TL, and 030869-TL, ~~as amended by commitments made on the record at the final hearing.~~

Otherwise, AARP's motion on this point is denied, because we are not persuaded that our approval of the additional commitments constituted modification of the Petitions or approval of modifications to the Petitions.<sup>5</sup>

3. Assignment of the Cost of the Local Loop

a. Arguments

AARP argues that we erred by assigning the entire cost of the local loop to basic local service. Had we done otherwise, AARP contends that this Commission could not have concluded that intrastate access charges provide support for basic local telecommunications rates. AARP emphasizes that our only past decision on this point was the 1998 Report on Fair and Reasonable Rates to the Legislature, which AARP maintains: (1) is not legally binding; (2) is not economically and logically sound; and (3) "fl[ies] in the face of the financial facts governing the operation of the ILECs." AARP contends that the testimony in the case reflects that there are other services that could not exist without the local loop; therefore, if only basic local service bears the cost of the loop, other services get a "free ride." While AARP seems to acknowledge that there is no economic principle requiring that the costs of the local loop be spread across other ancillary services, AARP contends that "fundamental fairness and basic common sense" require that the costs be spread.

The respondents maintain, as a general matter, that AARP's assertions on this point are pure reargument and that the Commission has already addressed and rejected these contentions. They further argue that the record supports this Commission's conclusion, referencing in particular the testimony of witnesses Caldwell (as adopted by witness Shell), Banerjee, and Dickerson. Citing the Hearing Transcript Vol. 8 at pages 928 through 929, Verizon, in

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<sup>5</sup> In reaching this conclusion, we do not determine whether AARP's interpretation of the statute on this point is correct. Rather, we simply do not reach that point, because we considered the Petitions and additional commitments separately.

particular, emphasizes that “. . . the ILEC witnesses went to great lengths to explain that local loop costs cannot be fairly apportioned to services other than basic service.”

b. Decision

AARP has not identified any mistake in our conclusion regarding the assignment of the loop costs, but merely argues against the weight we gave to the evidence presented, which does not identify a mistake of fact or law in our decision. Furthermore, we did not rely solely upon the Fair and Reasonable Rate Report as the basis for our conclusion that the costs of the local loop should not be allocated beyond basic local service. In fact, the second sentence of the section of the Order containing our findings on this point states that, “In making this finding, we accept the economic testimony of the ILECs’ and IXCs’ witnesses, which treat the cost of the local loop as a cost of basic local service.” Order at p. 21. While we did place some weight on the fact that this issue had been considered previously in the context of the Fair and Reasonable Rates Report, the Order clearly reflects that this Commission did not find our earlier decision to be binding precedent. Instead, we simply found that neither AARP nor OPC had provided any “new persuasive basis” to deviate from that earlier conclusion, which was supported on the current record by testimony of the ILEC and IXC witnesses. Order at p. 22. AARP’s motion on this point is, therefore, denied.

4. Support Is Barrier to Competition/Removal Will Induce Enhanced Market Entry

a. Arguments

Based upon its assertion that our conclusion that the costs of the loop should not be allocated is erroneous, AARP next argues that we erred by concluding that the existence of support serves as a barrier to competitive entry and that removal of that barrier will induce enhanced market entry. AARP further contends that even if there is some amount of support for local service derived from access fees, the record does not show that the existence of such support serves as a barrier to entry by efficient competitors. Instead, AARP argues, the record shows that competition for the residential customer has increased in recent years without increases in the rates charged by the ILECs for local service.

AARP also contends that the record does not show that increasing local rates will induce enhanced market entry, specifically disputing the testimony offered by Knology and AT&T. AARP maintains that the testimony offered by these companies regarding their entry into Florida markets is just as easily attributed to other factors unrelated to the ILECs’ Petitions in this case. Thus, AARP argues that our decision on this point is not based upon competent, substantial evidence and should be reconsidered.

The responding parties argue that the record does, in fact, support this Commission's conclusions that support for basic local service provided by access charges does impede competition and that removal of that support will induce enhanced market entry. They maintain that AARP is improperly re-arguing its case and only disputes the weight that we gave to the evidence in the record. Therefore, they argue that the Motion on this point should be denied.

b. Decision

As demonstrated by the discussion at pages 24 - 26 and 38 - 39 of our Order, we gave careful, thoughtful consideration to the record on these points. We considered testimony from experts on economic theory, as well as empirical evidence. Based on that evidence, we reached the well-reasoned conclusions that: (1) the current level of support for basic local service rates provided by access charges makes it economically infeasible for CLECs “. . . to price complementary products and packages in a manner that would allow [the CLEC] to make up for lack of profitability in the provision of basic service”; (2) CLECs, as a result, are unable to effectively bundle products and services for consumers, limiting their ability to serve customers, and particularly residential customers, on a profitable basis; (3) poor profitability, or limited profitability, is the main deterrent to entry; and (4) granting the petitions will remove an obstacle to market entry, providing opportunities for competitors to not only enter new markets, but also to offer new products and services beyond those that they would otherwise be able to offer were the market to remain constrained by the pricing vestiges of the former regulatory regime. Order at pp. 24, 38, 39. We found the testimony of witnesses Gordon, Mayo, and Boccucci particularly persuasive on these points, as well as evidence from our own Competition Report.

Furthermore, we specifically addressed and rejected AARP's and OPC's concerns about the effect access charge reductions would have on competition in view of testimony from Knology's witness Boccucci that granting the ILEC petitions would allow his company to attract and deploy new capital in Florida, thereby offering Florida consumers a choice of providers in the residential and business local exchange markets, as well as a choice of new services. Order at pp. 26, 28, and 38. AARP's attempt to dismiss the example provided by Knology as “. . . a cable TV operation that sells telephone service as an ancillary operation” is not well-taken, because we recognized that Knology, regardless of how characterized, offers consumers a competitive choice in telecommunications providers and services. AARP Motion at p. 7; Order at pp. 29-30.

In sum, AARP has not identified any error in our decision on these points, nor anything we overlooked. AARP simply re-argues its case and disputes the weight given by this Commission to certain witnesses' testimony. As such, AARP's Motion on this aspect of the Order is denied.

5. Benefit to Residential Consumers

a. Arguments

AARP argues that we erred by concluding that residential customers will benefit as a result of granting the ILECs' petitions. AARP notes, in particular, that it believes we erred in our consideration of the impact of the flow-through of the access charge reductions by the IXCs. Specifically, AARP contends that in rejecting arguments made by OPC's witness Ostrander that the Petitioners were unable to quantify the benefits to customers, we erroneously stated that:

We reject that argument, and find that the preponderance of the evidence in the proceeding shows that the benefits to residential customers as a whole generated by the resulting decreases in long distance rates and elimination of the in-state connection fee will outweigh the increases in local rates.

Order at p. 30. AARP contends this statement is false. AARP argues that the evidence reflects that 90% of the increases will be borne by residential customers, while the IXCs intend to flow through the access charge reductions to all of their customers, including their multi-line business customers. AARP adds that the record shows that more than half of the access charge reductions will be flowed through to IXCs' large customers.

AARP also contends that there was no demonstration that technological advances would occur, or that there would be any increased quality of service. AARP adds that comments in our Order regarding long term reductions in local service rates are similarly unsubstantiated.

In response, AT&T and MCI simply contend that, "AARP's final point of factual mistake is . . . argumentative about the conclusions drawn from the evidence and not a complaint about the evidence itself." Response at p. 17. By and large, the other responses on this point are similar. The respondents further maintain that AARP raises arguments that are not relevant to the inquiry regarding the ILECs' Petitions, because this Commission was not required to consider the degree of benefit that residential customers would receive from the long distance rate reductions. Regardless, each cites to numerous portions of the record that they believe support our conclusions.

b. Decision

Upon consideration, we find that we carefully weighed the evidence presented on this issue, and even considered evidence on benefits derived from long distance rate reductions that

we concluded we were not required to consider.<sup>6</sup> We received and considered testimony that residential customers will benefit as a result of increased competition from having choices regarding providers, services, technologies and pricing. We also heard testimony that customers would benefit from upgraded quality and increased calling volumes as a result of competition and reduced long distance rates. Order at pp. 26-28. In addition, we considered the arguments offered by OPC, AARP, Common Cause, and Sugarmill Woods that no benefit had been shown and that the market would not be enhanced as claimed by the ILECs, because the ILECs' testimony was based on a flawed model. *Id.* In the end, we weighed the evidence presented and concluded that residential consumers would ultimately experience an overall benefit from the increased competition that will result from the implementation of the ILECs' petitions. AARP has not identified an error in this conclusion, but, again, simply re-argues its case and asks us to re-weigh the evidence. As such, we find it appropriate to reject this aspect of AARP's Motion as well.

We acknowledge, nevertheless, that clarification to a limited degree may be warranted with regard to the sentence in our Order describing our finding that “. . .the benefits to residential customers as a whole generated by the resulting decreases in long distance rates and elimination of the in-state connection fee will outweigh the increases in local rates.” The referenced sentence was not intended to indicate that we found that the long distance rate reductions would result in a “dollar for dollar” offset of the local rate increases for residential customers. Rather, as the rest of the Order more clearly explains, we found that many customers would receive the benefit of reduced long distance rates, as well as the elimination of the in-state connection fee, and that even those who did not receive a rate reduction would receive a qualitative benefit from increased availability of bundled offerings, more competitive options for service, and stimulated long distance usage. Ultimately, the sentence criticized by AARP was intended to reflect that the cumulative benefits resulting from granting the ILECs' petitions, including long distance rate reductions, would offset the impact of the local rate increases. Thus, the specific sentence on page 30 of the Order that AARP has referenced is hereby clarified to read as follows:

We reject that argument, and find that the preponderance of evidence in the proceeding shows that the qualitative and quantitative benefits to residential customers as a whole generated by the resulting decreases in long distance rates, and elimination of the in-state connection fee, increased availability of bundled offerings, more competitive options for service, and stimulated long distance usage will outweigh the increase in local rates.

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<sup>6</sup> “While Section 364.164 does not mandate that we consider the degree of benefit to residential customers from long distance rate reductions, our review of the legislative history convinces us that it is within our discretion to do so.” Order at p. 30.

#### IV. CONCLUSION

For all of the foregoing reasons, the Motions for Reconsideration are denied. Neither motion identifies a mistake of fact or law in this Commission's decision. However, we hereby clarify or amend our Order in certain respects, as set forth more specifically in the Section III of this Order. In brief, we clarify or amend our Order by: (1) adding language to confirm that we considered the impact of Section 364.01(4)(a) in reaching our decision; (2) amending the Order to clarify that we delegated to our staff the authority to review the required tariff filings and to issue administrative final orders approving those tariffs; (3) amending the Order to clarify that our approval of certain ILEC commitments was not a precondition to the approval of the ILECs' petitions; and (4) clarifying that in analyzing the benefits to residential consumers of long distance rate reductions, we considered qualitative as well as quantitative benefits. With these amendments and clarifications, we find that we have fully performed our duty and rendered our decision in this consolidated proceeding in accordance with the applicable provisions of Chapter 364, Florida Statutes.

It is therefore

ORDERED by the Florida Public Service Commission that the Motions for Reconsideration filed by the AARP and the Attorney General of the State of Florida are hereby denied. It is further

ORDERED that Order No. PSC-03-1469-FOF-TL, issued December 24, 2003, is hereby amended and clarified as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-03-1469-FOF-TL is otherwise reaffirmed in all other respects. It is further

ORDERED that these Dockets shall remain open pending conclusion of the appellate process.

ORDER NO. PSC-04-0456-FOF-TL  
DOCKET NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI  
PAGE 18

By ORDER of the Florida Public Service Commission this 4th day of May, 2004.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: /s/ Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

This is a facsimile copy. Go to the Commission's Web site,  
<http://www.floridapsc.com> or fax a request to 1-850-413-  
7118, for a copy of the order with signature.

( S E A L )

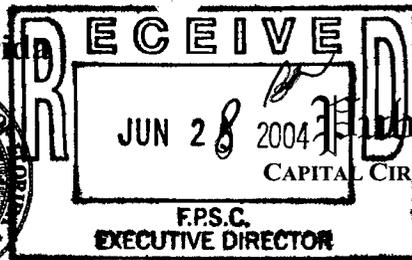
BK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

---

**DATE:** June 25, 2004  
**TO:** Mary Andrews Bane, Executive Director  
**FROM:** Kay B. Flynn, Chief of Records, Division of the Commission Clerk & Administrative Services *ky*  
**RE:** Dockets 030867, 030868, 030869, and 030961 - Attorney General, OPC, and AARP vs. FPSC

---

Permission is requested to make one copy of each of the confidential documents (recognizable as the numbers highlighted in **bold**) on the attached pages. The copies will be included in the record being prepared for filing in the Florida Supreme Court.

Attachment

cc: Blanca S. Bayó, Director, CCA  
Richard Melson, General Counsel

*Approved  
MAB  
6/28/04*

**CONFIDENTIAL DOCUMENTS ADMITTED AT HEARING**

Portions of direct testimony of John M. Felz and Exhibit JMF-4 and portions of Kent W. Dickerson Exhibit KWD-2, on behalf of Sprint, filed August 27, 2003 (DN 08011-03)✓

Daonne D. Caldwell Exhibit's DDC-1, DDC-2, DDC-4, and SCIS model developed by Telcordia, and certain pages from E. Steven Bigelow Exhibits SB-1 through SB-4, on behalf of BellSouth, filed August 27, 2003 (DDC-1, 2, and 4 are part of *Hearing Exhibit 52*) (DN 08022-03)✓

BSTLM loop model (Exhibit DDC-1), on behalf of BellSouth, filed August 28, 2003 (DDC-1 is part of *Hearing Exhibit 52*) (DN 08043-03)✓

Daonne D. Caldwell Exhibit DDC-1, on behalf of BellSouth, filed August 28, 2003 (DDC-1 is part of *Hearing Exhibit 52*) (DN 08044-03)✓

Revised Exhibit DDC-1 to Daonne D. Caldwell, on behalf of BellSouth, filed September 12, 2003 (DDC-1 is part of *Hearing Exhibit 52*) (DN 08671-03)✓

Page 9 of amended direct testimony of John M. Felz, on behalf of Sprint, filed October 1, 2003 (DN 09489-03) ✓

Revision to part of Daonne D. Caldwell's Exhibit DDC-1 (Basic Local Study Service), on behalf of BellSouth, filed October 2, 2003 (DDC-1 is part of *Hearing Exhibit 52*) (DN 09499-03)✓

Portions of amended direct testimony of Orville D. Fulp and portions of amended Exhibits ODF-1, ODF-2, and ODF-3, on behalf of Verizon, filed October 2, 2003 (Exhibits ODF-1 through 3 make up *Hearing Exhibit 59*.) (DNs 08008-03 and 09527-03)

Portions of direct testimony of Dr. David J. Gabel with Appendices 3 and 4, on behalf of OPC, filed October 31, 2003 (DN 10838-03)✓

Exhibits MNC-1 through MNC-7 to direct testimony of Dr. Mark N. Cooper, on behalf of AARP, filed October 31, 2003 (Exhibits MNC-1, 2, and 6 make up *Hearing Exhibit 82*.) (DN 10846-03)✓

Certain information in rebuttal testimony of Carl R. Danner and Evan T. Leo, on behalf of Verizon, filed November 19, 2003 (DN 11654-03)✓

Certain information contained in direct testimony of John Broten, Page Nos. 5 and 6, on behalf of Verizon Long Distance, filed November 19, 2003 (DN 11662-03)✓

Rebuttal testimony of John A. Ruscilli, on behalf of BellSouth, filed November 19, 2003  
(DN 11683-03) \

Rebuttal testimony of E. Steven Bigelow, on behalf of BellSouth, filed November 19, 2003  
(DN 11684-03)\

Highlighted information on Page Nos. 4 and 9 of direct testimony of Eric W. Kapka  
and in Exhibit No. EWK-1, on behalf of Sprint, filed November 19, 2003 (DN 11688-03) \

Certain information in direct testimony of Joseph Dunbar, on behalf of MCI, filed November  
19, 2003 (DN 11691-03)\

Certain information in direct testimony of Richard T. Guepe, on behalf of AT&T, filed  
November 19, 2003 (DN 11694-03)\

Testimony and proprietary work paper of OPC's witness Dr. David J. Gabel and Exhibit Nos.  
MNC-1 and MNC-2 for AARP's witness Dr. Mark N. Cooper, on behalf of BellSouth, filed  
November 21, 2003 (Appendix 1 from Gabel's testimony is *Hearing Exhibit 78.*) (DN 11890-03) \

Revised direct testimony of Joseph Dunbar, on behalf of MCI, filed November 25, 2003  
(DN 12023-03)\

Rebuttal testimony of Bion C. Ostrander with Exhibit BCO-1, on behalf of OPC, filed November  
26, 2003 (Exhibit BCO-1 is *Hearing Exhibit 80.*) (DN 12083-03)\

Revised pages 42 and 43 of rebuttal testimony of Carl R. Danner, on behalf of Verizon (DN  
12272-03) \

Information contained in rebuttal testimony of E. Steven Bigelow, John A. Ruscilli, and Exhibit  
No. WBS-1 of W. Bernard Shell rebuttal testimony, on behalf of BellSouth, filed December 10,  
2003 (DN 12700-03) \

*Hearing Exhibit No. 39*, filed December 17, 2003 [Note: Exhibit contains confidential Document  
Nos. 08885-03, 09366-03, 09449-03, 10128-03, 10632-03, 10697-03, 11728-03, 11928-03, and  
11932-03.] (DN 13131-03) \

*Hearing Exhibit No. 41*, filed December 17, 2003 [Note: Exhibit contains confidential Document  
Nos. 09829-03 (cross-reference 08944-03), 10142-03 (cross-reference 11002-03), 10288-03  
(cross-reference 09578-03), 11531-03 (cross-reference 12514-03), 11533-03, 12155-03,  
11885-03 (cross-reference 12608-03), and 11794-03.] (DN 13132-03) \

*Hearing Exhibit No. 40*, filed December 17, 2003 [Note: Exhibit contains confidential Document Nos. 11783-03 (cross-reference 12712-03) and 12053-03 (cross-reference 12706-03).] **(DN 13133-03)** \

*Hearing Exhibit No. 42*, filed December 17, 2003 [Note: Exhibit contains confidential Document No. 12258-03 (cross-reference 12697-03).] **(DN 13134-03)** \

*Hearing Exhibit No. 43*, filed December 17, 2003 [Note: Exhibit contains confidential Document No. 12499-03.] **(DN 13135-03)** \

*Hearing Exhibit No. 44*, filed December 17, 2003 [Note: Exhibit contains confidential Document No. 12491-03.] **(DN 13136-03)** \

*Hearing Exhibit No. 64*, filed December 17, 2003. **(DN 13137-03)** \

*Hearing Exhibit No. 66*, filed December 17, 2003 [Note: Exhibit contains portions of confidential Document No. 08011-03.] **(DN 13138-03)** \

*Hearing Exhibit No. 70*, filed December 17, 2003 [Note: Exhibit contains portions of confidential Document No. 08011-03.] **(DN 13139-03)** \

*Hearing Exhibit No. 86*, filed January 14, 2004 **(DN 00592-04)** \

*Hearing Exhibit No. 56*, filed January 15, 2004 **(DN 00616-04)** \

*Hearing Exhibit No. 75*, filed January 15, 2004 **(DN 00617-04)** \

*Hearing Exhibit No. 63*, filed June 23, 2004 **(DN 06895-04)** \

*Hearing Exhibit No. 48*, filed June 23, 2004 **(DN 06927-04)** \

**CONFIDENTIAL DOCUMENTS NOT ADMITTED IN RECORD  
AT HEARING**

Switching cost information system, on behalf of BellSouth, filed August 28, 2003 **(DN 08045-03)** \

Volume 2 of 2 to audit workpapers for Verizon (Audit Control No. 03-247-2-1), filed September 19, 2003 **(DN 08994-03)** \

Volume 2 of 2 to audit workpapers for Sprint (Audit Control No. 03-247-2-2), filed September 19, 2003 **(DN 08996-03)** \

Information in staff workpapers prepared during billing units audit (Audit Control No. 03-247-2-1), on behalf of Verizon, filed September 29, 2003 (DN 09301-03) \

Exhibits to revised direct testimony of E. Steven Bigelow, on behalf of BellSouth, filed September 30, 2003 (DN 09412-03) \

Highlighted portions of schedule entitled "Business Weighted Average Increase," included with audit workpapers, Audit Control No. 03-247-2-2, on behalf of Sprint, filed October 3, 2003 (DN 09621-03) \

Response to Citizens' 1<sup>st</sup> set of interrogatories, No. 20; response to PODs Nos. 2-5, 7, 11, 15, and 18 (2-5, 11, and 18 on CD); and supplemental response to Citizens' 1<sup>st</sup> set of interrogatories, Item No. 6, Attachment 2, on behalf of BellSouth (DN 09952-03, cross-reference 09091-03) \

Responses to OPC's 3<sup>rd</sup> request for PODs, No. 39, on behalf of BellSouth (DN 10204-03, cross-reference 09281-03) \

Responses to OPC's request for PODs (No. 41, on behalf of BellSouth (DN 10338-03, cross-reference 09414-03) \

Supplemental response to Citizens' POD No. 6 (Sprint Corporation "Maximus" document), on behalf of Sprint (DN 10587-03) \

Supplemental response to Citizens' 1<sup>st</sup> POD No. 6 ("edge-out" document), on behalf of Sprint (DN 10776-03) \

Supplemental responses to staff's 2<sup>nd</sup> set of interrogatories (Nos. 42 and 45), on behalf of Verizon (DN 10823-03) \

Exhibit No. WBS-1 to W. Bernard Shell testimony, on behalf of BellSouth, filed November 19, 2003 (DN 11685-03) \

Supplemental response to Citizens' 1<sup>st</sup> PODs No. 6 (Sprint's edge-out document), on behalf of Sprint (DN 11796-03) \

Volume 2 of BellSouth audit (Audit Control No. 03-247-1-1) on verification of pricing units, filed by Commission staff (DN 11953-03) \

Response to staff's 6<sup>th</sup> interrogatories, Item Nos. 103 and 104, on behalf of BellSouth (DN 12634-03) \

Supplemental responses to staff's 2<sup>nd</sup> set of interrogatories (Nos. 74-87), on behalf of AT&T (DN 12680-03) \

Response to staff's late-filed deposition request (documentation and work papers provided in response to billing units verification audit), on behalf of BellSouth **(DN 12703-03)** ✓

Revised Exhibits and SB-2 to direct testimony of E. Steven Bigelow, on behalf of BellSouth, filed December 10, 2003 **(DN 12709-03)** ✓

Supplemental responses to OPC's 2<sup>nd</sup> and 3<sup>rd</sup> set of interrogatories, Nos. 25, 27, 39, 41, 42, 43, 44, 46, and 47 (hard copy), and 2<sup>nd</sup> request for PODs, Nos. 26, 27, 28 (on CD), on behalf of BellSouth **(DN 12716-03)** ✓

First supplemental response to staff's 6<sup>th</sup> set of interrogatories, Item Nos. 103 and 104, on behalf of BellSouth **(DN 12948-03)** ✓

Information from December 16, 2003 agenda conference, on behalf of Commission, filed December 19, 2003 **(DN 13194-03)** ✓

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

## Public Service Commission

August 17, 2004

Charles J. Crist, Jr., Esquire  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399-1050

**Re: Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI - Charles J. Crist, Jr., Attorney General, State of Florida; Harold McLean, Public Counsel, State of Florida; AARP vs. Florida Public Service Commission, Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946**

Dear Mr. Crist:

I have enclosed an invoice reflecting charges for preparation of the above-referenced record. Please forward a check in the amount indicated, made payable to the Florida Public Service Commission, at your earliest convenience.

Do not hesitate to call if you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records

KF:mhl  
Enclosure

# FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Blvd. ♦ Tallahassee, Florida 32399-0850

Date: 8/17/04

9754

To: Charles J. Crist, Jr., Esquire  
 Office of the Attorney General  
 PL-01, The Capitol  
 Tallahassee, Florida 32399-1050

Date Paid \_\_\_\_\_

Amount Paid \_\_\_\_\_

Check # \_\_\_\_\_

Check     Cash

PSC Signature \_\_\_\_\_

↑                      ↑  
 This number must appear on  
 all checks or correspondence  
 regarding this invoice.

**Please make checks payable to: FLORIDA PUBLIC SERVICE COMMISSION**

QUANTITY	DESCRIPTION	PRICE	AMOUNT
10,965 pgs	Copying and preparation of Dockets 030867-TL, 030868-TL, 030869-TL, and 030961-TI on appeal to Supreme Court, Case No. SC04-9	@.05¢ per pg	\$548.25
18 CDs	CDs	@\$2.00 per	36.00
1	Certificate of Director	-	4.00

PSC/CCA 008-C Rev. 10/01

**TOTAL**      **\$588.25**

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



CAPITAL CIRCLE OFFICE CENTER  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

# Public Service Commission

August 6, 2004

Ms. Charlotte Wheeler  
Office of the Attorney General  
The Capitol  
Tallahassee, Florida 32399-1050

**Re: Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI - Charles J. Crist, Jr., Attorney General, State of Florida; Harold McLean, Public Counsel, State of Florida; AARP vs. Florida Public Service Commission, Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946**

Dear Ms. Wheeler:

Pursuant to your request, enclosed is a copy of confidential Document Nos. 06895-04, 06927-04, and 12083-03, confidential documents designated as Hearing Exhibit Nos. 48, 63, and 80.

Please sign below to indicate receipt of this document.

Sincerely,

Handwritten signature of Kay Flynn in cursive.

Kay Flynn  
Chief of Records

Enclosure

cc: Rick Melson, Office of the General Counsel

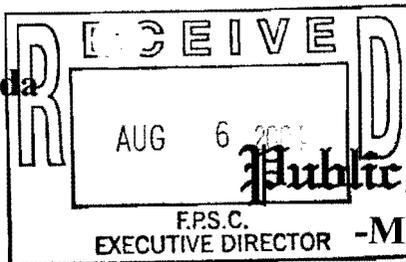
Received by

Handwritten signature of Rick Melson in cursive.

Date

8/10/04

State of Florida



## Public Service Commission

F.P.S.C. EXECUTIVE DIRECTOR -M-E-M-O-R-A-N-D-U-M-

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**DATE:** August 6, 2004  
**TO:** Dr. Mary A. Bane, Executive Director  
**FROM:** Kay Flynn, Bureau of Records *146*  
**RE:** Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI - Charles J. Crist, Jr., Attorney General, State of Florida; Harold McLean, Public Counsel, State of Florida; AARP vs. Florida Public Service Commission, Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946

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A request for a copy of confidential document Nos. 06895-04, 06927-04, and 12083-03 was made by Charlotte Wheeler with the Attorney General's Office, who is working on the appeal record to the above referenced dockets. The confidential documents are designated as Hearing Exhibit Nos. 48, 63, and 80. Authorization is requested for the clerk's office to prepare a copy of these confidential documents for the Attorney General's Office.

cc: Blanca S. Bayó  
Rick Melson

*Approved,  
MBZ  
8/6/04*

State of Florida



# Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

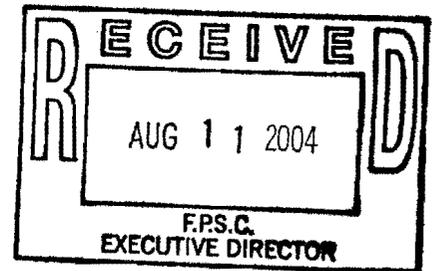
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**DATE:** August 10, 2004  
**TO:** Dr. Mary A. Bane, Executive Director  
**FROM:** Kay Flynn, Bureau of Records *KF*  
**RE:** Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI - Charles J. Crist, Jr., Attorney General, State of Florida; Harold McLean, Public Counsel, State of Florida; AARP vs. Florida Public Service Commission, Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946

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Charlotte Wheeler reviewed the appeal record in the above referenced dockets yesterday and requested copies of confidential Document Nos. 08043-03, 08044-03, and 09499-03. Ms. Wheeler is presently working on the record appeal for the Office of the Attorney General, who is involved with these proceedings. Authorization is requested to make copies of these confidential documents.

cc: Blanca S. Bayó  
Patty Christensen



*Approved  
MBB  
8/11/04*

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
LILA A. JABER  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

## Public Service Commission

August 17, 2004

Charles J. Crist, Jr., Esquire  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399-1050

**Re: Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI - Charles J. Crist, Jr., Attorney General, State of Florida; Harold McLean, Public Counsel, State of Florida; AARP vs. Florida Public Service Commission, Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946**

Dear Mr. Crist:

Enclosed is the index to the above-referenced dockets on appeal. Please look the index over and let me know if you have any questions concerning the contents of the record.

The record will be filed with the Court on or before November 5, 2004.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay Flynn".

Kay Flynn, Chief  
Bureau of Records

KF:mhl

cc: Harold McLean, Esquire  
Michael B. Twomey, Esquire  
Richard Melson, Esquire  
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Parties of record

**Charles J. Crist, Jr., Attorney General, State of Florida**  
**vs.**  
**Florida Public Service Commission, et al.**  
**Supreme Court Case No. SC04-9**

\*\*\*

**Harold McLean, Public Counsel, State of Florida**  
**vs.**  
**Florida Public Service Commission, et al.**  
**Supreme Court Case No. SC04-10**

\*\*\*

**AARP**  
**vs.**  
**Florida Public Service Commission, et al.**  
**Supreme Court Case No. SC04-946**

**FPSC Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI**

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## NON-CONFIDENTIAL HEARING EXHIBITS

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Portions of direct testimony of John M. Felz and Exhibit JMF-4 and portions of  
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Daonne D. Caldwell Exhibit's DDC-1, DDC-2, DDC-4, and SCIS model developed by  
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**(DN 08022-03)**

BSTLM loop model (Exhibit DDC-1), on behalf of BellSouth,  
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(DDC-1 is part of *Hearing Exhibit 52.*)  
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(Exhibits ODF-1 through 3 make up *Hearing Exhibit 59.*)  
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Certain information in rebuttal testimony of Carl R. Danner and Evan T. Leo, on behalf of Verizon, filed November 19, 2003  
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**(DN 11694-03)**

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and Exhibit Nos. MNC-1 and MNC-2 for AARP's witness Dr. Mark N. Cooper,  
on behalf of BellSouth, filed November 21, 2003

(Appendix 1 from Gabel's testimony is *Hearing Exhibit 78.*)

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**(DN 11890-03)**

Revised direct testimony of Joseph Dunbar, on behalf of MCI, filed November 25, 2003

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Rebuttal testimony of Bion C. Ostrander with Exhibit BCO-1, on behalf of OPC,  
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(Exhibit BCO-1 is *Hearing Exhibit 80.*)

(Pages 1006 - 1037)

**(DN 12083-03)**

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(Pages 1038 - 1039)

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on behalf of BellSouth, filed December 10, 2003

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*Hearing Exhibit No. 39*, filed December 17, 2003,  
portions on CD

[Note: Exhibit contains confidential Document Nos. 08885-03, 09366-03, 09449-03,  
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**(DN 13131-03)**

*Hearing Exhibit No. 41*, filed December 17, 2003,  
portions on CD

[Note: Exhibit contains confidential Document Nos. 09829-03 (cross-reference 08944-03),  
10142-03 (cross-reference 11002-03), 10288-03 (cross-reference 09578-03),  
11531-03 (cross-reference 12514-03), 11533-03, 12155-03,  
11885-03 (cross-reference 12608-03), and 11794-03.]

(Pages 1334 - 1419)

**(DN 13132-03)**

*Hearing Exhibit No. 40*, filed December 17, 2003

[Note: Exhibit contains confidential Document Nos. 11783-03 (cross-reference 12712-03) and 12053-03 (cross-reference 12706-03).]

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*Hearing Exhibit No. 42*, filed December 17, 2003

[Note: Exhibit contains confidential Document No. 12258-03 (cross-reference 12697-03).]

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[Note: Exhibit contains portions of confidential Document No. 08011-03.]

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*Hearing Exhibit No. 63, filed June 23, 2004*  
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*Hearing Exhibit No. 48, filed June 23, 2004*  
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Information in staff workpapers prepared during billing units audit  
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Supplemental responses to staff's 2<sup>nd</sup> set of interrogatories (Nos. 74-87),  
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**(DN 12680-03)**

Response to staff's late-filed deposition request (documentation and work papers provided in response to billing units verification audit), on behalf of BellSouth, filed December 10, 2003  
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**ALL CORRESPONDENCE FILED IN  
DOCKETS 030867-TL, 030868-TL, 030869-TL, and 030961-TI**

Pages 1 through 617 (Pouch 1 of 3)  
Pages 618 through 1,234 (Pouch 2 of 3)  
Pages 1,235 through 1,851 (Pouch 3 of 3)

**Mary Bane**

---

To: Rick Melson  
Cc: Kay Flynn; Marguerite Lockard  
Subject: RE: Confidential Document Copy Request

Approved. 9/8/04

-----Original Message-----

From: Rick Melson  
Sent: Wednesday, September 08, 2004 3:28 PM  
To: Mary Bane  
Cc: Kay Flynn; Marguerite Lockard  
Subject: Confidential Document Copy Request

Mary:

Please approve CCA to make a copy for me of the confidential exhibits from the access charge reduction dockets (Docket Nos. 030867-TP et al.). I need ready access to a working copy as we prepare an Answer Brief in the Supreme Court Appeal.

Thanks,  
Rick

*Approved.  
MMS  
9/8/04*

**Marguerite Lockard**

---

**From:** Mary Bane  
**Sent:** Wednesday, September 08, 2004 5:17 PM  
**To:** Rick Melson  
**Cc:** Kay Flynn; Marguerite Lockard; Betty Ashby  
**Subject:** RE: Confidential Document Copy Request

Approved. 9/8/04

-----Original Message-----

**From:** Rick Melson  
**Sent:** Wednesday, September 08, 2004 3:28 PM  
**To:** Mary Bane  
**Cc:** Kay Flynn; Marguerite Lockard  
**Subject:** Confidential Document Copy Request

Mary:

Please approve CCA to make a copy for me of the confidential exhibits from the access charge reduction dockets (Docket Nos. 030867-TP et al.). I need ready access to a working copy as we prepare an Answer Brief in the Supreme Court Appeal.

Thanks,  
Rick

(R. melson/GCL)

DNS rec'd

Prior D. P.

(4 pouches)  
date

9/9/04

---

~~DNS returned~~

. ~~Att~~ .

~~date~~ 2005

---

(Note: CD's not included in cont. DNS copied)  
for melson

**\*\*CCA OFFICIAL DOCUMENT...\*\*b>**

**Kimberley Pena**

030961

---

**From:** Kay Flynn  
**Sent:** Friday, September 10, 2004 4:38 PM  
**To:** Kimberley Pena  
**Cc:** Marguerite Lockard; 'doxford@radeylaw.com'  
**Subject:** 030867, et al.

**Kim, please use DN 01406-04 (directions to clerk) to add the Radey law firm to the docket mailing lists for these 4 dockets.**

**Thanks.**

**Kay**

*09/13/04  
vmp ✓*

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



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(850) 413-6330 (ADMIN)

# Public Service Commission

December 6, 2004

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

**Re: Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946, Charles J. Crist, Jr., Harold McLean, and AARP, et al., vs. Florida Public Service Commission, et al. (Docket Nos. 030867, 030868, 030869, and ~~030861~~)**

Dear Mr. Hall:

030961  
14

The record in the above-referenced consolidated cases, consisting of 20 bound volumes, eight pouches containing transcripts and hearing exhibits, three pouches of correspondence, and four pouches (separately boxed and stamped "confidential"), is forwarded for filing in the Court. A copy of the final index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt. *Parties are advised by copy of this letter that, in order to maintain confidentiality of their clients' documents while at the Court, they must request confidential treatment by the Court.*

Do not hesitate to call me at 413-6744 if you have any questions concerning the contents of this record.

Sincerely,

Handwritten signature of Kay Flynn in cursive.

Kay Flynn, Chief of Records

kf:mhl

Enclosure

cc: Parties of Record

**Charles J. Crist, Jr., Attorney General, State of Florida**  
**vs.**  
**Florida Public Service Commission, et al.**  
**Supreme Court Case No. SC04-9**

\*\*\*

**Harold McLean, Public Counsel, State of Florida**  
**vs.**  
**Florida Public Service Commission, et al.**  
**Supreme Court Case No. SC04-10**

\*\*\*

**AARP**  
**vs.**  
**Florida Public Service Commission, et al.**  
**Supreme Court Case No. SC04-946**

**FPSC Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI**

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Transcript of hearing held December 10, 2003, Volume 3, pages 220 through 345

Transcript of hearing held December 10, 2003, Volume 4, pages 346 through 418

Transcript of hearing held December 11, 2003, Volume 5, pages 419 through 589

Transcript of hearing held December 11, 2003, Volume 6, pages 590 through 670

Transcript of hearing held December 11, 2003, Volume 7, pages 671 through 739

Transcript of hearing held December 11, 2003, Volume 8, pages 740 through 932

Transcript of hearing held December 11, 2003, Volume 9, pages 933 through 1,150

Transcript of hearing held December 12, 2003, Volume 10, pages 1,151 through 1,286

Transcript of hearing held December 12, 2003, Volume 11, pages 1,287 through 1,408

Transcript of hearing held December 12, 2003, Volume 12, pages 1,409 through 1,530

Transcript of hearing held December 12, 2003, Volume 13, pages 1,531 through 1,670

Transcript of hearing held December 12, 2003, Volume 14, pages 1,671 through 1,863

Transcript of hearing held December 12, 2003, Volume 15, pages 1,864 through 1,945

Transcript of hearing held December 16, 2003, Volume 16, pages 1,946 through 2,064

## NON-CONFIDENTIAL HEARING EXHIBITS

(See hearing transcript for full description.)

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 45, 46, 47, (49 not admitted), 50, 51, 53, 54, 55, 57, 58, 60, 61, 62, 65, 67, 68, 69, 71, 72, 73, 74, 76, 77, 79, 81, 83, 84, and 85

**CONFIDENTIAL DOCUMENTS ADMITTED IN RECORD  
AT HEARING**

Portions of direct testimony of John M. Felz and Exhibit JMF-4 and portions of Kent W. Dickerson Exhibit KWD-2, on behalf of Sprint, filed August 27, 2003

(Pages 1 - 9)  
**(DN 08011-03)**

Daonne D. Caldwell Exhibit's DDC-1, DDC-2, DDC-4, and SCIS model developed by Telcordia, and certain pages from E. Steven Bigelow Exhibits SB-1 through SB-4, on behalf of BellSouth, filed August 27, 2003

(DDC-1, 2, and 4 are part of *Hearing Exhibit 52.*)

(Pages 10 - 470)  
**(DN 08022-03)**

BSTLM loop model (Exhibit DDC-1), on behalf of BellSouth, filed August 28, 2003, on CDS only  
(DDC-1 is part of *Hearing Exhibit 52.*)

(Pages 471 - 472)  
**(DN 08043-03)**

Daonne D. Caldwell Exhibit DDC-1, on behalf of BellSouth, filed August 28, 2003, on CDS only  
(DDC-1 is part of *Hearing Exhibit 52.*)

(Page 473)  
**(DN 08044-03)**

Revised Exhibit DDC-1 to Daonne D. Caldwell, on behalf of BellSouth, filed September 12, 2003

(DDC-1 is part of *Hearing Exhibit 52.*)

(Pages 474 - 501)  
**(DN 08671-03)**

Page 9 of amended direct testimony of John M. Felz, on behalf of Sprint, filed October 1, 2003

(Page 502)  
**(DN 09489-03)**

Revision to part of Daonne D. Caldwell's Exhibit DDC-1 (Basic Local Study Service), on behalf of BellSouth, filed October 2, 2003, on CDS only

(DDC-1 is part of *Hearing Exhibit 52.*)

(Pages 503 - 504)  
**(DN 09499-03)**

Portions of amended direct testimony of Orville D. Fulp and portions of amended Exhibits ODF-1, ODF-2, and ODF-3, on behalf of Verizon, filed October 2, 2003  
(Exhibits ODF-1 through 3 make up *Hearing Exhibit 59.*)

(Pages 504A-X, 505 - 531)  
(DNs 08008-03 and 09527-03)

Portions of direct testimony of Dr. David J. Gabel with Appendices 3 and 4,  
on behalf of OPC, filed October 31, 2003

(Pages 532 - 633)  
(DN 10838-03)

Exhibits MNC-1 through MNC-7 to direct testimony of Dr. Mark N. Cooper,  
on behalf of AARP, filed October 31, 2003

(Exhibits MNC-1, 2, and 6 make up *Hearing Exhibit 82.*)

(Pages 634 - 660)  
(DN 10846-03)

Certain information in rebuttal testimony of  
Carl R. Danner and Evan T. Leo, on behalf of Verizon, filed November 19, 2003

(Pages 661 - 663)  
(DN 11654-03)

Certain information contained in direct testimony of John Broten, Page Nos. 5 and 6,  
on behalf of Verizon Long Distance, filed November 19, 2003

(Pages 664 - 665)  
(DN 11662-03)

Rebuttal testimony of John A. Ruscilli, on behalf of BellSouth, filed November 19, 2003

(Pages 666 - 688)  
(DN 11683-03)

Rebuttal testimony of E. Steven Bigelow, on behalf of BellSouth, filed November 19, 2003

(Pages 689 - 691)  
(DN 11684-03)

Highlighted information on Page Nos. 4 and 9 of direct testimony of Eric W. Kapka  
and in Exhibit No. EWK-1, on behalf of Sprint, filed November 19, 2003

(Pages 692 - 695)  
(DN 11688-03)

Certain information in direct testimony of Joseph Dunbar,  
on behalf of MCI, filed November 19, 2003

(Pages 696 - 703)  
(DN 11691-03)

Certain information in direct testimony of Richard T. Guepe,  
on behalf of AT&T, filed November 19, 2003

(Pages 704 - 716)

**(DN 11694-03)**

Testimony and proprietary work paper of OPC's witness Dr. David J. Gabel,  
and Exhibit Nos. MNC-1 and MNC-2 for AARP's witness Dr. Mark N. Cooper,  
on behalf of BellSouth, filed November 21, 2003

(Appendix 1 from Gabel's testimony is *Hearing Exhibit 78.*)

(Pages 717 - 997)

**(DN 11890-03)**

Revised direct testimony of Joseph Dunbar, on behalf of MCI, filed November 25, 2003

(Pages 998 - 1005)

**(DN 12023-03)**

Rebuttal testimony of Bion C. Ostrander with Exhibit BCO-1, on behalf of OPC,  
filed November 26, 2003

(Exhibit BCO-1 is *Hearing Exhibit 80.*)

(Pages 1006 - 1037)

**(DN 12083-03)**

Revised pages 42 and 43 of rebuttal testimony of Carl R. Danner, on behalf of Verizon

(Pages 1038 - 1039)

**(DN 12272-03)**

Information contained in rebuttal testimony of E. Steven Bigelow, John A. Ruscilli,  
and Exhibit No. WBS-1 of W. Bernard Shell rebuttal testimony,  
on behalf of BellSouth, filed December 10, 2003

(Pages 1040 - 1067)

**(DN 12700-03)**

*Hearing Exhibit No. 39*, filed December 17, 2003,  
portions on CD

[Note: Exhibit contains confidential Document Nos. 08885-03, 09366-03, 09449-03,  
10128-03, 10632-03, 10697-03, 11728-03, 11928-03, and 11932-03.]

(Pages 1068 - 1333)

**(DN 13131-03)**

*Hearing Exhibit No. 41*, filed December 17, 2003,  
portions on CD

[Note: Exhibit contains confidential Document Nos. 09829-03 (cross-reference 08944-03),  
10142-03 (cross-reference 11002-03), 10288-03 (cross-reference 09578-03),  
11531-03 (cross-reference 12514-03), 11533-03, 12155-03,  
11885-03 (cross-reference 12608-03), and 11794-03.]

(Pages 1334 - 1419)

**(DN 13132-03)**

*Hearing Exhibit No. 40*, filed December 17, 2003

[Note: Exhibit contains confidential Document Nos. 11783-03 (cross-reference 12712-03) and 12053-03 (cross-reference 12706-03).]

(Pages 1420 - 1430)

**(DN 13133-03)**

*Hearing Exhibit No. 42*, filed December 17, 2003

[Note: Exhibit contains confidential Document No. 12258-03 (cross-reference 12697-03).]

(Pages 1431 - 1432)

**(DN 13134-03)**

*Hearing Exhibit No. 43*, filed December 17, 2003

[Note: Exhibit contains confidential Document No. 12499-03.]

(Pages 1433 - 1438)

**(DN 13135-03)**

*Hearing Exhibit No. 44*, filed December 17, 2003

[Note: Exhibit contains confidential Document No. 12491-03.]

(Pages 1439 - 1443)

**(DN 13136-03)**

*Hearing Exhibit No. 64*, filed December 17, 2003

(Pages 1444 - 1462)

**(DN 13137-03)**

*Hearing Exhibit No. 66*, filed December 17, 2003

[Note: Exhibit contains portions of confidential Document No. 08011-03.]

(Pages 1463 - 1469)

**(DN 13138-03)**

*Hearing Exhibit No. 70*, filed December 17, 2003

[Note: Exhibit contains portions of confidential Document No. 08011-03.]

(Page 1470)

**(DN 13139-03)**

*Hearing Exhibit No. 86*, filed January 14, 2004

(Pages 1471 - 1474)

**(DN 00592-04)**

*Hearing Exhibit No. 56*, filed January 15, 2004

(Pages 1475 - 1502)

**(DN 00616-04)**

*Hearing Exhibit No. 75*, filed January 15, 2004

(Page 1503)

**(DN 00617-04)**

Hearing Exhibit No. 63, filed June 23, 2004  
(Pages 1504 - 1509)  
**(DN 06895-04)**

Hearing Exhibit No. 48, filed June 23, 2004  
(Pages 1510 - 1520)  
**(DN 06927-04)**

**CONFIDENTIAL DOCUMENTS NOT ADMITTED IN RECORD  
AT HEARING**

Switching cost information system, on behalf of BellSouth,  
filed August 28, 2003, on CD only  
(Page 1521)  
**(DN 08045-03)**

Volume 2 of 2, to audit workpapers for Verizon (Audit Control No. 03-247-2-1),  
filed September 19, 2003  
(Pages 1522 - 1541)  
**(DN 08994-03)**

Volume 2 of 2 to audit workpapers for Sprint (Audit Control No. 03-247-2-2),  
filed September 19, 2003  
(Pages 1542 - 1556)  
**(DN 08996-03)**

Information in staff workpapers prepared during billing units audit  
(Audit Control No. 03-247-2-1), on behalf of Verizon, filed September 29, 2003  
(Pages 1557 - 1559)  
**(DN 09301-03)**

Exhibits to revised direct testimony of E. Steven Bigelow, on behalf of BellSouth,  
filed September 30, 2003  
(Pages 1560 - 1659)  
**(DN 09412-03)**

Highlighted portions of schedule entitled "Business Weighted Average Increase," included with  
audit workpapers, Audit Control No. 03-247-2-2,  
on behalf of Sprint, filed October 3, 2003  
(Page 1660)  
**(DN 09621-03)**

Response to Citizens' 1<sup>st</sup> set of interrogatories, No. 20; response to PODs Nos. 2-5, 7, 11, 15, and  
18 (2-5, 11, and 18 on CD); and supplemental response to Citizens' 1<sup>st</sup> set of interrogatories,  
Item No. 6, Attachment 2, on behalf of BellSouth,  
filed October 10, 2003, portions on CD  
(Pages 1661 - 2039)  
**(DN 09952-03, cross-reference 09091-03)**

Responses to OPC's 3<sup>rd</sup> request for PODs, No. 39, on behalf of BellSouth,  
filed October 17, 2003  
(Pages 2040 - 2048)

**(DN 10204-03, cross-reference 09281-03)**

Responses to OPC's request for PODs (No. 41, on behalf of BellSouth,  
filed October 21, 2003 on CD only  
(Pages 2049 - 2051)

**(DN 10338-03, cross-reference 09414-03)**

Supplemental response to Citizens' POD No. 6 (Sprint Corporation "Maximus" document), on  
behalf of Sprint, filed October 27, 2003

(Pages 2052 - 2064)

**(DN 10587-03)**

Supplemental response to Citizens' 1<sup>st</sup> POD No. 6 ("edge-out" document),  
on behalf of Sprint, filed October 30, 2003

(Pages 2065 - 2090)

**(DN 10776-03)**

Supplemental responses to staff's 2<sup>nd</sup> set of interrogatories (Nos. 42 and 45),  
on behalf of Verizon, filed October 31, 2003

(Pages 2091 - 2093)

**(DN 10823-03)**

Exhibit No. WBS-1 to W. Bernard Shell testimony,  
on behalf of BellSouth, filed November 19, 2003

(Page 2094)

**(DN 11685-03)**

Supplemental response to Citizens' 1<sup>st</sup> PODs No. 6 (Sprint's edge-out document),  
on behalf of Sprint, filed November 20, 2003

(Pages 2095 - 2119)

**(DN 11796-03)**

Volume 2 of BellSouth audit (Audit Control No. 03-247-1-1) on verification of  
pricing units, filed by Commission staff on November 24, 2003

(Pages 2120 - 2175)

**(DN 11953-03)**

Response to staff's 6<sup>th</sup> interrogatories, Item Nos. 103 and 104,  
on behalf of BellSouth, filed December 8, 2003

(Pages 2176 - 2180)

**(DN 12634-03)**

Supplemental responses to staff's 2<sup>nd</sup> set of interrogatories (Nos. 74-87),  
on behalf of AT&T, filed December 9, 2003

(Pages 2181 - 2183)

**(DN 12680-03)**

Response to staff's late-filed deposition request (documentation and work papers provided in response to billing units verification audit), on behalf of BellSouth, filed December 10, 2003

(Pages 2184 - 2210)

**(DN 12703-03)**

Revised Exhibits and SB-2 to direct testimony of E. Steven Bigelow, on behalf of BellSouth, filed December 10, 2003

(Pages 2211 - 2237)

**(DN 12709-03)**

Supplemental responses to OPC's 2<sup>nd</sup> and 3<sup>rd</sup> set of interrogatories, Nos. 25, 27, 39, 41, 42, 43, 44, 46, and 47 (hard copy), and 2<sup>nd</sup> request for PODs, Nos. 26, 27, 28 (on CD), on behalf of BellSouth,

filed December 10, 2003 (portions on CD only)

(Pages 2238 - 2275)

**(DN 12716-03)**

First supplemental response to staff's 6<sup>th</sup> set of interrogatories, Item Nos. 103 and 104, on behalf of BellSouth, filed December 12, 2003

(Pages 2276 - 2280)

**(DN 12948-03)**

Information from December 16, 2003 agenda conference, on behalf of Commission, filed December 19, 2003

(Pages 2281 - 2287)

**(DN 13194-03)**

**ALL CORRESPONDENCE FILED IN  
DOCKETS 030867-TL, 030868-TL, 030869-TL, and 030961-TI**

Pages 1 through 617 (Pouch 1 of 3)

Pages 618 through 1,234 (Pouch 2 of 3)

Pages 1,235 through 1,851 (Pouch 3 of 3)

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &  
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DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

Public Service Commission

December 6, 2004

RECEIVED  
THOMAS D. HALL

DEC 06 2004

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

CLERK, SUPREME COURT  
BY *James Bentley*

Re: Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946, Charles J. Crist, Jr., Harold McLean, and AARP, et al., vs. Florida Public Service Commission, et al. (Docket Nos. 030867, 030868, 030869, and ~~030861~~)

Dear Mr. Hall:

030961 (14)

The record in the above-referenced consolidated cases, consisting of 20 bound volumes, eight pouches containing transcripts and hearing exhibits, three pouches of correspondence, and four pouches (separately boxed and stamped "confidential"), is forwarded for filing in the Court. A copy of the final index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt. *Parties are advised by copy of this letter that, in order to maintain confidentiality of their clients' documents while at the Court, they must request confidential treatment by the Court.*

Do not hesitate to call me at 413-6744 if you have any questions concerning the contents of this record.

Sincerely,

*Kay Flynn*

Kay Flynn, Chief of Records

kf:mhl

Enclosure

cc: Parties of Record

Received by *James Bentley* Date *12/6/04*

STATE OF FLORIDA

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES  
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DIRECTOR  
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(850) 413-6330 (ADMIN)

Public Service Commission

December 6, 2004

THOMAS D. HALL  
2004 DEC 7 6 A 8:38  
CLERK, SUPREME COURT

Thomas D. Hall, Clerk  
Supreme Court of Florida  
Supreme Court Building  
Tallahassee, Florida 32301

Re: Supreme Court Case Nos. SC04-9, SC04-10, and SC04-946, Charles J. Crist, Jr., Harold McLean, and AARP, et al., vs. Florida Public Service Commission, et al. (Docket Nos. 030867, 030868, 030869, and 030861)

Dear Mr. Hall:

The record in the above-referenced consolidated cases, consisting of 20 bound volumes, eight pouches containing transcripts and hearing exhibits, three pouches of correspondence, and four pouches (separately boxed and stamped "confidential"), is forwarded for filing in the Court. A copy of the final index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt. *Parties are advised by copy of this letter that, in order to maintain confidentiality of their clients' documents while at the Court, they must request confidential treatment by the Court.*

Do not hesitate to call me at 413-6744 if you have any questions concerning the contents of this record.

Sincerely,

Kay Flynn, Chief of Records

kf:mhl

Enclosure

cc: Parties of Record

Record and  
Return to  
8-5-0  
MFM

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

**DATE:** March 2, 2006

**TO:** Kay Flynn

**FROM:** Beth Salak

**RE:** Docket No. 030869-TL, Request to View Confidential Documents

FPSC, CLK - CORRESPONDENCE  
✓ Administrative Parties Consumer  
DOCUMENT NO. 2769-05  
DISTRIBUTION: \_\_\_\_\_

Please allow Dale Mailhot access to the confidential documents in the above referenced docket. Thank you for your assistance.

c: Dale Mailhot

(CONF. DN  
13194-03)

COMMISSION  
CLERK

06 MAR - 3 AM 7:36

RECEIVED: 11:50

**Marguerite Lockard**

**From:** Dorothy Menasco  
**Sent:** Monday, October 30, 2006 2:14 PM  
**To:** Kay Flynn  
**Cc:** Kimberley Pena; Tiffany Williams; Ruth Nettles; Marguerite Lockard  
**Subject:** RE: Moving dockets to 030867, 030868, and 030869 from 050000 and 060000

Kay, FYI, I have finished moving these documents from 050000 and 060000 to 030867, 030868, 030869, and 030961.

Kim, Tiffany, or Ruth, please be sure the following documents are moved from the undocketed folder to the correct docket folder:

- 08812-05
- 08814-05
- 10475-05
- 10477-05
- 10478-05
- 10479-05
- 10487-05
- 10995-05
  
- 00493-06
- 00495-06
- 01147-06
- 01379-06
- 01690-06
- 02071-06
- 02228-06
- 09713-06

Marguerite, I moved the following confidential documents over:

- 08813-05
- 10476-05
- 10488-05
- 10996-05
  
- 00494-06

Thank you ladies. If you see that I've missed one or moved the wrong thing, please bring it to my attention right away. I tried to keep it as straight as possible, but you know how things happen... :)

---

**From:** Kay Flynn  
**Sent:** Friday, October 27, 2006 9:03 AM  
**To:** Dorothy Menasco  
**Cc:** Marguerite Lockard; Kimberley Pena  
**Subject:** RE: Moving dockets to 030867, 030868, and 030869 from 050000 and 060000

Yes on all. You would also want to locate their claim letters (10475, etc.) and move those as well.

As for 10488 and 10996, they and their claims, etc. need to be placed in all four dockets. He referenced only 030961 (which is the flow-through docket, yes) but the order was issued in all four dockets.

Confusing, I know, but Rick Wright said this is only happening for one more year. Thank goodness.

---

**From:** Dorothy Menasco  
**Sent:** Thursday, October 26, 2006 10:34 AM  
**To:** Kay Flynn  
**Subject:** Moving dockets to 030867, 030868, and 030869 from 050000 and 060000

Kay,

I have a question about a couple dockets. Should these be moved from 050000 to 030867, 88, and 89?

10476-05  
10477-05 ~ (these next 3 are pretty much the same thing, so advising me that one document should be moved will tell me if they all should be moved)  
10478-05  
10479-05  
Should these 2 be moved from 050000 to 030961?

10488-05  
10996-05

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK  
ANN COLE  
COMMISSION CLERK  
(850) 413-6770

## Public Service Commission

April 6, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0111)

Connie Wightman, Consultant  
Technologies Management Inc.  
210 North Park Avenue  
Winter Park, Florida 32789

**Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TI**

Dear Ms. Wightman:

Commission staff have advised that confidential Document Nos. 08813-05, 10476-05, 00494-06, and 01038-07, filed on behalf of Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

A handwritten signature in cursive script that reads "Ann Cole".

Ann Cole  
Chief of Records

AC:mhl  
Enclosure

cc: Sally Simmons, Division of Competitive Markets and Enforcement  
Patrick Wiggins, Office of the General Counsel

COMMISSIONERS:  
 LISA POLAK EDGAR, CHAIRMAN  
 MATTHEW M. CARTER II  
 KATRINA J. MCMURRIAN

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK  
 ANN COLE  
 COMMISSION CLERK  
 (850) 413-6770

Public Service Commission

April 6, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0111)

Connie Wightman, Consultant  
 Technologies Management Inc.  
 210 North Park Avenue  
 Winter Park, Florida 32789

Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI

Dear Ms. Wightman:

Commission staff have advised that confidential Document Nos. 08813-05, 10476-05, 00494-06, and 01038-07, filed on behalf of Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>C. Wade</i>	
1. Article Addressed to: <i>08813-05; 10476-05; 00494-06; 01038-07</i>	B. Received by (Printed Name) <i>C. Wade</i>	C. Date of Delivery <i>4/11/07</i>
2. Article Number (Transfer from service label)	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:	
CONNIE WIGHTMAN CONSULTANT TECHNOLOGIES MANAGEMENT INC 210 N PARK AVE WINTER PARK FL 32789	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)	7006 0810 0002 3488 0111	

AC:mhl  
 Enclosure

cc: Sally Simmons, Division  
 Patrick Wiggins, Office

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 PSC Website: <http://www.floridapsc.com>

PS Form 3811, February 2004  
 An Affirmative Action / Equal Opportunity Employer

Domestic Return Receipt

102595-02-M-1540

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN

STATE OF FLORIDA



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Public Service Commission

April 6, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0135)

Traci Tidmore, Regulatory Manager  
DeltaCom, Inc. and  
Business Telecom, Inc. d/b/a BTI  
7037 Old Madison Pike, Suite 400  
Huntsville, Alabama 35806

**Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TI**

Dear Ms. Tidmore:

Commission staff have advised that confidential Document Nos. 10113-06, 10340-06, 01017-07, and 01020-07, filed on behalf of DeltaCom, Inc. and Business Telecom, Inc. d/b/a BTI, can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Cole".

Ann Cole  
Chief of Records

AC:mhl  
Enclosure

cc: Sally Simmons, Division of Competitive Markets and Enforcement  
Patrick Wiggins, Office of the General Counsel

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK  
ANN COLE  
COMMISSION CLERK  
(850) 413-6770

Public Service Commission

April 6, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0135)

Traci Tidmore, Regulatory Manager  
DeltaCom, Inc. and  
Business Telecom, Inc. d/b/a BTI  
7037 Old Madison Pike, Suite 400  
Huntsville, Alabama 35806

Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TI

Dear Ms. Tidmore:

Commission staff have advised that confidential Document Nos. 10113-06, 10340-06, 01017-07, and 01020-07, filed on behalf of DeltaCom, Inc. and Business Telecom, Inc. d/b/a BTI, can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning this material.

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: 10113-06; 10340-06; 01017-07; 01020-07

TRACI TIDMORE REG MNGR  
DELTA COM INC AND  
BUSINESS TELECOM INC D/B/A BTI  
7037 OLD MADISON PIKE STE 400  
HUNTSVILLE AL 35806

2. Article Number  
(Transfer from service label)

PS Form 3811, February 2004

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
\* LeChelle Burt  Agent  Addressee

B. Received by (Printed Name)  
LeChelle Burt

C. Date of Delivery  
4-1-07

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7006 0810 0002 3488 0135

Domestic Return Receipt

102595-02-M-15

AC:mhl  
Enclosure

cc: Sally Simmons, Division of  
Patrick Wiggins, Office of

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK  
ANN COLE  
COMMISSION CLERK  
(850) 413-6770

Public Service Commission

April 6, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0128)

Douglas C. Nelson, Esquire  
Sprint Nextel  
233 Peachtree Street, Northeast, Suite 2200  
Atlanta, Georgia 30303

**Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TI**

Dear Mr. Nelson:

Commission staff have advised that confidential Document Nos. 10465-06 and 01084-07, filed on behalf of Sprint Communications Company L.P., can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

A handwritten signature in cursive script that reads "Ann Cole".

Ann Cole  
Chief of Records

AC:mhl  
Enclosure

cc: Sally Simmons, Division of Competitive Markets and Enforcement  
Patrick Wiggins, Office of the General Counsel

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN

STATE OF FLORIDA



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ANN COLE  
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(850) 413-6770

# Public Service Commission

April 6, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0128)

Douglas C. Nelson, Esquire  
Sprint Nextel  
233 Peachtree Street, Northeast, Suite 2200  
Atlanta, Georgia 30303

**Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI**

Dear Mr. Nelson:

Commission staff have advised that confidential Document Nos. 10465-06 and 01084-07, filed on behalf of Sprint Communications Company L.P., can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

AC:mhl  
Enclosure

cc: Sally Simmons, Div.  
Patrick Wiggins, Off

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: 10465-06; 01084-07

**DOUGLAS C NELSON ESQUIRE**  
**SPRINT NEXTEL**  
**233 PEACHTREE ST NE STE 2200**  
**ATLANTA GA 30303**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
*Ann Cole*  Addressee

B. Received by (Printed Name)  Date of Delivery  
*VERONICA PHAG* *12-7*

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below  No

3. Service Type  Express Mail  Return Receipt for Merchandise  
 Certified Mail  Registered  C.O.D.  
 Insured Mail

4. Restricted Delivery? (Extra Fee)  Yes



7006 0810 0002 3488 0128

102585-02-M-1540

CAPITAL CIRCLE OFFICE

PSC Website: <http://www.floridapsc.com>

2. Article Number  
(Transfer from service label)  
PS Form 3811, February 2004

Domestic Return Receipt

02399-0850

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN

STATE OF FLORIDA



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ANN COLE  
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(850) 413-6770

# Public Service Commission

April 6, 2007

J. Jeffrey Wahlen, Esquire  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302

**Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TI**

Dear Mr. Wahlen:

Commission staff have advised that confidential Document Nos. 10488-05, 10996-05, 09957-06, and 01002-07, filed on behalf of Sprint Communications Company L.P., can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

A handwritten signature in cursive script, appearing to read "AC".

Ann Cole  
Chief of Records

AC:mhl  
Enclosure

cc: Sally Simmons, Division of Competitive Markets and Enforcement  
Patrick Wiggins, Office of the General Counsel

RECEIVED

*David Cole*

DATE

*07-02-07*

*DN 12769-05*

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

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LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN

STATE OF FLORIDA



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ANN COLE  
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Public Service Commission

April 6, 2007

Tracy W. Hatch, Esquire  
AT&T – Law and Government Affairs  
101 North Monroe Street  
Tallahassee, Florida 32301

FPSC, CLK - CORRESPONDENCE		
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input type="checkbox"/> Consumer
DOCUMENT NO. <u>12769-05</u>		
DISTRIBUTION: <u>CMP; GCL</u>		

Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI

Dear Mr. Hatch:

Commission staff have advised that confidential Document Nos. 10542-05, 10060-06, and 01046-07, filed on behalf of AT&T Communications of the Southern States, LLC, can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

Ann Cole  
Chief of Records

AC:mhl  
Enclosure

cc: Sally Simmons, Division of Competitive Markets and Enforcement  
Patrick Wiggins, Office of the General Counsel

DOCUMENT NO.    DATE

12769-05    4/13/07  
FPSC - COMMISSION CLERK

RECEIVED

DATE 7/13/07

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Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)



COMMISSIONERS:  
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MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN

STATE OF FLORIDA



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Public Service Commission

April 20, 2007

FPSC, CLK - CORRESPONDENCE		
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Parties	<input type="checkbox"/> Consumer
DOCUMENT NO. 12769-05		
DISTRIBUTION: CMP; GCL		

DKT 030961-TI

Ms. Nancy Sims  
AT&T Florida f/k/a BellSouth Telecommunications, Inc.  
150 South Monroe Street, Suite 400  
Tallahassee, Florida 32301

Re: Return of Confidential Document to the Source, Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TI

Dear Ms. Sims:

Commission staff have advised that confidential Document No. 10837-06, filed on behalf of BellSouth Long Distance, Inc., can be returned to the source. The document is enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

Ann Cole  
Commission Clerk

AC:mhl  
Enclosure

cc: Frank Trueblood, Division of Competitive Markets and Enforcement  
Office of the General Counsel

DOCUMENT NO. DATE  
12769-05 5/2/07  
FPSC - COMMISSION CLERK

RECEIVED

DATE

5/2/07

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Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

COMMISSIONERS:  
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KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

STATE OF FLORIDA



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Public Service Commission

August 3, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0319)

William P. Cox, Esquire  
Abel Band  
Post Office Box 49948  
Sarasota, Florida 34230-6948

FPSC, CLK - CORRESPONDENCE  
✓ Administrative Parties Consumer  
DOCUMENT NO. 12969-05  
DISTRIBUTION: \_\_\_\_\_

**Re: Return of Confidential Document to the Source, Docket Nos. 030867-TL  
030868-TL, 030869-TL, and 030961-TI**

Dear Mr. Cox:

Commission staff have advised that confidential Document No. 10427-06, filed on behalf of Qwest Communications Corporation, can be returned to the source. The document is enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Cole".

Ann Cole  
Commission Clerk

AC:mhl  
Enclosure

cc: Rick Wright, Division of Competitive Markets and Enforcement  
Office of the General Counsel

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK  
ANN COLE  
COMMISSION CLERK  
(850) 413-6770

Public Service Commission

August 3, 2007

(CERTIFIED MAIL NO. 7006-0810-0002-3488-0319)

William P. Cox, Esquire  
Abel Band  
Post Office Box 49948  
Sarasota, Florida 34230-6948

Re: Return of Confidential Document to the Source, Docket Nos. 030867-TL  
030868-TL, 030869-TL, and 030961-TI

Dear Mr. Cox:

Commission staff have advised that confidential Document No. 10427-06, filed on behalf of Qwest Communications Corporation, can be returned to the source. The document is enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"><li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>Print your name and address on the reverse so that we can return the card to you.</li><li>Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	<p>A. Signature <i>x D. Middleton</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Barbara J. Middleton</i> C. Date of Delivery <i>8/3</i></p>
1. Article Addressed to: <i>10427-06</i>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
2. Article Number (Transfer from service label)	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
PS Form 3811, February 2004	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes

WILLIAM P COX ESQUIRE  
ABEL BAND  
240 S PINEAPPLE AVE  
SARASOTA FL 34236

AC:mhl  
Enclosure

cc: Rick Wright, Division  
Office of the General (

7006 0810 0002 3488 0319

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

STATE OF FLORIDA



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ANN COLE  
COMMISSION CLERK  
(850) 413-6770

# Public Service Commission

August 3, 2007

Charles J. Beck, Deputy Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

**Re: Return of Confidential Documents to the Source, Docket Nos. 030867-TL,  
030868-TL, 030869-TL, and 030961-TI**

Dear Mr. Beck:

Commission staff have advised that confidential Document Nos. 06895-04 and 06927-04, filed on behalf of OPC, can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

Handwritten signature of Ann Cole in cursive.

Ann Cole  
Commission Clerk

AC:mhl  
Enclosure

cc: Rick Wright, Division of Competitive Markets and Enforcement  
Office of the General Counsel

RECEIVED

Handwritten signature of Mark D. J. [unclear] in cursive.

DATE

8/14/07

**Marguerite Lockard**

---

**From:** Marguerite Lockard  
**Sent:** Friday, August 03, 2007 10:48 AM  
**To:** Rick Wright  
**Subject:** RE: Return of Confidential Documents - 030867-TL et al.

*ok, will do.....thanks.....*

---

**From:** Rick Wright  
**Sent:** Friday, August 03, 2007 10:21 AM  
**To:** Marguerite Lockard  
**Subject:** RE: Return of Confidential Documents - 030867-TL et al.

You can return the OPC documents to them and destroy 13194-03.

---

**From:** Marguerite Lockard  
**Sent:** Thursday, August 02, 2007 1:09 PM  
**To:** Rick Wright  
**Subject:** Return of Confidential Documents - 030867-TL et al.

*Rick,*

*3 confidential documents were marked to be returned on the 2nd quarterly confidential report.*

*Should the 2 below be returned to OPC (who filed them) or back to BellSouth/AT&T Florida and Verizon ??*

*06895-04 - OPC (Beck) - (CONFIDENTIAL) Documents produced by Verizon in response to OPC's discovery request [Exhibit 63 to hearing].*

*06927-04 - OPC (Beck) - (CONFIDENTIAL) BellSouth's Florida access-basic rebalancing legislation dated 7/10/03 [Exhibit 48 of hearing].*

---

*Should 13194-03 be destroyed or returned to BellSouth/AT&T ?*

*13194-03 - PSC/Staff - (CONFIDENTIAL) Information from 12/16/03 ag conference:*

*Issue 1(a), spreadsheets; Issue 3, reduction in access charges as filed by companies; Issue 4, amounts included in ILEC petitions; Issue*

*9, IXCs split of flow-through reductions; Issue 10, in-state connection fee and revenue reductions. [CCA note: Entered in Dockets*

*030867, 030868, 030869, and 030961; placed in 030867 only.]*

---