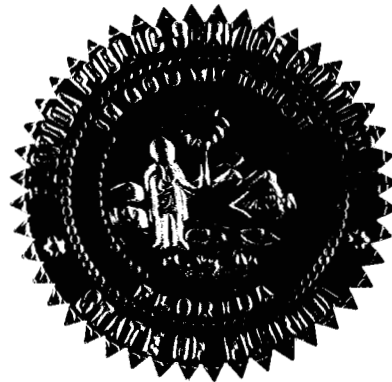


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT PETITION BY TDS TELECOM
D/B/A TDS TELECOM/QUINCY TELEPHONE;
ALLTEL FLORIDA, INC.; NORTHEAST
FLORIDA TELEPHONE COMPANY D/B/A
NEFCOM; GTC, INC. D/B/A GT COM;
SMART CITY TELECOMMUNICATIONS, LLC
D/B/A SMART CITY TELECOM; ITS
TELECOMMUNICATIONS SYSTEMS, INC.; AND
FRONTIER COMMUNICATIONS OF THE SOUTH,
LLC ["JOINT PETITIONERS"] OBJECTING
TO AND REQUESTING SUSPENSION AND
CANCELLATION OF PROPOSED TRANSIT
TRAFFIC SERVICE TARIFF FILED BY
BELLSOUTH TELECOMMUNICATIONS, INC.

DOCKET NO. 050119-TP



PETITION AND COMPLAINT FOR SUSPENSION DOCKET NO. 050125-TP
AND CANCELLATION OF TRANSIT TRAFFIC
SERVICE TARIFF NO. FL2004-284 FILED
BY BELLSOUTH TELECOMMUNICATIONS, INC.,
BY AT&T COMMUNICATIONS OF THE SOUTHERN
STATES, LLC.

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VOLUME 5

Pages 552 through 689

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER J. TERRY DEASON
COMMISSIONER ISILIO ARRIAGA
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. TEW

DATE: Thursday, March 30, 2006

TIME: Commenced at 9:00 a.m.
Concluded at 3:03 p.m.

FLORIDA PUBLIC SERVICE COMMISSION

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 4.)

CHAIRMAN EDGAR: Okay. We are back on the record.

Ms. Banks, have we identified the most recent handout in the stipulated exhibit list?

MS. BANKS: Yes, Madam Chair, we have. Actually I had a correction. I think before the break I referenced Exhibit 2 is actually Exhibit Number 3 beginning at Page 39.

CHAIRMAN EDGAR: Thank you.

From this point, to the extent that any of the parties involved are aware of exhibits being in, if you can help us identify it, that may help us, help us move it along. And if you can't, certainly we will work together to get where we need to be.

Mr. Culpepper.

CROSS EXAMINATION

BY MR. CULPEPPER:

Q Mr. Gates, do you have the T-Mobile decision in front of you?

A Yes, I do.

Q Would you read the first sentence of the first paragraph of the order out loud.

A Yes. "On September 6th, 2002, T-Mobile USA, Inc., Western Wireless Corporation, Nextel Communication and Nextel Partners jointly filed a petition for declaratory ruling asking

1 the Commission to reaffirm 'that wireless termination tariffs
2 are not a proper mechanism for establishing reciprocal
3 compensation arrangements for the transport and termination of
4 traffic.'

5 Q Thank you, Mr. Gates. Returning to your rebuttal
6 testimony on Page 27, and I would ask you to focus on Footnote
7 36. Is it your testimony that you disagree with the
8 Commission's order regarding the TIC issued in Order Number
9 050975?

10 A Yes.

11 Q Are you aware that that arbitration involved NuVox
12 and Xspedius?

13 A I'm not aware of all the parties to the case.

14 Q Would you agree with me, subject to check, that NuVox
15 was involved in that arbitration?

16 A Absolutely.

17 Q And NuVox is one of the members of CompSouth that is
18 supporting your testimony?

19 A Yes, it is.

20 Q Are you aware that NuVox has not sought
21 reconsideration of the final order of this Commission in that
22 arbitration?

23 A I believe they have not yet sought reconsideration,
24 but I believe they will.

25 MR. CULPEPPER: No further questions.

1 CHAIRMAN EDGAR: Mr. Gross.

2 MR. GROSS: No questions.

3 CHAIRMAN EDGAR: Mr. Hatch.

4 MR. HATCH: No questions.

5 MR. O'ROARK: Good morning, Madam Chairman,
6 Commissioners.

7 CROSS EXAMINATION

8 BY MR. O'ROARK:

9 Q Good morning, Mr. Gates.

10 A Good morning.

11 Q Again, I'm De O'Roark with Verizon Access. I have
12 just a few questions for you this morning, Mr. Gates.

13 For purposes of my questions, I'd like you to assume
14 that you're a CLEC and I'm a CLEC, and let's assume that
15 Chairman Edgar is the ILEC that transits our traffic. Now
16 whenever one of our customers calls the other, the originating
17 carrier is going to need to pay Chairman Edgar's company for
18 transiting the traffic; correct?

19 A That's correct.

20 Q And one of the issues in this case is what that rate
21 ought to be.

22 A Yes.

23 Q Another issue in the case, Issue 5, is whether the
24 Commission should establish terms and conditions for the
25 originating and terminating carriers to that call; is that

1 right?

2 A Could you point me to my testimony where we discussed
3 that?

4 Q I can.

5 A I believe it's Pages 26 and 27 of my direct; is that
6 correct?

7 Q That's correct.

8 A Okay.

9 Q All right. Do you agree that's one of the issues in
10 the case, Mr. Gates?

11 A Yes, I do.

12 Q And CompSouth's position is that the Commission
13 should not establish those terms and conditions; is that right?

14 A No. The position is that they should not use a
15 tariff to establish those terms and conditions. CompSouth
16 believes that the TELRIC rates currently in place serve for
17 compensation for transit and there's no need for a tariff, just
18 as the T-Mobile order found. The FCC has a preference for
19 contractual negotiations, not for tariffs.

20 Q Let's work through that a little bit. When CLECs are
21 on the originating and terminating ends of a transit call, as
22 in the example that we're going to work through where you're a
23 CLEC and I'm a CLEC, there are different approaches that can be
24 taken to establishing the reciprocal compensation arrangement;
25 is that true?

1 A I don't think so. I think the transiting
2 arrangements are, are very well set forth. I mean, there's,
3 there's a little bit of ambiguity at the FCC today, but the FCC
4 has specifically found that transiting is absolutely critical
5 to the efficient operation of competition, the indirect
6 exchange of traffic. And in those limited situations such as
7 in the T-Mobile case where the CMRS providers complained about
8 a tariff, the FCC has said tariffs are not the way to go.

9 Q Okay. I'm not sure you answered my question.

10 A I'm sorry.

11 Q As for how, say, if you're a CLEC and I'm a CLEC, how
12 your company and my company can arrange for reciprocal
13 compensation, there's different ways we can do that, aren't
14 there? Let me give you an example. Isn't one possibility
15 bill-and-keep?

16 A I suppose our companies could negotiate and agree to
17 bill-and-keep, yes.

18 Q Well, wouldn't you agree that one option would be for
19 us not to have an agreement and have a default where the
20 default would be bill-and-keep without an agreement?

21 A Well, I guess I'm a little confused, and perhaps I
22 could ask a question for, just for clarification. You're
23 talking about intercarrier compensation paid from one CLEC to
24 another perhaps for terminating a call; correct?

25 Q Correct.

1 A My testimony really goes to the transiting
2 responsibility for BellSouth and my testimony does not address
3 the relationship between the two CLECs.

4 Q Then maybe I can get at it this way. Does CompSouth
5 not have a position as to whether a carrier like Verizon Access
6 could establish a tariff for terminating traffic, say, from
7 another CLEC?

8 A I don't know.

9 MR. O'ROARK: Okay. In that case, I have nothing
10 further.

11 MR. PALMER: We have no questions.

12 MR. ATKINSON: No questions, Madam Chair.

13 MR. SELF: No questions.

14 CHAIRMAN EDGAR: Mr. Hoffman.

15 MR. HOFFMAN: Thank you, Madam Chairman.

16 CROSS EXAMINATION

17 BY MR. HOFFMAN:

18 Q Good morning, Mr. Gates.

19 A Good morning, Mr. Hoffman.

20 Q Mr. Gates, would you agree that any carrier, whether
21 it's a CLEC or a small LEC or a wireless carrier, that is not
22 originating or terminating local traffic through a BellSouth
23 tandem switch would have concerns with the rates or other
24 aspects of BellSouth's tariff in future negotiations?

25 A I'm sorry. I may have got lost in the, in the

1 question. Could you ask it again, please?

2 Q Yes, sir. Would you agree that any carrier, whether
3 we're talking about a CLEC, a small LEC or a wireless carrier,
4 that is not originating or terminating local traffic currently
5 through a BellSouth tandem switch would have concerns with the
6 rate or other aspects of BellSouth's tariff in future
7 negotiations with BellSouth?

8 A Oh, absolutely. Not only with just the rate, but
9 just the existence of a tariff.

10 MR. HOFFMAN: Madam Chairman, I'd like to distribute
11 an exhibit and have it marked for identification.

12 CHAIRMAN EDGAR: We'll show it as Exhibit 48.
13 Mr. Hoffman, a title.

14 MR. HOFFMAN: Final Order in Level 3 BellSouth
15 Arbitration.

16 CHAIRMAN EDGAR: 48.

17 MR. HOFFMAN: Thank you.

18 (Exhibit 48 marked for identification.)

19 BY MR. HOFFMAN:

20 Q Do you have Exhibit 48 in front of you, Mr. Gates?

21 A Yes, I do.

22 MS. BERLIN: I don't have it.

23 MR. HOFFMAN: Oh, I'm sorry. Hold on just a second.

24 BY MR. HOFFMAN:

25 Q Mr. Gates, if you would, please, turn to the last

1 page of Exhibit 48 in the next to last paragraph. And if you
2 could, please read out loud the first two sentences of that
3 paragraph into the record.

4 A Could you describe this exhibit for me, please?

5 Q Yes.

6 A I'd prefer to have the whole document in front of me.
7 It appears to be something that I testified in. In fact,
8 Mr. Hoffman, weren't you our attorney in this case, Level 3
9 attorney?

10 Q Yes.

11 A Okay. Do you have the whole document that I could
12 look at?

13 Q I don't.

14 A Okay. All right.

15 Q But let me tell you what this is. This is a final
16 order issued by the Public Service Commission, Florida Public
17 Service Commission in an arbitration proceeding between Level 3
18 and BellSouth, and this is an excerpt from that order.

19 A Thank you.

20 Q Okay. If you could, the last page of the exhibit,
21 would you please read into the record the next to the last
22 paragraph, the first two sentences.

23 A Okay. "We find that the weight of the evidence
24 presented supports the position advocated by Level 3 witnesses
25 Rogers, Gates and Sachetti. A competitive LEC has the

1 authority to designate the point or points of interconnection
2 on an incumbent's network for the mutual exchange of traffic."

3 Q And if you turn back one page to the first page of
4 the order, it indicates that the Florida PSC issued this order
5 on June 18 of 2001; correct?

6 A Yes.

7 Q Thank you.

8 MR. HOFFMAN: Madam Chairman, I have a second exhibit
9 that I'd like to distribute.

10 CHAIRMAN EDGAR: Which will be Exhibit 49. Mr.
11 Hoffman, a label.

12 MR. HOFFMAN: Yes, ma'am. Excerpt from Final Order
13 on Reciprocal Compensation.

14 CHAIRMAN EDGAR: Thank you.

15 (Exhibit 49 marked for identification.)

16 BY MR. HOFFMAN:

17 Q Mr. Gates, this is an excerpt from the Florida Public
18 Service Commission's final order that was issued in its generic
19 reciprocal compensation proceeding.

20 I'll give you a moment. Let me know when you're
21 ready, Mr. Gates.

22 A Thank you. Okay.

23 Q Do you recall that you testified in this proceeding?

24 A Now that I see my name cited in the order, I do
25 recall.

1 Q Okay.

2 A It's been a while.

3 Q Okay. And if you would turn to, again, the last page
4 of this exhibit, which is Page 25 of the final order, in the
5 middle of the page beginning with the sentence that starts with
6 the word, "We," it states there, "We find persuasive the
7 extensive authority cited by Sprint Witness Hunsucker and the
8 ALEC witnesses and, therefore, we find that ALECs have the
9 exclusive right to unilaterally designate single POIs to the
10 mutual exchange of telecommunications traffic at any
11 technically feasible location on an incumbent's network within
12 a LATA." That's what the Commission stated and concluded;
13 correct?

14 A Yes. That's correct.

15 Q Thank you. Now if you could, Mr. Gates, could you
16 turn to Page 25 of your prefiled direct testimony at Line 14
17 through 22. Take a moment to look at that, please.

18 A Yes, I've reviewed that.

19 Q Okay. You take the position in that passage in your
20 testimony, you essentially take issue, I guess, with
21 Mr. Watkins' position as to who is the cost causer, and you
22 reflect your position that it's the originating carrier who is
23 the cost causer and should pay any transit fee under FCC Rule
24 51.703(b); is that a fair statement?

25 A Yes. That's correct. And that's the specific

1 purpose of 51.703(b) is to make sure that incumbents do not
2 impose the costs of their own originating traffic onto other
3 carriers.

4 Q Now that rule states that a LEC, I'm referring to
5 51.703(b), that a LEC may not assess charges on any other
6 telecommunications carrier for telecommunications traffic that
7 originates on the LEC's network; correct?

8 A I trust your reading of the rule.

9 Q Okay. Now in this case which involves BellSouth's
10 tariff, the only party that would assess a charge under the
11 tariff is BellSouth; correct?

12 A I believe that's BellSouth's proposal. I think the
13 small LECs have proposed another regime that would force costs
14 onto other carriers. But under the tariff, you're correct.

15 Q This case is -- this case focuses on BellSouth's
16 tariff, and under BellSouth's tariff the only carrier imposing
17 a charge, of course, is BellSouth; correct?

18 A Correct.

19 Q And BellSouth in a transiting scenario is not the
20 originating carrier, it's the intermediary carrier; correct?

21 A Yes.

22 Q Now going back to the passages from the Florida
23 Public Service Commission orders that have been identified as
24 Exhibits 48 and 49, would you agree that those orders confirm
25 that the small local exchange companies' interconnection

1 obligations as confirmed by this Commission are to interconnect
2 at a technically feasible point with an ALEC or, excuse me,
3 with a CLEC on the network of the small LEC?

4 A Well, I'm struggling because I don't have the orders
5 in front of me. I have excerpts. And as I recall those cases,
6 they were bilateral arbitrations, or at least the first one was
7 with Level 3, and the testimony cited refers to a single point
8 of interconnection, which is a right, an entitlement for CLECs.
9 I don't, I don't think that really applies to the small LEC
10 issues in this case.

11 The second order, the 2002 order also deals with
12 single POIs, but it also specifically refers to originating
13 carrier obligations. So I think it's absolutely consistent. I
14 support the Commission's decision in that order and I think
15 it's absolutely consistent with my testimony in this
16 proceeding.

17 Q Thank you. Mr. Gates, do you agree with the
18 Commission's decision as reflected in the excerpts from these
19 two orders that the incumbent LEC has an obligation to
20 interconnect with a CLEC at a technically feasible location on
21 the network of the incumbent LEC?

22 A Well, we have an argument within the industry, I'm
23 sure this Commission is well aware. I'm sorry, Mr. Hoffman, I
24 couldn't give you a yes or no answer. I apologize. I, I fear
25 under the context the answer would be no, and I'm trying to

1 explain why.

2 There's a dispute as to whether the interconnection
3 has to occur on the incumbent's network or within the
4 incumbent's network. It's a subtle but important distinction
5 for the, for the incumbents.

6 But, yes, if you're going to interconnect directly
7 with an incumbent, like if NuVox is going to directly
8 interconnect with BellSouth, that interconnection would occur
9 on the BellSouth network, as Mr. Hoffman explained. That does
10 not go to the issue of indirect interconnection, which by
11 necessity uses the transit service of BellSouth.

12 MR. HOFFMAN: Thank you, Mr. Gates. That's all I
13 have.

14 THE WITNESS: Thank you.

15 CHAIRMAN EDGAR: Questions from staff?

16 MS. BANKS: Staff has no questions, Madam Chair.

17 CHAIRMAN EDGAR: Thank you.

18 Commissioner Deason.

19 COMMISSIONER DEASON: I believe you stated in your
20 testimony that you believed that the, the rate contained within
21 BellSouth's tariff is somewhere in excess of three times what
22 you would consider to be the cost or the TELRIC cost of
23 providing a transit service?

24 THE WITNESS: Yes, Your Honor. And I base that on
25 just taking the approved rates from 2001 from the Commission

1 and assuming 40 miles of transport, the TELRIC rate would be
2 .009368.

3 COMMISSIONER DEASON: Could you repeat that again,
4 please?

5 THE WITNESS: Yes. In fact, this is on Page 24 of my
6 rebuttal, Commissioner Deason, Lines 8 through 9. The rate is
7 .0009368. And that's taken from this Commission's TELRIC
8 compliant rates that were approved in 2001. And if you take
9 the .003 rate, divide that by .009368, you end up with 3.2 or
10 320 percent of the actual TELRIC rates that this Commission has
11 approved.

12 COMMISSIONER DEASON: Are you familiar with Mr.
13 McCallen's testimony?

14 THE WITNESS: Yes.

15 COMMISSIONER DEASON: Okay. Did you review his
16 Exhibit KRM-2?

17 THE WITNESS: Yes. Is that the one that lists all of
18 the rates supposedly in effect for various carriers? Yes, I
19 did look at it.

20 COMMISSIONER DEASON: And most of those rates, and I
21 think by his own testimony, is somewhere within .0025 and
22 .0035, in that general area; is that correct in your
23 assessment?

24 THE WITNESS: Well, I think generally that's probably
25 true. I think, as attorneys pointed out yesterday, there are

1 some like .0005 for MCI and .0056 for AT&T. So there are
2 others, probably the carriers that provide the preponderance of
3 the traffic are very, very, very much lower than the average.

4 And I would also point out, if I may, Commissioner
5 Deason, that if I didn't have any transit traffic, that would
6 be the giveaway that I would give away in negotiating an
7 interconnection agreement. I would agree to just about any
8 rate for transit traffic if I didn't need to use it. If I were
9 a reseller or a provider that didn't depend on transit, I'd
10 agree to four or five cents, I'd agree to a dollar a minute
11 because it would never impact my bottom line.

12 And I fear that this Exhibit KRM-2 reflects some of
13 that. I mean, we fight on the issues that are important to the
14 companies. The other issues we don't care about. Those rates
15 could be whatever BellSouth wants me to put into the agreement.
16 It doesn't matter because it doesn't affect my company.

17 COMMISSIONER DEASON: Do you believe that under the,
18 the interconnection agreements that are contained within KRM-2,
19 that BellSouth is currently recovering more than its cost of
20 providing transit service?

21 THE WITNESS: Yes.

22 COMMISSIONER DEASON: Do you have any idea as to what
23 degree in excess of costs?

24 THE WITNESS: Well, yes. My, my definition of cost,
25 first of all, would be your approved rates, this Commission's

1 approved rates in 2001. Anything above those rates would be
2 over and above cost. And, recall, the TELRIC rates include an
3 allocation of joint and common costs, so there's profit there.
4 So not only are they compensatory in covering all their costs,
5 but they're also providing some profit for BellSouth. So
6 anything above that, and I would suggest that the rates that
7 BellSouth is proposing is about three times that, yeah, they're
8 compensatory and it's a windfall for BellSouth. And, in fact,
9 depending on the assumptions you make, it could be tens of
10 millions of dollars.

11 I made a calculation this morning that it could be
12 easily -- assuming 1.7 million CLEC lines in the state, if they
13 were all using transiting and the assumed 60 minutes, excuse
14 me -- 30 minutes a day per customer, so 1,000 minutes a month,
15 and I know in my family we're certainly on the phone more than
16 30 minutes a day, but if you assume 1,000 minutes a month times
17 that difference between the TELRIC rate and the proposed rate,
18 that's \$2.06 per line per month, \$25 a year. And if you
19 multiply that just times the CLEC lines, that's \$45 million.

20 And I know that we're, you know, we're talking about
21 decimal points. But if you, if you play out the consequences
22 of this proposal, I mean, it is a huge impact. And if that
23 money doesn't flow to the customers, it certainly flows to the
24 bottom line of BellSouth. And they've shown no justification
25 for the need for that extra money, however much it is.

1 COMMISSIONER DEASON: Do you believe that BellSouth
2 is already recovering all of its transit costs from existing
3 interconnection agreements regardless of who originates that
4 traffic?

5 THE WITNESS: Yes, I do.

6 CHAIRMAN EDGAR: Ms. Berlin, redirect.

7 MS. BERLIN: Just a little bit. Thank you.

8 REDIRECT EXAMINATION

9 BY MS. BERLIN:

10 Q Mr. Gates, Mr. Culpepper asked you some questions
11 about FCC Rule 51.5 and had it marked as Exhibit 46. Are you
12 familiar with this rule?

13 A I believe -- I don't think it was Rule 51.5. I think
14 it was the definition of interconnection was -- and I have it
15 in front of me here, but I don't, I didn't write down the
16 exhibit number.

17 Q I believe it was marked as Exhibit 46, and he had you
18 read from I think the third page of the exhibit, which is
19 marked Page 19.

20 A Oh, yes. That was the definition of interconnection.
21 Correct.

22 Q Are you familiar with this definition?

23 A I'm sorry?

24 Q Are you familiar with the definition?

25 A Yes. It's the standard definition that we see all

1 the time in telecommunications.

2 Q Well, do you believe that this definition in any way
3 undercuts CompSouth's position in this case?

4 A Oh, not at all. I mean, transit is and has always
5 been a key component of interconnection. I would direct the
6 Commission to Page 8 of my direct where I cite to the FCC's
7 orders. And in those orders it says, this is the FCC, the
8 availability of transit service is increasingly critical to
9 establishing indirect interconnection, a form of
10 interconnection explicitly recognized and supported by the Act.
11 So if transit were not a 251 obligation, as BellSouth would
12 suggest, this, this definitive statement by the FCC would make
13 no sense.

14 I would also suggest that the following paragraph,
15 Paragraph 126 of that ICF NPRM also states that indirect
16 interconnection is an efficient way to interconnect when
17 carriers do not have exchange -- do not exchange significant
18 amounts of traffic. So we could, we could cite to dozens of
19 FCC orders that refer to transit as a key and critical aspect
20 of interconnection. It certainly is. And that's why it has to
21 be priced at TELRIC rates because there are no alternatives.
22 We've heard about Neutral Tandem. I don't think we've heard
23 any evidence in this case about anybody using Neutral Tandem or
24 whether Neutral Tandem duplicates the BellSouth network. I
25 don't think it does. But transit is absolutely critical.

1 And the definition that Mr. Culpepper provided here
2 from the FCC rules is completely consistent with our position
3 in this case.

4 Q Mr. Gates, Mr. Culpepper also asked you to read from
5 a Tennessee arbitration order that was marked Exhibit 47 and he
6 had you read from Pages 41 and 42. And most of what you read
7 dealt with the interim nature of the rates that they set in
8 this, in this order. Do you know whether the TRA intends to
9 set permanent cost-based rates?

10 A Yes, it does. And as Mr. Culpepper pointed out, this
11 is Issue 8 which is compensation for the exchange of indirect
12 and direct traffic. So it does apply to transit. And then on
13 Page 41 it says that the majority voted to commence additional
14 proceedings to establish a permanent cost-based rate for
15 reciprocal compensation. And then in the order, which is why I
16 cited it in my testimony, it refers to cost-based, which is
17 forward-looking economic costs which, according to Rule 51.5,
18 is TELRIC. So it is absolutely consistent with our position in
19 the case.

20 Q Thank you. Mr. Culpepper also handed out a T-Mobile
21 decision, which is, I believe, part of composite Exhibit 3 that
22 was stipulated into the record, an agreed exhibit, and he asked
23 you to read from just the very beginning of the decision.

24 Do you believe that the T-Mobile decision supports
25 CompSouth's position in this case?

1 A Oh, absolutely. As I recall, Mr. Culpepper had me
2 read the first two sentences of the first paragraph. I would
3 refer the Commission to the last sentence, the summary sentence
4 of the first paragraph at Page 2 of that T-Mobile order. And
5 it reads, "For the reasons discussed below, we deny the
6 T-Mobile petition, but amend the Commission's rules on a
7 prospective basis to prohibit the use of tariffs to impose
8 intercarrier compensation obligations with respect to nonaccess
9 CMRS traffic."

10 So a very definitive statement by the FCC that says
11 we prohibit the use of tariffs for intercarrier compensation.
12 And that's our position in this proceeding as well.

13 Q Thank you. Mr. Hoffman handed you also just some
14 excerpts from two different Florida decisions that were cases
15 in which you appeared as a witness, and one was a Level 3
16 arbitration. I think that was marked Item -- or Exhibit 48.

17 A Yes.

18 Q Do you recall what the issue was in that case that
19 led to the conclusion that you read?

20 A Yes. That was the single point of interconnection
21 issue. According to the Act and FCC orders, CLECs have a right
22 to have a single POI in a LATA. And the issue is whether or
23 not Level 3 should compensate BellSouth for getting that
24 traffic from all the local calling areas to the single POI.
25 And that was the issue, and Level 3's position was upheld or

1 approved in that case.

2 Q Do you believe that that decision has any bearing on
3 the case here today?

4 A No, it does not. In fact, it really supports our
5 position because it's consistent with the fact that the
6 originating carrier pays. The traffic that we were talking
7 about in this Level 3 case was originated traffic from
8 BellSouth customers. And this Commission found correctly and
9 consistently over the years that that traffic is the
10 responsibility of BellSouth to get that originated traffic to
11 the POI. That same logic applies to the small LECs. If their
12 customers originate traffic, they should be responsible for
13 getting that traffic to the other carriers.

14 MS. BERLIN: Thank you, Mr. Gates. I have nothing
15 further.

16 CHAIRMAN EDGAR: Thank you. Let's take up the
17 exhibits. Mr. Culpepper.

18 MR. CULPEPPER: Yes, Madam Chair. BellSouth would
19 ask that Exhibits 45, 46 and 47 be moved into the record.

20 CHAIRMAN EDGAR: Any objections?

21 MR. SELF: Madam Chairman.

22 CHAIRMAN EDGAR: Mr. Self.

23 MR. SELF: Just so the record is clear, Exhibit 47 is
24 already an exhibit that's been stipulated, it is hearing
25 Exhibit 31, since you asked to point that out.

1 CHAIRMAN EDGAR: I did ask. Thank you.

2 MR. SELF: I'm happy to have it in twice.

3 CHAIRMAN EDGAR: I was, I was hoping to minimize
4 that, but it certainly does happen, so we'll leave it at this
5 point. So show Exhibits 45, 46 and 47 moved into evidence.

6 (Exhibits 45, 46 and 47 admitted into the record.)

7 Mr. Hoffman.

8 MR. HOFFMAN: Madam Chairman, I would move Exhibits
9 48 and 49.

10 CHAIRMAN EDGAR: Any objections?

11 MS. BERLIN: No objections.

12 CHAIRMAN EDGAR: Seeing none, show Exhibits 48 and 49
13 moved into evidence.

14 (Exhibits 48 and 49 admitted into evidence.)

15 And thank you. The witness may be excused.

16 THE WITNESS: Thank you, Madam Chair.

17 CHAIRMAN EDGAR: I'd like to go ahead and keep
18 moving, if we can, for a while. And so, Mr. Palmer, your
19 witness.

20 MR. PALMER: Thank you, Madam Chair. We'll call Marc
21 Sterling.

22 MARC B. STERLING

23 was called as a witness on behalf of Verizon Wireless and,
24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. PALMER:

2 Q Mr. Sterling, have you been sworn?

3 A Yes, I have.

4 Q All right. Please state your full name and
5 occupation.

6 A Marc B. Sterling, Member Technical Staff - Contract
7 Negotiator for Verizon Wireless.

8 Q Did you file direct testimony in this docket?

9 A Yes, I did.

10 Q Do you have any changes or revisions to that
11 testimony?

12 A Yes, I do have some corrections.

13 On my copy on Page 5 on Lines 8 through 14 the
14 question was, "What, if any, agreements have you been able to
15 reach with independent LECs in Florida?" And in answering that
16 question, at the time I had in mind agreements with the small
17 independent LECs, and what I failed to consider and include
18 that I would want to include at this time is that Verizon
19 Wireless also has interconnection agreements with Verizon
20 Florida and Sprint Florida, which I at this point would
21 consider to be technically independent LECs in Florida.

22 And also I just would add, we did also reference that
23 in response to staff's interrogatories.

24 Q All right. Thank you. With those changes, if I were
25 to ask you those same questions today, would your answers be

1 the same?

2 A Yes, they would.

3 MR. PALMER: All right. Madam Chair, I would request
4 that his testimony be entered into the record as if read.

5 CHAIRMAN EDGAR: Please show the prefiled testimony
6 by the witness to be entered into the record as though read,
7 with the correction and clarification noted by the witness.

8 MR. PALMER: Thank you.

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TESTIMONY OF MARC B. STERLING**ON BEHALF OF****VERIZON WIRELESS****DOCKET NOS. 050119-TP and 050125-TP****BACKGROUND**

Q. State your name, address, and occupation.

A. My name is Marc B. Sterling. I am Member Technical Staff – Contract Negotiator for Verizon Wireless, and my office address is One Verizon Place, Alpharetta, Georgia 30004. Verizon Wireless was formed as a result of the merger between the wireless properties formerly held by AirTouch Communications, Cellco Partnership d/b/a Bell Atlantic Mobile, GTE Wireless Incorporated, and PrimeCo Personal Communications, LP.

Q. What are your qualifications to be a subject matter expert with respect to interconnection?

A. I have been employed in the telecommunications industry for twenty (20) years and in wireless for sixteen (16) years. My work experience in this industry includes financial analysis, business planning, partnership relations, and negotiation of acquisitions and divestitures of wireless licenses and partnership interests. Since 1997, I have been negotiating interconnection agreements and private line transport lease agreements. I have negotiated interconnection agreements with RBOCs (Ameritech, BellSouth, Pacific Bell, and Southwestern Bell), national ILECs (Alltel and Sprint-United), and rural ILECs. I have also testified on behalf of Verizon Wireless in interconnection arbitration hearings in the states of North Carolina, Pennsylvania, and Tennessee.

1 **Q. What has your experience been with regard to negotiating interconnection**
2 **agreements directly with independent local exchange carriers?**

3 A. On behalf of Verizon Wireless, I have negotiated direct and indirect
4 interconnection agreements with independent local exchange carriers in various
5 states. Verizon Wireless typically pursues an interconnection agreement with an
6 independent LEC when Verizon Wireless intends to offer wireless telephone
7 numbers rated in one or more of the independent LEC's exchanges or in rate
8 centers that are within the extended area service ("EAS") call scope of the
9 independent LEC. Having numbers rated to an independent LEC's rate centers
10 enables the ILEC's subscribers to call Verizon Wireless's customers without
11 incurring toll charges, which is a benefit to both carriers' subscribers because
12 many ILEC customers desire wireless services that are local to their business or
13 home exchanges. Where Verizon Wireless is able to get local calling for its
14 subscribers, we find that the volume of land-to-mobile traffic increases and the
15 traffic originated by Verizon Wireless and the traffic originated by the ILEC tends
16 to become roughly balanced. The converse is also true, that where local treatment
17 of landline-originated calls to CMRS NPA- NXX codes is not established through
18 an interconnection agreement, the amount of traffic originated by an ILEC tends
19 to be lower and the relative traffic exchange is less balanced.

20 Where the volume of traffic exchanged between Verizon Wireless and an ILEC is
21 significant, Verizon Wireless pursues direct interconnection with the ILEC
22 because at higher traffic volumes such arrangements become economically more
23 efficient than indirect interconnection.

24 Regardless of whether enough traffic is exchanged with an ILEC to justify direct
25 trunking arrangements, Verizon Wireless generally seeks to include direct and

1 indirect arrangements in the same agreement to avoid the time and expense
2 necessary to amend interconnection agreements and to file any resulting
3 amendments with state commissions. In some cases, where the parties cannot
4 agree to rates, terms and conditions for direct interconnection, however, Verizon
5 Wireless will enter agreements that only cover the exchange of indirect traffic.
6 Often times, rural ILECs will not afford local treatment of calls to Verizon
7 Wireless's customers without the establishment of direct connection facilities,
8 regardless of the fact that the traffic exchanged is minimal and the arrangements
9 are not economically efficient. In some of these cases where the traffic volumes
10 exchanged are low, even though we do not believe there is a legal requirement to
11 establish direct connection to enable locally rated NXX codes, Verizon Wireless
12 has agreed to direct arrangements for the benefit of its customers, and the
13 customers of the originating ILEC. It has been my experience that many ILEC
14 customers that are assessed toll charges for calls completed to CMRS numbers
15 that appear local to them, mistake the imposition of such toll charges as being the
16 fault of the CMRS provider. As a result, such consumers bring complaints to
17 Verizon Wireless or the various state Commissions. By getting what I call
18 "rating" parity in our interconnection agreements, we can satisfy both our
19 customers and the ILEC's customers. However, as the direct arrangements made
20 in these instances are not economically feasible or justified by efficient
21 engineering principals, these determinations are made on a case-by-case basis
22 depending on the level of consumer demand in a particular market for locally
23 rated numbers.

1 **Q. Why is the offering of locally rated NPA- NXX codes to wireless customers**
2 **an important objective?**

3 A. Wireless customers want numbers that are rated locally to an independent LEC's
4 rate centers to enable wireline subscribers in those areas to call them without
5 incurring toll charges. Because this tends to increase the incentive for landline
6 customers to call wireless customers, this is a benefit to both carriers' subscribers.
7 Verizon Wireless's interconnection agreements also provide for compensation
8 between Verizon Wireless and the independent LEC for any local traffic
9 exchanged between the carriers.

10 **Q. Should CMRS carriers be required to directly interconnect with ILECs in**
11 **order to receive land-to-mobile calls to local or EAS-rated numbers as local**
12 **calls?**

13 A. No. There is no legal or regulatory rule that I am aware of that requires a CMRS
14 provider to establish a direct interconnection before it can receive local calling. It
15 is my understanding that pursuant to 47 U.S.C. § 251(a)(1), each
16 telecommunications carrier has the duty to interconnect directly *or indirectly* with
17 the facilities and equipment of other telecommunications carriers. In addition,
18 the FCC's rules expressly require that, "A local exchange carrier must provide the
19 type of interconnection reasonably requested by a mobile service licensee or
20 carrier." See 47 C.F.R. § 20.11(a). It seems to me that this would require an
21 ILEC to offer direct and indirect interconnection on basically the same terms.
22 Decisions on whether to interconnect directly or indirectly should be left to the
23 discretion of each interconnecting carrier and based on economic and engineering
24 criteria. That being said, I am not aware of any technical reason why the

1 establishment of direct trunks is required for local calling to be implemented.

2 The advent of local number portability also highlights the need, and consumer
3 demand, for ILECs to recognize their responsibility to exchange traffic indirectly.

4 Where an ILEC's landline customers port their numbers to a CMRS carrier that
5 exchanges traffic indirectly with the ILEC, the ILEC should, as its other landline
6 customers would expect, continue to provide local calling to such ported-out
7 numbers.

8 **Q. What, if any, agreements have you been able to reach with independent**
9 **LECs in Florida?**

10 A. Verizon Wireless has agreements covering direct and indirect interconnection in
11 Florida with ALLTEL Florida, Inc., GTC, Inc. d/b/a GT Com, and Smart City
12 Telecommunications, LLC d/b/a Smart City Telecom. Verizon Wireless has also
13 successfully negotiated agreements covering direct and indirect interconnection
14 with several independent LECs in other BellSouth states. Verizon Wireless also
15 has interconnection agreements with Verizon Florida and Sprint Florida, which I
16 SPECIFIC ISSUES refer to as technically independent LECs in Florida. We did also
17 at this point would consider to be technically independent LECs in Florida. We did also
18 in response to staff's interrogatories.

16 **Q. Have you had the opportunity to review the issues list prepared by the FPSC**
17 **staff in these consolidated dockets?**

18 A. Yes, I have. Some of the issues are not necessarily applicable to Verizon
19 Wireless. But many of them are of great importance, and I will endeavor to
20 explain my company's perspective on those issues below.

21 **Q. What are your views on the three "General Issues" outlined by the FPSC**
22 **staff? (Issue Nos. 1-3)**

23 A. With respect to Issue One, Verizon Wireless's only concern is that the terms in
24 any BellSouth transit tariff should not affect the terms of interconnection and
25 reciprocal compensation arrangements between originating and terminating

1 carriers. I would also add that under no circumstances should the costs of transit
2 be born by a terminating carrier, because a terminating carrier has no control over
3 how the call was sent to its network, and therefore it should not be subject to the
4 costs of transporting that call. With regard to the second issue as to the
5 responsibilities of the originating carrier and the third issue of who should pay
6 BellSouth for transit services, those issues are inextricably intertwined. In a
7 nutshell, the originating carrier is responsible for delivering its traffic to BellSouth
8 in such a manner that it can be identified, routed, and billed. The originating
9 carrier further is responsible for paying the transit charges for the traffic it
10 originates over a third party's network. This cost allocation is fair, because the
11 originating carrier may choose alternative routes if the indirect route is not
12 economically efficient. .

13 **Q. Are you aware of any regulations or rulings that support your understanding**
14 **that the originating carrier is responsible for transit costs?**

15 A. Yes. Both state commissions in the BellSouth region who have ruled on this issue
16 – Tennessee and Georgia – have concluded the originating carrier is responsible
17 for transit charges. Two federal Circuit Courts of Appeal have also issued rulings
18 making it clear that the originating carrier is responsible for transit costs. In
19 March of this year, the Tenth Circuit issued its ruling in Atlas Telephone Co. v.
20 Oklahoma Corporation Commission, 400 F.3d 1256 (10th Cir. 2005), and
21 essentially rejected all of the rural ILEC arguments on transit traffic that have
22 been floated before state regulatory commissions for the past few years. That
23 decision was consistent with the D.C. Circuit Court of Appeals Order in Mountain
24 Communications, Inc. v. FCC, 355 F.3d 644 (D.C. Cir. 2004). All these rulings
25 further are consistent with 47 CFR § 51.703(b) which directly states, “A LEC

1 may not assess charges on any other telecommunications carrier for
2 telecommunications traffic that originates on the LEC's network."

3 **Q. Please explain Verizon Wireless's position on the "Trunking and Routing"**
4 **issues. (Issue Nos. 4-10.)**

5 A. With regard to Issue No. 4, I shall defer to BellSouth to explain their network
6 arrangement. As to Issue No. 7, BellSouth and the Small LECs can best respond.
7 Issue Nos. 5, 8, and 9 are closely related, and I shall attempt to respond in one
8 combined answer. In general, the FPSC should refrain from establishing terms
9 and conditions affecting the interconnection obligations for direct and indirect
10 arrangements. The FCC's Declaratory Ruling and Report and Order in CC
11 Docket No. 01-92 released February 24, 2005 (the "T-Mobile Decision") made it
12 clear that the 1996 Act calls for negotiation and arbitration of direct and indirect
13 interconnection arrangements. Therefore, if any carrier determines its most
14 efficient network option entails routing calls through BellSouth's tandem,
15 regardless of whether that carrier is a CMRS provider or a Small LEC, that carrier
16 is entitled to request interconnection with BellSouth and negotiate/arbitrate as
17 necessary.

18 With regard to Issue No. 6 and whether the FPSC should determine traffic
19 thresholds, the FPSC should allow carriers to make their own network
20 engineering and economic determinations as to whether traffic volumes warrant
21 shifting from indirect to direct connections. Those thresholds may well vary from
22 carrier to carrier, and because the FCC's T-Mobile Decision authorizes any carrier
23 to initiate negotiation/arbitration, there is no need for the FPSC to mandate a rigid
24 volume threshold.

1 Finally, as to Issue No. 10 regarding ISP traffic, Verizon Wireless does not handle
2 such traffic and thus takes no position.

3 **Q. What is your position with respect to the issues identified under “Rates,
4 Compensation and Cost Recovery”? (Issue Nos. 11-14.)**

5 A. Verizon Wireless has negotiated transit rates with BellSouth as a part of its
6 interconnection agreement with them in nine states. Verizon Wireless has paid,
7 and continues to pay, BellSouth for transit service both before and after February
8 11, 2005. Per our interconnection agreement with BellSouth, we pay at the rate of
9 \$0.002 per minute of use for transiting Verizon Wireless-originated traffic via a
10 BellSouth tandem to other carriers in the same LATA. As to Issue No. 14, the
11 FPSC should take no unilateral action. As stated above, the Small LECs have
12 procedural options since the T-Mobile Decision that obviate the need for generic
13 FPSC action. If the FPSC should choose to act, it should be mindful of the
14 maxim addressed above that the originating carrier is responsible for transit fees.
15 Further, should any individual ILEC pursue recovery of its costs incurred to
16 deliver its originated traffic indirectly, it should do so through a rate case intended
17 to impact the rates charged to all of its landline subscribers. The ILECs should
18 not discriminate against CMRS carriers, and should not be permitted to recover
19 their costs of doing business by imposing charges only on calls to CMRS
20 numbers.

21 **Q. What are your views on the “Administrative Issues”? (Issue Nos. 15-17.)**

22 A. BellSouth should issue invoices for transit services to the originating carrier. The
23 invoices should identify the minutes transited by terminating end office CLLI
24 code. BellSouth, as the provider of transit service, should provide records to the
25 terminating carrier that enable the terminating carrier to bill accurately the

1 originating carrier for call termination. At a minimum, this information should
2 include originating carrier name, originating carrier OCN, and minutes of use.
3 Terminating carriers also have the option of implementing their own measurement
4 systems. Verizon Wireless typically agrees to accept charges from terminating
5 carriers based on usage data provided by BellSouth and typically bills such
6 carriers for reciprocal compensation on traffic terminated by Verizon Wireless
7 based on application of an agreed upon traffic factor to billed mobile-to-land
8 usage. Any billing disputes should be resolved pursuant to the process outlined in
9 the applicable interconnection agreement.

10 **Q. Does this conclude your testimony?**

11 **A. Yes, at this time.**

1 BY MR. PALMER:

2 Q Mr. Sterling, could you please provide a summary of
3 your testimony?

4 A Yes, I would.

5 Madam Chair, Commissioners, good morning. My name is
6 Marc Sterling, and one of my principal responsibilities at
7 Verizon Wireless, excuse me, is to negotiate interconnection
8 agreements with large and small ILECs, primarily those located
9 in the southeastern part of the country.

10 Pursuant to the negotiation and arbitration
11 provisions of Sections 251 and 252 of the Telecom Act, we
12 negotiate and sometimes arbitrate bilateral interconnection
13 agreements which provide rates, terms and conditions of
14 interconnection arrangements and compensation between Verizon
15 Wireless and other carriers. Included in these agreements are
16 terms for direct and indirect interconnection arrangements
17 which are negotiated to suit the business requirements of both
18 carriers. Through this process we provide interconnected
19 services to consumers throughout our footprint in Florida and
20 across the country.

21 Verizon Wireless has intervened in this case to
22 ensure that this proceeding does not alter the rates, terms and
23 interconnection arrangements we have with other carriers which
24 often include indirect interconnections through BellSouth.

25 At present, Verizon Wireless has negotiated transit

1 arrangements with BellSouth. Pursuant to these negotiated
2 terms, Verizon Wireless pays transit fees to BellSouth for
3 traffic Verizon Wireless originates that is routed through a
4 BellSouth tandem and terminated by a third party carrier.

5 In these indirect traffic scenarios we also pay the
6 terminating carrier for terminating traffic to its end-users.
7 This arrangement is consistent with the calling party network
8 pays principle of intercarrier compensation which results from
9 the originating carrier being the cost causer. The originating
10 carriers recover from their customers the cost of providing
11 interconnected services. This approach enables the carrier
12 that originates traffic to mitigate the expense of transport.

13 I've testified or participated in similar proceedings
14 in Georgia, Tennessee and other states where state commissions
15 have affirmed that the originating carrier in a transit
16 arrangement is responsible to pay the fees associated with the
17 transiting carrier's, excuse me, transit carrier's services.
18 This rule fairly allocates transport costs and is consistent
19 with Section 251 of the 1996 Act. It also provides cost
20 recovery to all three carriers in the transaction. The
21 originating carrier can recover from their end-user, the
22 terminating carrier from the originating carrier and the
23 transiting provider from the cost causing originating carrier.

24 That concludes my comments. Thank you.

25 MR. PALMER: Madam Chair, Mr. Sterling is available

1 for cross-examination. Thank you.

2 CHAIRMAN EDGAR: Thank you.

3 MR. GURDIAN: Thank you, Madam Chair.

4 CROSS EXAMINATION

5 BY MR. GURDIAN:

6 Q Mr. Sterling, my name is Manny Gurdian. I represent
7 BellSouth in this case.

8 A Good morning.

9 Q Isn't it true that Verizon Wireless has reached
10 interconnection agreements with two of the small LECs involved
11 in this case?

12 A Yes. We have interconnection arrangements,
13 agreements, excuse me, with GT Com and with Smart City, also,
14 as I noted, with Alltel. I wasn't sure if they were -- I think
15 at one time they might have been one of the small LECs. Maybe
16 now they're not.

17 Q Referencing the agreements with GT Com and Smart City
18 --

19 A Yes.

20 Q -- would you agree that the agreements provide that
21 the transiting company is to bill the originating carrier the
22 transiting charge?

23 A The agreement with GT Com does have language that the
24 originating carrier agrees to pay transit fees. I don't
25 believe there's language one way or the other regarding that

1 particular aspect in the Smart City agreement.

2 Q And with regard to the transit rate in Verizon
3 Wireless's agreement with Smart City, that's .005 per minute of
4 use; correct?

5 A Yes, that is correct. However, I would add that
6 there was never, there was never any agreement that that rate
7 related to Smart City's cost. Also, as a small carrier I would
8 expect Smart City's cost to be higher on a per minute of use
9 basis than BellSouth's cost. And also, as a practical matter,
10 we transit very little, if any, traffic through Smart City. I
11 did check our February billing from Smart City and they had
12 billed us zero transit minutes. And so as a negotiated rate,
13 that was not something that was a major focus of our efforts in
14 the negotiation.

15 Q And isn't it true that the transit rate in Verizon
16 Wireless's agreement with Sprint Florida is .002796 per minute
17 of use?

18 A That's correct. In the agreement we have with Sprint
19 Florida the transit rate is a combination of their tandem
20 switching and common transport costs, and that is what those
21 two rate elements add to.

22 Q Now isn't it true that the two rates I referenced are
23 not based on TELRIC?

24 A There was never any agreement that those rates were
25 based on TELRIC, so I don't, I don't know them and don't expect

1 that they were based on TELRIC.

2 MR. GURDIAN: No further questions.

3 CHAIRMAN EDGAR: Mr. Gross?

4 MR. GROSS: No questions.

5 CHAIRMAN EDGAR: Thank you.

6 MR. HATCH: No questions.

7 CHAIRMAN EDGAR: Thank you.

8 MR. O'ROARK: No questions.

9 MR. ATKINSON: No questions.

10 CROSS EXAMINATION

11 BY MR. McDONNELL:

12 Q Good morning, Mr. Sterling.

13 A Good morning.

14 Q I know you were hoping that I would --

15 A You were on a roll there.

16 Q I was on a roll there. Yes.

17 So Smart, Smart City transited zero minutes last
18 month; is that your testimony?

19 A Their billing to us for February 2006 usage did not
20 bill for any minutes transiting through them to any other
21 carriers. We --

22 COMMISSIONER CARTER: Excuse me, Madam Chairman.
23 Could you ask him to --

24 CHAIRMAN EDGAR: Yes, Commissioner Carter. If you
25 could pull the microphone perhaps closer to you a little bit.

1 THE WITNESS: Okay. I'm sorry.

2 CHAIRMAN EDGAR: Thank you.

3 THE WITNESS: Smart City's invoice to us for February
4 2006 usage did not bill for any minutes of hours transiting
5 through them to any other carrier.

6 BY MR. McDONNELL:

7 Q Okay. Now when Verizon Wireless enters a market,
8 they make a decision as to whether to directly interconnect or
9 indirectly interconnect with ILECs; correct?

10 A That is often a topic of our negotiations, yes.

11 Q Okay. And Verizon Wireless is under no obligation to
12 directly interconnect; is that correct?

13 A That is my understanding, yes. That's correct.

14 Q Okay. So it's primarily an economic decision.

15 A It is a business decision, yes.

16 Q Of Verizon Wireless.

17 A It's a business decision in the context of our
18 negotiations with the other carrier, you know, the other
19 carrier that we're presumably at that point determining whether
20 to connect with directly or indirectly.

21 Q Okay. Now one of the issues before the Commission is
22 whether you should be obligated to directly interconnect with
23 the small LECs. Do you feel that this Commission should
24 require you to directly interconnect?

25 A No. Quite to the contrary. I feel that that should

1 be something that's left up to the negotiations between the two
2 interconnecting carriers.

3 Q Okay. So if you don't want to directly interconnect,
4 for whatever business reason you decide, you want to hang on to
5 that right.

6 A That's correct.

7 Q Okay. And if you choose to directly interconnect, is
8 there a transit cost in completing a local call with the party
9 you directly interconnect with?

10 A Well, there, there could be a scenario where even
11 with direct connections to a given carrier we would still
12 transit through that carrier to another carrier. But I think,
13 if I understand what you're getting to as pertains maybe to
14 transiting BellSouth, if we directly connect with the carrier,
15 then to the extent traffic is delivered over that direct
16 connection we would not have transit fees. We would have costs
17 associated with facilities that are used for the direct
18 connection.

19 And if I could add, there are some cases where with
20 some carriers we may have direct connections for some of our
21 traffic and still have other traffic to other parts of their
22 network exchanged on an indirect basis.

23 Q Okay. When you directly interconnect on any
24 particular phone call to the terminating carrier, there are no
25 transit costs; would that be a fair statement?

1 A There are -- yes. There are no transit costs. But,
2 again, we've incurred on what's typically a flat basis costs of
3 the transport to deliver that call directly.

4 Q I understand. I mean, it's not free, but there are
5 no transit costs.

6 A That's correct.

7 Q Okay. And if you choose to indirectly connect, there
8 will be transit costs.

9 A If we choose to route our traffic indirectly, then we
10 would pay the transit fees associated with our originated
11 traffic.

12 Q Okay. Now it's your testimony that if you choose to
13 indirectly connect with a small LEC, that the small LEC should
14 pay BellSouth's transit charges if the small LEC originates a
15 call to you; correct?

16 A If the small LEC chooses to originate that call by
17 transiting BellSouth or another carrier to us, then, yes, they
18 should. What I don't believe is that a choice that we might
19 make to deliver our originated traffic indirectly through a
20 third party transit provider imposes the same obligation on the
21 interconnecting carrier to deliver their originated traffic
22 through that same indirect transit provider.

23 Q Well, didn't you just say that you are not obligated
24 to directly interconnect and you don't want this Commission to
25 tell you that you are obligated to directly interconnect?

1 A I agree.

2 Q All right. So you unilaterally can make a decision
3 to indirectly interconnect.

4 A I agree, and I believe that that decision governs how
5 we route our originated traffic.

6 Q Okay.

7 A I don't agree that that determines how the other
8 carrier routes their originated traffic. I think they do have
9 other choices.

10 Q Like?

11 A Like establishing direct trunks to carry their
12 traffic to our switch.

13 Q To you.

14 A That's correct.

15 Q But didn't you just tell the Commission that you're
16 not obligated to directly interconnect?

17 A Right. But I'm distinguishing between the traffic
18 that we originate, that we're responsible for delivering, and
19 the traffic that the other interconnecting carrier originates.

20 Q I understand the distinction you're drawing. But if
21 you're not directly interconnected, you're not directly
22 interconnected; correct?

23 A Right. But there -- you know, probably what's most
24 common in the direct connection scenario is to have what I
25 would refer to as two-way trunks that could be used to carry

1 the traffic in both land to mobile and mobile to land
2 directions, but you can have one-way trunks as well.

3 So if we were to choose to deliver our traffic
4 indirectly through a BellSouth tandem, the originating carrier
5 at the other end could still choose to establish trunks to
6 deliver their traffic to us.

7 Q If you agree to directly interconnect.

8 A Well, in the scenario that I've just described, you
9 would have a combination of traffic in one direction going
10 indirectly and traffic in the other direction going directly.
11 I think it's up to the originating carrier to choose how they
12 deliver their traffic.

13 Q I'll move on.

14 COMMISSIONER DEASON: Madam Chair, may I ask a
15 question at this point?

16 CHAIRMAN EDGAR: Commissioner Deason for a question.

17 COMMISSIONER DEASON: A follow-up to the questions
18 that were just asked. If the wireless carrier, in this case
19 Verizon Wireless, makes a decision to directly, I'm sorry, to
20 indirectly interconnect with a small LEC --

21 THE WITNESS: Yes.

22 COMMISSIONER DEASON: -- do you think there would
23 ever be an economically justifiable reason why that small LEC
24 would choose to put in a trunk and directly connect their
25 originating traffic with you?

1 THE WITNESS: In today's world, I expect it would be
2 very unlikely. While the balance of traffic continues to get
3 closer together in terms of mobile to land and land to mobile
4 traffic, in most cases there's still more mobile to land
5 traffic. So if we have determined based on volumes of traffic
6 and other considerations that it made more sense to exchange
7 traffic indirectly, given that they might have lower volumes of
8 traffic coming to us, I would expect in most cases it would
9 make sense for them to exchange traffic with us, their traffic
10 with us indirectly as well.

11 My point, however, is that ultimately it's their
12 choice of how they should do that, of whether they should
13 deliver the traffic to us directly or indirectly.

14 COMMISSIONER DEASON: You say it's their choice. But
15 you do have a say as to whether you're willing to allow that
16 interconnection; is that correct?

17 THE WITNESS: I don't know necessarily about a
18 willing to allow. If I think of the obligations of all
19 telecommunications service providers under Section 251(a), I
20 think (a)(1) of the Act, all telecommunications service
21 providers would have the obligation to connect directly or
22 indirectly.

23 COMMISSIONER DEASON: I guess my question -- let me
24 put it more directly. Would you say that you're already
25 interconnected and there's no reason for you to have to go to

1 the trouble and expense of allowing a small LEC to put in a
2 facility to connect with you directly?

3 THE WITNESS: No. I would say if they chose to do
4 that, that we would allow that.

5 COMMISSIONER DEASON: Has that ever happened?

6 THE WITNESS: Not that I'm aware of.

7 COMMISSIONER DEASON: Thank you, Madam Chair.

8 CHAIRMAN EDGAR: Mr. McDonnell.

9 MR. McDONNELL: Thank you.

10 BY MR. McDONNELL:

11 Q Mr. Sterling, in your prefiled testimony, and I'm
12 looking at specifically Page 5, and I believe it starts at Line
13 11.

14 A Yes.

15 Q You state that, "Under no circumstances should the
16 costs of transit be borne by a terminating carrier."

17 A I'm sorry. What page are you on, please?

18 Q I'm sorry. Page 5.

19 A I have a different printout. I'm sorry. Page 5,
20 Line 11 for me is back to where I was, the portion I was
21 correcting earlier.

22 Q The sentence is, under question "What are your views
23 on three 'General Issues' outlined by the FPSC staff?"

24 A Okay. I have that as, I'm sorry, Page 5, Line 21 on
25 mine.

1 Q I'm sorry. I must have a different version.

2 And the sentence I'm referring to you begins, "I
3 would also add that under no circumstances should the costs of
4 transit be borne by a terminating carrier."

5 A I see that. Yes.

6 Q That's your testimony.

7 Now do you know if the FCC has entered any orders
8 requiring the costs of transit to be borne by a terminating
9 carrier?

10 A Well, I know there was some discussion in testimony
11 and cross yesterday regarding the TSR case and a Footnote 70,
12 and there was reference to a finding that appeared to be saying
13 that the terminating carrier could be charged. But my
14 understanding is --

15 Q My question was are you aware of any FCC orders? If
16 you're going to talk about your understanding of an order,
17 that's fine. But your opinion regarding whether a terminating
18 carrier should pay would not be responsive.

19 A I believe the, in the TSR case the referenced
20 footnote of that FCC order, yes, did indicate that the
21 transiting LEC could charge the terminating carrier. However,
22 my understanding is that -- I'm sorry. It's my understanding
23 that subsequent FCC rulings, in particularly the Mountain case,
24 provided that the terminating carrier could recover such costs
25 from the originating carrier through reciprocal compensation

1 arrangements. So that appears to me that the net result of
2 that would be that the originating carrier would have paid
3 those charges.

4 Q And for the record, can you talk about the Mountain
5 case you're referring to? Is it an FCC case?

6 A I believe it was Mountain Communications versus FCC.

7 Q What -- it was a federal circuit case?

8 A That might have been DC Circuit Court of Appeals.

9 Q Okay. So that's not an FCC order?

10 I'll withdraw the question. That's, that's left for
11 briefing. That's okay. I'll withdraw the question.

12 A Okay. Thank you. I'm not sure.

13 Q And it's your testimony that Rule 51.703(b) is
14 applicable; correct?

15 A Yes. As part of the support for our position that
16 the originating carrier should pay the transit fees.

17 Q Okay. And do you recall what 51.703(b) says?

18 A I don't have that -- I might have it in front of me.
19 But essentially it's that the LEC should not assess charges on
20 another carrier for traffic that that LEC originates.

21 Q Okay. That's my understanding also.

22 And it's your testimony that Rule 51.703(b) is
23 applicable in a transit traffic scenario.

24 A Yes. And I would, I guess, add to that, if I could,
25 that the principle is that the costs of an originating carrier

1 should not be shifted to a terminating carrier. And if the
2 originating carrier is the cost causer that results in the
3 transit fees, then the carrier responsible for those charges
4 should therefore still be the originating carrier.

5 Q Okay. Are you aware of any FCC orders that have
6 specifically stated that Rule 51.703(b) is inapplicable in a
7 transit traffic scenario?

8 A I'm not aware.

9 MR. McDONNELL: That's all I have.

10 CHAIRMAN EDGAR: Thank you. Mr. Self.

11 MR. SELF: Thanks, Madam Chairman. Just one or two
12 questions, if I may.

13 CROSS EXAMINATION

14 BY MR. SELF:

15 Q Good morning, Mr. Sterling.

16 A Good morning.

17 Q Floyd Self on behalf of T-Mobile. Just one or two
18 questions.

19 Does Verizon Wireless use BellSouth transit services?

20 A Yes, we do.

21 Q When you're using BellSouth transit services, how is
22 traffic exchanged with small LECs, whether it's mobile
23 originated or if it's a small LEC customer originating a call
24 to a mobile carrier?

25 A For the traffic Verizon Wireless originates, we would

1 route that to a BellSouth tandem, and then BellSouth would
2 complete that to the terminating small LEC in the other
3 direction. And as we've discussed, typically if we're routing
4 indirectly, the small LEC would route indirectly as well. And
5 I would understand the small LEC to route their traffic to
6 BellSouth, which BellSouth would then deliver to us.

7 Q All right. Do you know whether any of those calls
8 are routed through EAS facilities?

9 A Well, we don't control how the small LEC routes their
10 traffic. However, where we have numbers associated with rate
11 centers that are EAS to a small LEC and the small LEC is
12 calling to our numbers, we suggest that they not route those
13 over EAS trunks, which would typically go to another LEC, but
14 instead route those to us indirectly through the BellSouth
15 tandem.

16 MR. SELF: Okay. Thank you.

17 CHAIRMAN EDGAR: Mr. Gerkin.

18 MR. GERKIN: Yes, ma'am. Just one or two questions.

19 CROSS EXAMINATION

20 BY MR. GERKIN:

21 Q Mr. Sterling, I believe you indicated that Verizon
22 Wireless has an interconnection agreement with Verizon Florida?

23 A Yes, we do.

24 Q Do you know whether that agreement was negotiated
25 before or after Verizon Communications took control of the

1 operations of Verizon Wireless?

2 A That agreement was actually originally negotiated
3 between GTE Wireless and GTE Florida.

4 Q Between GTE Wireless and GTE Florida?

5 A Yes. That was prior to the formation of Verizon or
6 Verizon Wireless.

7 Q All right. Okay. And do you know what the transit
8 rate is in that agreement?

9 A Yes, I do. I'd have to look that up. Just a minute.

10 We identified this in our response to staff
11 interrogatories, and that transit rate is .00125.

12 MR. GERKIN: Thank you, sir.

13 CHAIRMAN EDGAR: Questions from staff?

14 MS. BANKS: Staff has no questions.

15 CHAIRMAN EDGAR: Thank you. Mr. Palmer, redirect?

16 REDIRECT EXAMINATION

17 BY MR. PALMER:

18 Q Mr. Sterling, you heard some testimony here today
19 regarding the Tennessee Regulatory Authority ruling --

20 A Yes.

21 Q -- in that case. Could you describe your
22 understanding of the TRA's ruling in that case? And in
23 particular I believe that is Exhibit 31 and 47.

24 A Okay. Yes. The, the arbitration in Tennessee was a
25 collective arbitration between small LECs referred to as the

1 ICOs there and a group of wireless carriers which included
2 Verizon Wireless, and there were several issues, one of which
3 was who bears the responsibility for the transit costs. And if
4 it would be appropriate, since it was part of a -- I think it's
5 been brought into evidence. I might actually even read some.
6 It was Issue 5 of that arbitration. And from the order --

7 MR. McDONNELL: I apologize, but I'm going to pose an
8 objection here.

9 CHAIRMAN EDGAR: Mr. McDonnell.

10 MR. McDONNELL: I don't, I don't believe the
11 Tennessee Regulatory Authority ruling was addressed by anyone
12 in cross-examination, and it's already in the record and it
13 says what it says. So I would object to this line of
14 questioning is outside the scope of cross.

15 CHAIRMAN EDGAR: Mr. Palmer.

16 MR. PALMER: Madam Chair, certainly we will abide by
17 your determination. But it seems curious to me that the
18 purpose of the proceeding is to get a full discussion of the
19 issues so that the Commission can, can make a full and informed
20 decision. And if we're going to be restricted with
21 Mr. Sterling to only what he prefiled and he did, in his
22 prefiled testimony he made specific reference to the ruling by
23 the Tennessee Regulatory Authority. For him not to be able to
24 explain his understanding of that seems to me to leave you with
25 a less than complete picture when other parties have been able

1 to testify about that. So, again, we would like -- we think it
2 would be helpful to you to have him provide his understanding,
3 but certainly it's, you know, your pleasure as to what we
4 should do.

5 CHAIRMAN EDGAR: Mr. McDonnell, your objection is
6 noted, but I'm going to allow it.

7 THE WITNESS: What I would like to do, if I might,
8 was actually read portions from within the TRA's ruling, but
9 then also identify what I understand that to conclude.

10 Issue 5 begins at the top of Page 28 of the TRA's
11 order, and that issue is, "Is each party to an indirect
12 interconnection arrangement obligated to pay for the transit
13 costs associated with the delivery of intraMTA traffic
14 originated on its network to the terminating party's network?"

15 And what I would highlight is on, at the middle of
16 Page 29 where it states, "Because the ICOs have opted to
17 utilize BellSouth, the BellSouth tandem as opposed to their own
18 tandem to handle the exchange of traffic between an ICO member
19 and a CMRS provider, the ICO members have, in fact, extended
20 their networks past the existing POI to the tandem switch."

21 And then further at the top of Page 30, "Each carrier
22 is responsible for transporting a call originated on its
23 network to the interconnection point with the network of the
24 terminating carrier."

25 And finally in their conclusion, "A majority of the

1 arbitrators concluded that each party to an indirect
2 interconnection arrangement is obligated to pay for the transit
3 costs associated with the delivery of intraMTA traffic
4 originated on its network to the terminating party's network."

5 And so in my opinion that seems pretty clear that the
6 originating carrier is the responsible party for transit fees.

7 MR. PALMER: We have no further questions.

8 CHAIRMAN EDGAR: Excuse me. Thank you, Mr. Palmer.

9 MR. PALMER: Thank you.

10 CHAIRMAN EDGAR: Noting that it is almost noon, it
11 appears to me to be a good time to break for lunch.

12 MR. PALMER: Madam Chair?

13 CHAIRMAN EDGAR: Yes, sir.

14 MR. PALMER: Is he dismissed?

15 CHAIRMAN EDGAR: I'm sorry. Yes. The witness may be
16 dismissed. Thank you. No exhibits.

17 We will come back at 1:00, and I do intend to start
18 at 1:00, and we will begin then with Witness Pruitt. Thank
19 you.

20 (Lunch recess taken.)

21 CHAIRMAN EDGAR: We will go -- excuse me. We will go
22 back on the record, and we will begin with Mr. Self.

23 MR. SELF: Thank you, Madam Chairman. Sprint Nextel
24 and T-Mobile call Mr. Billy H. Pruitt.

25 BILLY H. PRUITT

1 was called as a witness on behalf of Sprint Nextel and T-Mobile
2 and, having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. SELF:

5 Q Good afternoon, Mr. Pruitt.

6 A Good afternoon.

7 Q Can you please give us your name and business address
8 for the record.

9 A My name is Billy H. Pruitt. My business address is
10 59 Lincord Drive, St. Louis, Missouri 63128.

11 Q And whom are you employed by and in what capacity?

12 A I'm self-employed as an independent consultant
13 working on interconnection issues.

14 Q And on whose behalf are you testifying today?

15 A Sprint Nextel and T-Mobile.

16 Q And did you cause to be prepared and prefiled in this
17 matter direct testimony consisting of 33 pages and rebuttal
18 testimony consisting of 31 pages?

19 A Yes, I did.

20 Q And do you have any changes or corrections to that
21 testimony?

22 A I have one correction in my direct testimony.

23 Q Where?

24 A Page 14, Line 1. It says, "Pursuant to Section
25 251(c)(3)." The correct cite is "251(c)(2)(c)."

1 Q And do you have any other changes?

2 A No, I do not.

3 Q And with that one change, if I were to ask you the
4 same questions today, would your answers be the same?

5 A Yes, they would.

6 MR. SELF: Madam Chairman, I would move that
7 Mr. Pruitt's direct and rebuttal testimony be inserted in the
8 record as read.

9 CHAIRMAN EDGAR: Please show the witness's prefiled
10 testimony submitted in the record as though read, with the
11 clarification from the witness.

12 MR. SELF: Thank you. And, Madam Chairman, for the
13 record, Mr. Pruitt had some prefiled exhibits which have
14 already been stipulated into the record as hearing Exhibits 26
15 through 31.

16 CHAIRMAN EDGAR: Thank you.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **DIRECT TESTIMONY**

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3 **OF**

4 **BILLY H. PRUITT**

5 **DOCKET NO. 050119-TP AND DOCKET NO. 050125-TP**

6
7 **SECTION I - INTRODUCTION**

8 **Q. Please state your name, title and business address.**

9 A. My name is Billy H. Pruitt. I am President and Principal Consultant for Pruitt
10 Telecommunications Consulting Resources, Inc. My business address is 59
11 Lincord Drive, St. Louis, MO 63128-1209.

12 **Q. On whose behalf are you testifying?**

13 A. I am testifying on behalf of Sprint Spectrum Limited Partnership, Nextel South
14 Corporation, Sprint Communications Company Limited Partnership
15 (collectively, "Sprint Nextel") and T-Mobile USA, Inc. ("T-Mobile").

16 **Q. Please outline your educational and business experience.**

17 A. I joined Southwestern Bell Telephone Company in 1968 as a Teletype and
18 Data Repair Technician, and then served as a Central Office Repair technician
19 until 1970. Between 1970 and 1972 I served in the Army. Upon my return to
20 Southwestern Bell in 1972, I was assigned as a Switching Technician and, over
21 time, served in many different outside plant and central office technical
22 positions.

1 I obtained a Bachelor of Arts in Political Science degree from St. Louis 000612
2 University in 1981. In 1983, I was appointed a Manager in the Access
3 Services group where I performed detailed costs studies and developed rates
4 for multiple switching technologies required to provide switched access
5 services. In 1986, I obtained a Master of Business Administration degree from
6 Webster University. I was also promoted to the position of Area Manager
7 Rates and Cost Studies in 1986 and managed a work group responsible for
8 switched access cost studies, rate development and the associated filings with
9 state and federal regulatory bodies. In 1990, I was appointed Area Manager
10 Regional Sales where I developed and presented competitive proposals for
11 complex network services and served as the Division's regulatory liaison. I
12 retired from Southwestern Bell in December, 1998.

13 In September, 1999, I accepted a position as a Senior Engineer in the
14 Carrier and Wholesale Interconnection Management group at Sprint PCS. In
15 this assignment I was a lead negotiator responsible for negotiating
16 interconnection agreements between Sprint PCS and other telecommunications
17 carriers. I was also responsible for providing expert witness testimony on
18 behalf of Sprint PCS in regulatory proceedings such as this Docket.

19 In March, 2003, I was assigned to Sprint's Access Management
20 organization where I provided regulatory policy and contract expertise in
21 support of Sprint long distance, wireless, and local service initiatives. Due to a
22 Sprint reorganization, I was assigned to the Sprint Business Solutions
23 organization where I provided general enterprise support to various Sprint

1 organizations involved in the development and delivery of products and
2 services to Sprint's wholesale customers. I also negotiated contracts with local
3 exchange carriers ("LECs") and alternate access vendors for services and
4 facilities required in the Sprint network. In addition, I provided general
5 negotiation and contract support to the various negotiation teams at Sprint that
6 negotiated interconnection agreements with incumbent LECs ("ILECs") and
7 other carriers, and continued to provide expert witness testimony when
8 required.

9 In the performance of my responsibilities at Sprint I was required to
10 understand and implement on a day-to-day basis Sprint PCS' rights and
11 obligations arising under i) the Communications Act of 1934 as amended by
12 the Telecommunications Act of 1996 ("the Act"), ii) the Federal
13 Communications Commission ("FCC") rules implementing the Act, and ii)
14 federal and state authorities regarding the Act and FCC rules.

15 In December 2004, after 5 years of employment with Sprint, I accepted
16 a voluntary buyout and opened a telecommunications consulting practice
17 providing interconnection support services to telecommunications providers. I
18 have been involved in that consulting practice since that time.

19 **Q. Before what state regulatory Commissions have you previously provided**
20 **testimony?**

21 A. I have provided testimony regarding interconnection and transit issues similar
22 to the issues in this case before the Iowa Public Utility Board, the Louisiana
23 Public Service Commission, the Missouri Public Service Commission, the

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1 Mississippi Public Service Commission, the Nebraska Public Service
2 Commission, the Oklahoma Corporation Commission, and the Tennessee
3 Regulatory Authority.

4 **Q. What is the purpose of your testimony?**

5 A. The purpose of my testimony is to provide the positions of Sprint Nextel and
6 T-Mobile regarding the tentative list of issues identified in Attachment "A" of
7 the Commission's December 6, 2005 Order Establishing Procedure in the
8 consolidated Dockets 050119-TP and 050125-TP. It is my understanding that
9 these issues arise out of BellSouth Telecommunications Inc.'s ("BellSouth's")
10 filing of its General Subscriber Services Tariff A16.1, Transit Traffic Service
11 ("the Tariff"). I understand that a group of Florida independent local exchange
12 telephone companies consisting of TDS Telecom d/b/a TDS Telecom/Quincy
13 Telephone, ALLTEL Florida Inc., Northeast Florida Telephone Company d/b/a
14 NEFCOM, GTC, Inc. d/b/a GT Com, Smart City Telecom, ITS
15 Telecommunications Systems Inc. and Frontier Communications of the South,
16 LLC (collectively "Small LECs") filed a petition and complaint for suspension
17 and cancellation of the Tariff, as did AT&T Communications of the Southern
18 States, LLC ("AT&T").

19 **SECTION II – SUMMARY OF TESTIMONY**

20 **Q. Please provide a brief summary of your testimony.**

21 A. It is the position of Sprint Nextel and T-Mobile that the Act provides a specific
22 statutory framework under which Congress granted telecommunications
23 carriers the right to efficiently interconnect their networks directly or indirectly

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1 to exchange traffic in a post-monopoly competitive environment. Upon
2 interconnecting with BellSouth, a carrier is entitled to the same level of service
3 that BellSouth provides itself, which includes the ability to exchange traffic
4 with other carriers that are interconnected to BellSouth's network. The ability
5 to utilize BellSouth's network to reach a third party, i.e. "transiting", is
6 essential to a connecting carrier's right to indirectly interconnect and exchange
7 traffic with other carriers that are interconnected with BellSouth. Although not
8 expressly addressed by FCC rule, state utility Commissions have found
9 transiting to be an interconnection obligation, and the FCC has recognized the
10 vital role of transit services in deployment of competitive networks in its
11 current Intercarrier Compensation proceedings. As such the clear statutory
12 language of 47 U.S.C. § 252(d)(1) that requires rates for interconnection
13 services to be developed pursuant to TELRIC pricing standards compels the
14 conclusion that BellSouth's transit service must also be priced at TELRIC
15 rather than on a price cap, commercial or market basis.

16 The recent FCC decision, In the Matter of Developing a Unified
17 Intercarrier Compensation Regime, CC Docket 01-92, FCC 05-42,
18 Declaratory Ruling and Report and Order (rel. Feb. 24, 2005), referred to
19 herein as "the *T-Mobile Order*," makes it clear that the appropriate mechanism
20 for establishing compensation arrangements for interconnection services under
21 the Act is through the negotiation and arbitration process. Where carriers
22 choose not to follow that process, no compensation is due. Thus, while
23 BellSouth is clearly entitled to be paid a TELRIC-based rate when a carrier

1 transits BellSouth's network, the terms under which BellSouth provides and is
2 paid for that service must be established through a negotiated and if necessary,
3 arbitrated interconnection agreement, rather than by a tariff.

4 **SECTION III – THE ACT,**
5 **INDIRECT INTERCONNECTION AND TRANSIT SERVICE**

6 **Q. Can you summarize the duties relevant to this case that are created and**
7 **imposed upon different carriers pursuant to the Act?**

8 A. Although I am not an attorney, it is evident from the plain reading of 47 U.S.C.
9 § 251 that the Act created a framework under which different statutory duties
10 are imposed upon different types of carriers. Section 251 sets forth three tiers
11 of obligations applicable to three sets of carriers. *See also* 47 C.F.R. §
12 51.100(A)(1):

13 Section 251(a) creates the general obligation imposed upon *all*
14 *telecommunications carriers* to interconnect directly or indirectly.

15 Section 251(b) creates five additional obligations applicable to *all local*
16 *exchange carriers*, such as the Small LECs in this case, including the duty to
17 establish reciprocal compensation arrangements and to provide local dialing
18 parity. *See also* 251(b)(5); 251(b)(3); 47 C.F.R. § 51.207 (local dialing parity).

19 Section 251(c) imposes yet additional obligations solely upon *incumbent local*
20 *exchange carriers*, such as BellSouth in this case. These additional obligations
21 include the express duties to provide interconnection with BellSouth's network
22 "for the transmission and routing of telephone exchange service and exchange
23 access" traffic "that is at least equal in quality to that provided by" BellSouth
24 to itself, "on rates, terms and conditions that are just, reasonable, and

1 nondiscriminatory, in accordance with . . . the requirements of . . . section 252”
2 of the Act. 47 U.S.C. § 251(c)(2)(A), (C) and (D).

3 Section 252(d)(1) is the statutory basis upon which the TELRIC pricing
4 methodology is made applicable to interconnection for the purposes of
5 251(c)(2). *See also*, 47 C.F.R. §§ 51.501, 51.503, 51.505, 51.507, 51.509 and
6 51.511.

7 **Q. What is the difference between “direct interconnection” and “indirect**
8 **interconnection” as those terms are used in section 251(a) of the Act?**

9 A. Direct interconnection is when two telecommunications carriers install
10 dedicated transport facilities between their respective switches to exchange
11 traffic between the two carriers’ networks. Direct interconnection may be
12 provisioned directionally, supporting either one-way or two-way traffic.
13 Indirect interconnection occurs when, instead of using dedicated facilities, two
14 carriers’ respective switches are connected to a tandem of the same
15 intermediate third-party carrier (typically, but not necessarily to the same
16 tandem). Traffic originated on one carrier’s network is exchanged with the
17 other by delivery of such traffic to the intermediate carrier’s network which, in
18 turn, delivers it to the terminating carrier’s network.

19 **Q. What does it mean for a carrier to provide a transit service?**

20 A. Transit service is typically provided by a third-party LEC that owns a tandem
21 switch, e.g. BellSouth, to which multiple additional carriers are connected, e.g.
22 the Small LECs, Sprint Nextel, T-Mobile, etc. In BellSouth’s case, connection
23 to a BellSouth tandem switch generally enables an interconnecting carrier to

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1 send telecommunications traffic to any other carrier that is interconnected with
2 the BellSouth network within the same LATA. BellSouth's transit service is
3 essentially the tandem switching and transport functions that BellSouth
4 provides in the middle of a call path to complete the delivery of one
5 interconnected carrier's originated telecommunications traffic to another
6 interconnected carrier's network for termination.

7 **Q. Can you provide a simple diagram of the network configuration**
8 **associated with a typical transit scenario?**

9 A. Yes. Please see the diagram attached to my testimony as Exhibit No.
10 _____(BHP-1).

11 **Q. Does BellSouth provide Sprint Nextel and T-Mobile transit service in**
12 **Florida?**

13 A. Yes. BellSouth has been providing Sprint Nextel (i.e., Sprint Spectrum L.P.)
14 transit service per an interconnection agreement since at least April 1, 1997.
15 BellSouth has been providing T-Mobile transit service per an interconnection
16 agreement since at least March 1, 1998. As a general matter, the Sprint Nextel
17 and T-Mobile interconnection agreements with BellSouth provide for
18 BellSouth to deliver Sprint Nextel and T-Mobile originated traffic to third-
19 party carriers that are also interconnected with a BellSouth tandem (i.e., transit
20 traffic) and to likewise deliver the third-party carriers originated traffic to
21 Sprint Nextel and T-Mobile. Sprint Nextel and T-Mobile pay BellSouth for
22 delivering their originated traffic to third-party carriers. BellSouth does not,
23 however, receive any payment from Sprint Nextel or T-Mobile for either i) the

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1 termination of third-party traffic that BellSouth delivers to Sprint Nextel or T-
2 Mobile, or ii) traffic originated on the Small LECs' networks that is delivered
3 by BellSouth to Sprint Nextel and T-Mobile.

4 **Q. Of what benefit is BellSouth's transit service to Sprint Nextel and T-**
5 **Mobile?**

6 A. BellSouth's transit service is a classic example of the means by which indirect
7 interconnection contemplated by the Act is accomplished. BellSouth is the
8 historical LATA tandem provider that provides connectivity to virtually all
9 telecommunications carriers operating in BellSouth's territory (i.e., CMRS
10 Providers, CLECs, the Small LECs, other LECs, etc.). Depending on the
11 volumes of traffic exchanged between two carriers, the indirect delivery of
12 traffic between two carriers that are each interconnected to the BellSouth
13 network provides an efficient and economical alternative to establishing
14 expensive, underutilized dedicated direct interconnection facilities. In turn, the
15 efficient and economical exchange of traffic fosters the very competition that
16 enables providers to develop and deliver consumers innovative
17 communications goods and services at the lowest prices.

18 **Q. Is BellSouth obligated to provide the transit service that it has been**
19 **providing?**

20 A. Yes. There are several statutes and rulings that create and support the
21 obligation of incumbent LEC tandem service providers to provide a transit
22 service to interconnected telecommunications carriers.

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1 For instance, in *Petition of WorldCom, Inc. Pursuant to Section*
2 *252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the*
3 *Virginia State Corporation Commission Regarding Interconnection Disputes*
4 *with Verizon Virginia, Inc., and for Expedited Arbitration*, 17 FCC Rcd
5 27,039 (CCB, July 17, 2002) (*Virginia Arbitration Order*), the Wireline
6 Competition Bureau, acting through delegated authority of the FCC, addressed
7 Verizon's transit obligations to WorldCom. The Bureau stated that the
8 Commission had previously held in another context that

9 a "fundamental purpose" of section 251 is to 'promote the
10 interconnection of all telecommunications networks by ensuring
11 that incumbent LECs are not the only carriers that are able to
12 interconnect efficiently with other carriers. In this instance,
13 allowing Verizon to "terminate" transit service abruptly, with
14 no transition period or consideration of whether WorldCom has
15 an available alternative, would undermine WorldCom's ability
16 to interconnect indirectly with other carriers in a manner that is
17 inconsistent with the "fundamental purpose" identified above.
18 Moreover, such a result would put new entrants at a severe
19 competitive disadvantage in Virginia, and would undermine the
20 interests of all end users in connectivity to the public switched
21 network.

22 *Id.*, ¶ 118.

23 **Q. Are you aware of any state public utility Commission decision that may**
24 **provide additional insight to this issue?**

25 A. Yes, several. In *Petition of Verizon South, Inc., for Declaratory Ruling that*
26 *Verizon is Not Required to Transit InterLATA EAS Traffic between Third Party*
27 *Carriers and Request for Order Requiring Carolina Telephone and Telegraph*
28 *Company to Adopt Alternative Transport Method*, Docket No. P-19, Sub 454
29 "Order Denying Petition" (North Carolina Utilities Commission, Sept. 22,
30 2003), Verizon relied upon the *Virginia Arbitration Order* to contend it had no

1 obligation to provide a transit service at all, claiming that the Competition 000621
2 Bureau had not found “clear [FCC] Commission precedent or rules declaring
3 such a duty.” *Id.*, p. 5. The North Carolina Utility Commission (“NCUC”)
4 concluded, however, that the *Virginia Arbitration Order* “was not meant to
5 bear such a heavy burden” (*id.*, p. 7) and “good cause exists to find that Verizon
6 is obligated to provide the transit service as a matter of law”. *Id.*, p. 5.

7 The NCUC was persuaded and found that 1) a transit obligation can be
8 well supported under both state and federal law; 2) the lack of a transit
9 obligation could lead to absurd results, including the stifling of competition by
10 imposition of uneconomic costs such as construction of redundant facilities,
11 and impairment of “the ubiquity of the telecommunications network”; and 3)
12 the simple fact is that the transiting of traffic has been around since “ancient”
13 times in telecommunications terms. *Id.*, p. 6. The NCUC went on to state that
14 “[i]t strains credulity to believe that Congress in TA96 [Telecommunications
15 Act of 1996] intended, in effect, to impair this ancient practice and make it
16 merely a matter of grace on the part of ILECs, when doing so would inevitably
17 have a tendency to thwart the very purposes that TA96 was designed to allow
18 and encourage”. *Id.*, p. 6-7. It is clear that the NCUC believes that there is a
19 legal obligation for ILECs to provide a transit service under the Act. A copy
20 of the NCUC’s September 22, 2003 Order Denying Petition in Docket No. P-
21 19, Sub 454 is attached as Exhibit No. _____(BHP-2).

22 Even more recently, the Public Utility Commission of Texas (“Texas
23 PUC”) held that “SBC Texas shall provide transit services at TELRIC rates.”

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1 *Arbitration of Non-Costing Issues for Successor Interconnection Agreements*
2 *to the Texas 271 Agreement*, “Arbitration Award – Track 1 Issues”, P.U.C.
3 Docket No. 28821 (TX PUC, February 22, 2005). Given SBC Texas’
4 ubiquitous network and the lack of alternative competitive transit providers,
5 the Texas PUC concluded that requiring SBC Texas “to provide transit
6 services at cost-based rates will promote interconnection of all
7 telecommunications networks.” *Id.*, p. 23. The PUC also recognized the
8 reality that, in the absence of alternative transit providers “SBC Texas’s
9 proposal to negotiate transit services separately outside the scope of an FTA
10 [Telecommunications Act of 1996] § 251/252 negotiation may result in cost-
11 prohibitive rates for transit service.” *Id.* The foregoing reasoning is equally
12 applicable in this case to support the conclusion that BellSouth is required to
13 provide its transit service pursuant to a section 251/252 interconnection
14 agreement and cannot side-step that obligation by “providing” a grossly
15 inflated transit service pursuant to its tariff. A copy of the Texas PUC’s
16 February 23, 2005 Arbitration Award in Docket No. 28821 is attached as
17 Exhibit No. _____(BHP-3).

18 **Q. Is the transit obligation an “interconnection” obligation?**

19 A. Yes. The Act identifies each statutory duty imposed upon an incumbent LEC
20 such as BellSouth. One of those duties is the “interconnection” duty outlined
21 in section 251(c)(2) of the Act. This section requires incumbent LECs to
22 provide “interconnection with the local exchange carrier’s network - (A) *for*
23 *the transmission and routing of telephone exchange service and exchange*

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1 *access.*” There is no limiting language in the statute that allows BellSouth to
2 only provide interconnection for the transmission and routing of traffic
3 between a requesting interconnecting carrier’s network and a BellSouth end
4 office. To the contrary, the statute is unlimited with respect to the scope of the
5 routing and transmission that BellSouth must provide an interconnected carrier
6 and, therefore, is clearly broad enough to include the routing and transmission
7 of traffic between an interconnecting carrier’s network and any end office (or
8 equivalent facility), including those associated with the networks of other
9 carriers that are interconnected with the BellSouth network – i.e., other CMRS,
10 CLEC, Small LECs, and LEC carriers’ networks.

11 **Q. Does BellSouth route/transmit traffic originated by or terminating to its**
12 **end user customers to/from other carriers interconnected with the**
13 **BellSouth tandem such as CLECs, rural LECs, IXC, etc.?**

14 A. Yes. It is indisputable that BellSouth has the legacy architecture required to
15 provide this service for its end user customers and it does so.

16 **Q. What type of traffic does a transit provider such as BellSouth typically**
17 **exchange (route or transmit) with an interconnecting carrier?**

18 A. The traffic exchanged between BellSouth and an interconnecting carrier is
19 either going to be exchange service traffic (i.e. local exchange and Extended
20 Area Service, or EAS, traffic) or exchange access traffic (interstate and
21 intrastate access traffic).

22 **Q. Does BellSouth have an express obligation to provide interconnection of**
23 **the same quality that it provides itself?**

(c)(2)(c)

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1 A. Yes. Pursuant to section 251(c)(3) of the Act, an incumbent LEC must provide
2 interconnection “that is at least equal in quality to that provided by the local
3 exchange carrier to itself or to any subsidiary, affiliate, or any other party to
4 which the carrier provides interconnection.”

5 **Q. Assume BellSouth is interconnected with Carrier A and Carrier B and in**
6 **the ordinary course of business BellSouth is compensated to transmit and**
7 **route its own customers’ intraLATA traffic to carrier A’s network. Can**
8 **BellSouth legitimately refuse to transmit and route Carrier B’s**
9 **intraLATA traffic to carrier A’s network?**

10 A. No. It would be unfair and discriminatory for BellSouth to refuse to route and
11 transmit the competing Carrier B’s traffic to the same destination, i.e. carrier
12 A’s network, that BellSouth transmits and routes its own customers’ traffic.

13 **Q. What is the logical result when sections 251(c)(2)(A), (C) and (D) are read**
14 **together?**

15 A. Transiting is clearly encompassed within the statutory obligation to
16 interconnect. The Act creates strict obligations and the FCC’s rules impose
17 strict regulations on the ILECs to assure nondiscriminatory interconnection
18 because of the ILEC’s market power. The ILECs control the historical, legacy
19 network architecture that serves vast populations of consumers and that other
20 carriers must interconnect with to provide competing service to such
21 consumers. ILECs have the incentive and ability to abuse this control to harm
22 competitors and, ultimately, negatively impact consumers.

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1 **Q. What public interest is served by this Commission concluding that**
2 **BellSouth's transit service is an interconnection service that BellSouth is**
3 **obligated to provide to a requesting telecommunications carrier?**

4 A. Transiting is a key component for a competitor to be able to economically
5 obtain interconnection with an ILEC network and, therefore, it is in the public
6 interest for both consumers and competitors that the service be provided within
7 the framework of the Act. Consumers would be harmed if incumbent LEC
8 transiting was not required. To force other competitors to directly interconnect
9 with each other, when it would be more efficient to connect indirectly, would
10 artificially drive up the costs to all interconnecting carriers and, again,
11 consumers. Unnecessary expense may be further compounded where "new
12 construction" must occur before a direct connection can even be installed.
13 Similarly, forcing competitors to pay inflated prices for ILEC transiting would
14 have the same result.

15 As previously explained, and recognized by the NCUC, indirect
16 interconnection through a transit service that is generally provided by an
17 incumbent LEC, such as BellSouth, can be the most efficient means for CMRS
18 providers to i) quickly and economically expand their network to serve ever
19 increasing numbers of subscribers, and ii) provide and maintain economically
20 efficient levels of service in less populated areas that may not otherwise be
21 served if the cost of direct facilities outweighs the benefits of providing service
22 in that area. CMRS providers use transit service particularly in rural areas
23 where sufficient volumes of traffic are not generated to justify deploying its

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1 own network facilities. The FCC has recognized the vital role of transit
2 services in deployment of competitive networks in the current Inter-carrier
3 Compensation proceeding and stated the following:

4 the record suggests that the availability of transit services is
5 increasingly critical to establishing indirect interconnection
6 – a form of interconnection explicitly recognized and
7 supported by the Act. It is evident that competitive LECs,
8 CMRS carriers, and rural LECs often rely on transit services
9 from the incumbent LECs to facilitate indirect
10 interconnection with each other. Without the continued
11 availability of transit services, carriers that are indirectly
12 interconnected may have no efficient means by which to
13 route traffic between their respective networks.

14 *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-
15 92, Further Notice of Proposed Rulemaking at ¶ 125 (Rel. March 3, 2005).

16 Absent decisions from states and the FCC further validating this vital
17 role of incumbent LECs, the inevitable increase in unnecessary costs will slow
18 competition and, in turn, leave consumers with little if any service choices.

19 **Q. How are the prices for interconnection service established under the Act?**

20 A. Section 251(c)(2)(D) unambiguously requires that the rates, terms and
21 conditions under which interconnection is provided must be “just, reasonable,
22 and nondiscriminatory, *in accordance with . . . the requirements of . . . section*
23 *252*” (emphasis added).

24 Section 252(d)(1) of the Act establishes (in its title and substantive
25 provisions) the “Pricing Standards” applicable to interconnection services
26 provided pursuant to 251(c)(2). The price for such services “shall be . . . (i)
27 based on the cost (determined without reference to a rate-of-return or other
28 rate-based proceeding) of providing the interconnection . . . , and (ii)

1 nondiscriminatory, and . . . may include a reasonable profit.” 47 U.S.C. § 000627

2 252(d)(1). FCC regulations further elaborate upon these pricing standards.

3 See 47 C.F.R. §§ 51.501, 51.503, 51.507, 51.509, and 51.511.

4 **Q. What public interest is served by this Commission determining that**
5 **BellSouth’s transit service is an interconnection service which BellSouth is**
6 **required to provide at a TELRIC price?**

7 A. Left unchecked, incumbent LECs, and particularly a Regional Bell Operating
8 Company (“RBOC”) such as BellSouth, have no incentive to provide a service
9 at a TELRIC forward looking cost-based rate. The very same waste of
10 economic resources and ultimate inability to service consumers that results
11 when competitors are required to install inefficient, redundant direct
12 interconnection facilities likewise flows from competitors having to pay for an
13 overpriced RBOC transit service.

14 The transit rate in BellSouth’s tariff is \$0.003. By comparison,
15 utilizing BellSouth’s historical Florida unbundled network element rates for
16 the comparable element functions that are used in BellSouth’s interconnection
17 transit service, it is reasonable to expect that a TELRIC-based rate for
18 BellSouth’s transit service should be in the range of \$0.0009441. See
19 BellSouth Florida rate page “215 of 800” from existing interconnection
20 agreement between BellSouth, Sprint Communications Company Limited
21 Partnership and Sprint Spectrum L.P., attached hereto as Exhibit No.
22 _____(BHP-4) (Tandem Switching per MOU \$0.0001319 + Tandem Port
23 Shared per MOU \$0.0002350 + Common Transport of \$0.00014 [assumed 40

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1 miles at .0000035 per mile] + Common Transport Facility per MOU
2 \$0.0004372 = \$0.0009441). A \$.0020559 difference between the tariff transit
3 rate and the approximated TELRIC transit rate reveals a mark-up of over
4 200%, and demonstrates exactly why Congress placed restraints on the RBOCs
5 via the statutory pricing standards.

6 **SECTION IV – TENTATIVE DOCKET ISSUES**

7 **ISSUE 1**

8 **Q. Is BellSouth's Transit Service Tariff an appropriate mechanism to**
9 **address transit service provided by BellSouth?**

10 A. No. Because transit is an interconnection service, it is not subject to being
11 tariffed. The filing of tariffs for interconnection services was addressed in the
12 FCC's *T-Mobile Order*. In this proceeding the FCC amended its rules going
13 forward to make clear its preference for contractual arrangements for non-
14 access traffic. Specifically the FCC amended Section 20.11 of the
15 Commission's rules to prohibit LECs from imposing compensation obligations
16 for non-access traffic pursuant to tariff. Just as the section 251(b)(5) reciprocal
17 compensation obligation addressed in the *T-Mobile Order* is an interconnection
18 service, so is the transit obligation an "interconnection service" that arises
19 through the operation of sections 251(a)(1) and (c)(2). Thus, a requesting
20 carrier is entitled to obtain transit, and BellSouth is required to provide transit,
21 pursuant to a negotiated or arbitrated interconnection agreement, rather than
22 BellSouth being able to require its purchase upon BellSouth's unilateral terms
23 via a tariff.

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ISSUE 2

1
2 **Q. If an originating carrier utilizes the services of BellSouth as a tandem**
3 **provider to switch and transport traffic to a third party not affiliated with**
4 **BellSouth, what are the responsibilities of the originating carrier?**

5 A. An originating carrier that utilizes BellSouth as a tandem provider to transit
6 traffic to a third party that is not affiliated with BellSouth is obligated: 1) to
7 deliver its traffic to BellSouth in an industry standard format that will allow
8 BellSouth and the terminating carrier to identify the originating carrier and
9 minutes of traffic originated by such carrier that are transited by BellSouth to
10 the terminating carrier; 2) upon request of BellSouth or the originating carrier,
11 to negotiate (and, if necessary, arbitrate) an interconnection agreement with
12 BellSouth that includes terms and conditions regarding the transit service that
13 BellSouth provides to the originating carrier; and 3) upon request of the
14 terminating or originating carrier, to negotiate (and, if necessary, arbitrate) an
15 interconnection agreement with the terminating carrier regarding the mutual
16 exchange of traffic between the two parties' respective networks.

ISSUE 3

17
18 **Q: Which carrier should be responsible for providing compensation to**
19 **BellSouth for the provision of the transit transport and switching**
20 **services?**

21 A. Pursuant to federal law, an originating carrier is responsible for all costs,
22 including transit costs, associated with delivering traffic originated on its
23 network to the terminating carrier's network.

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1 For the purposes of interconnection with a CMRS network, traffic
2 subject to section 251(b)(5) reciprocal compensation is expressly defined by
3 the FCC in Rule 51.701(b)(2) to be traffic between a LEC and a CMRS
4 provider that, at the beginning of the call, originates and terminates within the
5 same MTA. Under the FCC's Calling Party Network Pays ("CPNP") regime,
6 the originating party is not only responsible for the payment of reciprocal
7 compensation to the terminating network party, the originating party is also
8 responsible for all costs associated with the delivery of its originated
9 telecommunications traffic to the terminating party. This principle is based
10 upon the FCC's rule in Subpart H, Reciprocal Compensation, 47 C.F.R.
11 51.703(b), which provides, "[a] LEC may not assess charges on any other
12 telecommunications carrier for telecommunications traffic that originates on
13 the LEC's network."

14 Grounded squarely upon Rule 51.703(b), case law clearly establishes
15 that an originating party (including the Small LECs in this case), are
16 responsible for the cost associated with the delivery of traffic originated on
17 their network to the terminating carrier's network. *See Atlas Telephone*
18 *Company v. Oklahoma Corporation Commission*, 400 F.3d 1256 (10th Cir.
19 2005) (CMRS Providers should not have to bear the costs of transporting calls
20 that originated on the networks of rural telephone companies across an
21 incumbent LEC's network); *BellSouth Telecommunications, Inc.'s Petition for*
22 *a Declaratory Ruling Regarding Transit Traffic*, Docket No. 16772-U, "Order
23 on Clarification and Reconsideration" (Georgia Public Service Commission,

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1 May 2, 2005) (citing *Atlas* in reaffirming initial decision that rural telephone
2 companies, as originating parties, are required to pay transit costs to transport
3 traffic originated on their network), a copy of which is attached as Exhibit No.
4 _____(BHP-5).

5 **Q. When an intraMTA call that originates on a CMRS Provider's network,**
6 **transits BellSouth's network, and is delivered to the network of a Small**
7 **LEC for termination, is the originating CMRS Provider obligated to**
8 **compensate the Small LEC?**

9 A. Yes. The originating CMRS Provider is obligated to compensate the Small
10 LEC for its cost to transport and terminate an intraMTA call on its network.
11 Absent the Small LEC and the originating CMRS Provider agreeing to a
12 negotiated rate or a bill and keep arrangement, the price that the Small LEC
13 may charge for the transport and termination functions it performs must be
14 established under an appropriate pricing methodology that complies with the
15 forward-looking economic cost standards identified in 47 C.F.R. sections
16 51.505 and 51.511.

17 **ISSUE 4**

18 **Q. What is BellSouth's network arrangement for transit traffic and how is it**
19 **typically routed from an originating party to a terminating third party?**

20 A. As displayed in Exhibit No. _____(BHP-1) and previously explained herein,
21 when two carriers are both connected to the BellSouth network, BellSouth will
22 receive traffic delivered to a BellSouth tandem by an originating carrier over
23 the originating carrier's interconnection facility with BellSouth, translate the

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1 traffic at the BellSouth tandem switch, and route the traffic to wherever the
2 terminating carrier is interconnected with BellSouth in the same LATA. The
3 terminating carrier receives the traffic at the point where its network is
4 interconnected with the BellSouth network, the call continues on the
5 terminating carrier's transport facilities to its end office or, in the case of a
6 CMRS Provider, to its Mobile Switching Center ("MSC"), where it is switched
7 to the facilities (including spectrum airwaves, in the case of a CMRS Provider)
8 connected to its end-user.

9 **ISSUE 5**

10 **Q. Should the FPSC establish the terms and conditions that govern the**
11 **relationship between an originating carrier and the terminating carrier,**
12 **where BellSouth is providing transit service and the originating carrier is**
13 **not interconnected with, and has no interconnection agreement with, the**
14 **terminating carrier? If so, what are the appropriate terms and conditions**
15 **that should be established?**

16 **A.** No. As stated earlier, the FCC was clear in its *T-Mobile* decision that
17 interconnecting carriers such as CMRS, CLECs, and the Small LECs follow
18 the Act and the corresponding FCC rules for the negotiation and, if necessary,
19 arbitration of interconnection agreements through the defined arbitration
20 process.

21 Regarding the Small LECs' relationship with BellSouth as originators
22 of transit traffic, under section 251(a) any telecommunications carrier is
23 required to interconnect on a direct or indirect basis. With this interconnection

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1 obligation, BellSouth is not required to provide transit unless it is “requested”
2 by an interconnecting carrier. To the extent that the most efficient network
3 alternative for Small LECs to use to deliver their customer originated traffic to
4 CMRS providers is by sending that intraMTA traffic to a CMRS provider via
5 BellSouth’s transit service, the Small LEC should be required to request and
6 enter into an interconnection agreement with BellSouth.

7 **Q. Is there any precedent to support a conclusion that the FCC expects**
8 **interconnection agreements to exist between the Small LECs and**
9 **BellSouth?**

10 A. Yes. The FCC clearly contemplates that interconnection agreements may exist
11 between two incumbent LECs such as BellSouth and the Small LECs. This is
12 apparent from the FCC’s discussion regarding the requirements imposed upon
13 incumbent LECs in sections 252(a) and 252(i) of the Act to file and make
14 negotiated interconnection agreements available to other requesting carriers.
15 Recognizing that such arrangements would exist, the FCC found in the First
16 Report and Order that the plain meaning of section 252(i) is that “any
17 interconnection agreement approved by a state commission, *including one*
18 *between adjacent LECs*, must be made available to requesting carriers pursuant
19 to section 252(i).” *In re Implementation of the Local Competition Provisions*
20 *in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 at ¶ 1323 (1996)
21 (emphasis added).

22 Thus, to the extent that a Small LEC is utilizing transit services for its
23 originated traffic today without compensating BellSouth, there is no reason

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1 why BellSouth cannot seek to establish a section 251/252 interconnection
2 agreement with such an incumbent Small LEC that is consistent with the
3 requirements of the Act and the FCC's interconnection rules, including the
4 terms and conditions under which BellSouth will provide transit services to the
5 incumbent Small LEC.

6 **ISSUE 6**

7 **Q. Should the FPSC determine whether and at what traffic threshold level an**
8 **originating carrier should be required to forego use of BellSouth's transit**
9 **service and obtain direct interconnection with a terminating carrier? If**
10 **so, at what traffic level should an originating carrier be required to obtain**
11 **direct interconnection with a terminating carrier?**

12 A. No. The originating carrier is responsible for the costs associated with
13 delivering its traffic to the terminating carrier's network. Any direct trunks
14 required between the originating provider's switch and the terminating
15 carrier's switch should be based on the trunk capacity requirements of the
16 traffic and the most economic means of getting that traffic to the terminating
17 carrier. The determination of what is the best business decision for the
18 originating carrier should be left solely to the originating carrier. It is in the
19 originating carrier's best interest to make a prudent business decision based on
20 the crossover point between paying transit charges on a per minute-of-use basis
21 and the monthly recurring charges and overhead costs associated with using a
22 dedicated facility. Facility prices vary by LEC and an artificial threshold could
23 create an unfair economic advantage for both BellSouth and the Small LECs

1 by requiring the placement of costly dedicated meet-point facilities even 000635
2 though the continuing cost to transit traffic may be cheaper than the combined
3 cost of BellSouth and the Small LECs' jointly provided dedicated meet-point
4 direct facilities.

5 **ISSUE 7**

6 **Q. How should transit traffic be delivered to the Small LEC's networks?**

7 A. Transit traffic should be delivered to the Small LECs' networks in the most
8 economically and technically feasible manner possible. In today's
9 environment, it is normally more efficient for CMRS providers to deliver
10 traffic to the Small LECs utilizing the transit service of the incumbent transit
11 provider such as BellSouth. And, as a practical matter, at the present time
12 BellSouth is the primary feasible option. While a market for alternative transit
13 providers is in the very early stages of development, BellSouth's legacy
14 architecture and ubiquitous connections to the Small LECs' territories have not
15 been significantly replicated to provide widespread transit options for
16 interconnecting carriers.

17 **ISSUE 8**

18 **Q. Should the FPSC establish the terms and conditions that govern the**
19 **relationship between BellSouth and a terminating carrier, where**
20 **BellSouth is providing transit service and the originating carrier is not**
21 **interconnected with, and has no interconnection agreement with, the**
22 **terminating carrier? If so, what are the appropriate terms and conditions**
23 **that should be established?**

1 A. No. 47 U.S.C. section 251(a) imposes a duty upon all telecommunications 006636
2 carriers to interconnect directly or indirectly with the facilities and equipment
3 of other telecommunications carriers. CMRS Providers have established
4 interconnection agreements with BellSouth that include terms and conditions
5 for the exchange of traffic with BellSouth, including the use of BellSouth's
6 transit service. The relationship between a Small LEC, as a terminator of
7 transited traffic, and BellSouth should also be pursuant to an interconnection
8 agreement between BellSouth and the Small LEC. Any disagreements
9 between them related to BellSouth's provisioning of this traffic should be
10 resolved through the dispute resolution language of the agreement or, for
11 disputes associated with negotiation of a new agreement, through a state
12 Commission's arbitration procedures.

13 In addition to the standard legal terms and conditions normally
14 included in interconnection agreements, an agreement between BellSouth and
15 a Small LEC should establish how information related to the traffic exchanged
16 will be communicated between the parties. BellSouth routes CMRS traffic
17 along with intraLATA and interLATA toll traffic and other traffic bound for
18 the Small LEC on the same trunk group as an efficient method for terminating
19 third-party originated traffic. By aggregating traffic, all traffic can be carried
20 at a lower cost over fewer trunks. It would also be appropriate for the Small
21 LECs to use the industry standard 11-01-01 records that they receive from
22 BellSouth, which identify the originating carrier and will thereby enable the
23 Small LEC to bill reciprocal compensation to the CMRS Providers. These are

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1 the same records BellSouth presumably provides and the Small LECs use to
2 bill switched access to IXCs. The FPSC should not mandate the
3 implementation of more costly and inefficient network arrangements simply to
4 facilitate the Small LECs' billing.

5 **ISSUE 9**

6 **Q. Should the FPSC establish the terms and conditions of transit traffic**
7 **between the transit service provider and the Small LECs that originate**
8 **and terminate transit traffic? If so, what are the terms and conditions?**

9 A. For the reasons stated in the answer to Issue 8, the answer to this question is
10 no.

11 **ISSUE 11**

12 **Q. How should charges for BellSouth's transit service be determined?**

13 A. Pursuant to 47 U.S.C. section 251(c)(2)(d), interconnection obligations are
14 expressly required to be provided "on rates, terms and conditions, that are just,
15 reasonable, and nondiscriminatory, in accordance with the terms and
16 conditions of the agreement and the requirements of this section and section
17 252". In addition, section 252(d) provides the pricing methodology that an
18 ILEC must use in the development of costs associated with "transporting or
19 terminating calls." The methodology prescribed is generally referred to as the
20 Total Element Long Run Incremental Cost ("TELRIC") cost methodology.

21 **ISSUE 11a**

22 **Q. What is the appropriate rate for transit service?**

1 A. An appropriate transit rate would include the TELRIC cost for each of the
2 network components required to complete a transit call. Generally, the costs
3 included by BellSouth in its transit rate should include a TELRIC-based
4 tandem switching component and a TELRIC-based transport facility
5 component (for per minute of use of the BellSouth portion of the meet-point
6 transport facility between its tandem and the interconnection point between the
7 BellSouth network and the terminating carrier's network). Sprint Nextel and
8 T-Mobile are not presently aware of any reason to presume that BellSouth's
9 tandem switching and transport costs should have *increased* over the past few
10 years. Therefore, as previously discussed in my testimony, Sprint Nextel and
11 T-Mobile submit that a TELRIC-based rate for BellSouth's interconnection
12 transit service should be no higher than \$0.0009441.

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13 **ISSUE 11b**

14 **Q. To what type of traffic do the rates identified in "a" apply?**

15 A. When a CLEC/CMRS provider utilizes the BellSouth provided transit service
16 to originate traffic to a Small LEC, BellSouth should charge the CLEC/CMRS
17 provider a rate consisting of BellSouth's TELRIC tandem switching element
18 plus its TELRIC transport element for the distance from the BellSouth tandem
19 to BellSouth's meet-point with the network of the terminating Small LEC
20 carrier. If BellSouth must route the call between multiple tandems because the
21 originating and terminating carrier are not interconnected at the same tandem,
22 then an additional tandem switch and mileage sensitive transport charges may
23 apply.

1 Conversely, when the Small LEC originates a transit call to a
2 CLEC/CMRS provider, BellSouth should also charge the Small LEC a rate
3 consisting of BellSouth's TELRIC transport element for the distance from the
4 BellSouth tandem to its meet-point with the network of the Small LEC plus its
5 TELRIC tandem switching element. BellSouth cannot charge a Small LEC for
6 transport to any meet-point with the CMRS Provider because the CMRS
7 Provider has generally already paid for the facilities to directly connect at the
8 BellSouth tandem. However, as previously indicated, if BellSouth must route
9 the call between tandems before delivering the call to the CMRS Provider, then
10 an additional tandem switch and mileage sensitive transport charges may
11 apply.

12 When a CLEC/CMRS provider utilizes the BellSouth provided transit
13 service to originate traffic to another CLEC/CMRS provider, assuming each
14 carrier is connected in the same building to the same BellSouth tandem,
15 BellSouth should only be charging the originating carrier its TELRIC tandem
16 switching element. No transport should be incurred to hand off a call between
17 two carriers interconnected to BellSouth in the same BellSouth location.

18 **Q. Are there any local dialing parity implications associated with the Small**
19 **LECs' originated transit traffic?**

20 A. Yes. Pursuant to section 251(b)(3) of the Act and the FCC's "Local dialing
21 parity" Rule 47 C.F.R. section 51.207, *all* LECs are required to allow their
22 end-users to dial a CMRS/CLEC NPA-NXX using the same number of digits
23 that the end-user dials to call a wireline NPA-NXX associated with the same

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1 rate center as the rate center associated with the CMRS/CLEC NPA-NXX.
2 When a Small LEC originates such 7 or 10-digit dialed traffic to such CMRS
3 or CLEC NPA-NXXs it is feasible for the Small LEC to hand this traffic to
4 BellSouth for delivery to the terminating CMRS/CLEC. Indeed, if there is no
5 direct connection between the Small LEC and the terminating CMRS/CLEC,
6 BellSouth's transit service would very likely be the only means of delivering
7 the traffic without an inappropriate toll charge being imposed on the Small
8 LEC end-user. The Small LEC can and should route this call to a common
9 trunk group commonly riding a meet-point facility connected to BellSouth's
10 tandem for delivery to the CMRS/CLEC switch.

11 **Q. Can you summarize the scenarios under which transit rates should apply**
12 **to a call originated on a Small LEC network?**

13 A. Yes. When a Small LEC customer calls a CMRS or CLEC NPA-NXX that is
14 associated with either one of the Small LEC's own rate centers or another
15 LEC's rate center that is within the Small LEC's Local/EAS calling scope,
16 such a call should be subject to 7 or 10-digit local dialing. Absent a direct
17 connection between the Small LEC and the CMRS/CLEC terminating carrier,
18 the Small LEC should route these calls to the transit LEC and compensate the
19 transit LEC for delivering the Small LEC's traffic through the transit LEC's
20 tandem.

21 **ISSUE 14**

1 **Q. What action, if any, should the FPSC undertake at this time to allow the 000641**
2 **Small LECs to recover the costs incurred or associated with BellSouth's**
3 **provision of transit service?**

4 A. Sprint Nextel and T-Mobile believe that only those issues that pertain to the
5 carrier-to-carrier aspects of transiting traffic are appropriate in this Docket, and
6 issues pertaining to cost recovery allocation between a given carrier and its
7 customers should be resolved in a rate proceeding. However, if Issue 14
8 remains in the Docket, Sprint Nextel and T-Mobile believe that the transit costs
9 incurred by a Small LEC to deliver traffic originated by its own end-users to
10 other carriers are the normal costs of doing business. These costs must be
11 incurred to provide service to its end-user customers and exchange traffic with
12 other telecommunications carriers in a post-Act competitive environment.
13 These costs should be borne by the Small LEC and recovered through
14 payments received in conjunction with providing services to its own end user
15 customers.

16 **ISSUE 15**

17 **Q. Should BellSouth issue an invoice for transit services and if so, in what**
18 **detail and to whom?**

19 A. Yes, BellSouth should issue an invoice for transit service to any
20 telecommunications carrier that utilizes transit service to deliver traffic
21 originated on its network to other carriers subtending BellSouth's network.
22 This would include the Small LECs, CMRS providers, and CLECs. These
23 invoices should be provided in an industry standard format that, at a minimum,

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1 includes the number of minutes transited, the elements provided in transiting
2 such minutes (i.e. the number of tandem switching minutes billed and,
3 separately identified, the number of transport minutes billed) and adequate
4 information to allow the party billed for the transit service to identify the
5 Common Language Location Identification code (“CLLI”) of the end office of
6 the terminating end user customer. The CLLI information is commonly used
7 by an originating carrier to help validate bills received from the terminating
8 carriers.

9 **ISSUE 16**

10 **Q. Should BellSouth provide to the terminating carrier sufficiently detailed**
11 **call records to accurately bill the originating carrier for call termination?**

12 **If so, what information should be provided by BellSouth?**

13 A. Yes. It is my understanding that BellSouth already provides Category 11-01-
14 01 records to terminating carriers, including the Small LECs. This information
15 commonly includes the Operating Company Number (“OCN”) of the
16 originating carrier, the called and calling telephone numbers, and the call
17 timing information required to determine the minutes of use provided by such
18 carrier.

19 **ISSUE 17**

20 **Q. How should billing disputes concerning transit service be addressed?**

21 A. Transit billing disputes should be addressed pursuant to the dispute resolution
22 provisions of an appropriately negotiated and, if necessary, arbitrated, filed and

1 Commission approved interconnection agreement between BellSouth and the
2 carrier with whom a dispute may arise.

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3 **Q. Does this conclude your Direct Testimony?**

4 **A. Yes it does.**

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

000644

2 **REBUTTAL TESTIMONY**

3 **OF**

4 **BILLY H. PRUITT**

5 **DOCKET NO. 050119-TP AND DOCKET NO. 050125-TP**

6
7 **Q. Please state your name and address.**

8 A. My name is Billy H. Pruitt. I am President and Principal Consultant for Pruitt
9 Telecommunications Consulting Resources, Inc. My business address is 59
10 Lincord Drive, St. Louis, MO 63128-1209.

11 **Q. On whose behalf are you submitting this Rebuttal Testimony?**

12 A. I am submitting this Rebuttal Testimony on behalf of Sprint Spectrum Limited
13 Partnership, Nextel South Corporation, Sprint Communications Company Limited
14 Partnership (collectively, "Sprint Nextel") and T-Mobile USA, Inc. ("T-Mobile").

15 **Q. Have you previously appeared as a witness in this Docket?**

16 A. Yes. My Direct Testimony was filed in this Docket on December 19, 2005.

17 **Q. What is the purpose of your Rebuttal Testimony?**

18 A. The purpose of my Rebuttal Testimony is to respond to the "Direct Testimony of
19 Kenneth Ray McCallen on Behalf of BellSouth Telecommunications, Inc." and
20 the "Pre-Filed Direct Testimony of Steven E. Watkins on Behalf of the Small
21 LEC Joint Petitioners." I referred to the "Small LEC Joint Petitioners" in my

1 Direct Testimony as the “Small LECs” and will continue to refer to them in this 000645
2 way throughout my Rebuttal Testimony.

3 **SECTION I – DIRECT TESTIMONY OF KENNETH RAY MCCALLEN**
4 **BELLSOUTH IS REQUIRED TO PROVIDE A TRANSIT FUNCTION**

5 **Q. Mr. McCallen states in his Direct Testimony that “BellSouth is not required**
6 **to provide a transit function” (McCallen page 6, lines 7-8; page 17, line 4)**
7 **and that transit is provided as a matter of “BellSouth’s business decision” to**
8 **do so (*id.*, page 7, line 8). What is your response?**

9 A. I disagree. My Direct Testimony provides the authorities I rely upon in
10 concluding that BellSouth is obligated to provide transit as an interconnection
11 service at TELRIC rates (Pruitt page 9, line 19 through page 18, line 5). Mr.
12 McCallen cites nothing in support of his testimony other than an apparent
13 BellSouth “belief.” Although not expressly stated in his Direct Testimony, one
14 may easily conclude that the following is the intended inference to be drawn from
15 his referenced testimony:

16 As a service provided merely because BellSouth has made a
17 “business decision” to do so, BellSouth may price its transit
18 service at whatever level it chooses, or even eliminate its transit
19 service altogether, regardless of any impact such “business
20 decisions” may have upon any interconnected carriers and, the
21 customers served by such carriers.

22 The consequences that flow from the foregoing (i.e., undermining carriers’ ability
23 to indirectly interconnect with one another, stifling competition and impairment
24 of ubiquitous telecommunication networks) are the very concerns that led the
25 authorities upon which I rely in my Direct Testimony to conclude that an

1 incumbent LEC has an obligation to provide transiting when it is the intermediate 000646
2 provider between two other carriers, rather than a service that is merely provided
3 at the whim and grace of an incumbent LEC.

4 **BELLSOUTH'S NEGOTIATED TRANSIT RATES**
5 **HAVE NO BEARING IN THIS DOCKET**

6 **Q. Mr. McCallen states in his Direct Testimony that "BellSouth's tariffed**
7 **transit rate is comparable to rates in recently negotiated agreements between**
8 **BellSouth and CLECs and between BellSouth and CMRS carriers for transit**
9 **services" (McCallen page 11, lines 13-16). What is your response?**

10 A. My Direct Testimony provides the basis for my conclusion that where a state
11 Commission is called upon to establish the price of an incumbent LEC's transit
12 service as an interconnection service, the price for that service is required to be
13 based upon the TELRIC methodology. (Pruitt page 9, line 18 through page 18,
14 line 5).

15 **Q. Is there any other reason why BellSouth's negotiated transit rates should not**
16 **be considered in this proceeding?**

17 A. Yes. McCallen Exhibits KRM-2 and KRM-3 appear to represent that:

18 1) BellSouth has approximately 222 interconnection agreements, of which 17 are
19 with CMRS providers;

20 2) The identified interconnection agreements have effective dates ranging from
21 3/1/97 (oldest) to 12/21/05 (newest); and,

22 3) The rates in these agreements range from \$0.002 with the majority of the
23 CMRS carriers, to an undefined "Composite Rate" of \$0.006 with one CLEC.

1 There is no claim that *any* rate in BellSouth's 222 agreements is an 000647
2 arbitrated rate, therefore, each rate is apparently a non-TELRIC *negotiated rate*.
3 A negotiated rate merely represents a single term of the multitude of terms that
4 comprise an entire negotiated interconnection agreement. Anyone experienced in
5 negotiating interconnection agreements knows full well that between
6 knowledgeable and experienced parties of relatively equal bargaining power the
7 process involves "gives" and "takes" by the respective parties on various subjects
8 to reach a final agreement in which all of the terms are interdependent. Thus, not
9 only is it contrary to the Act for BellSouth to suggest that its "negotiated rates"
10 carry some weight in this proceeding, it is inaccurate to imply that a \$0.002 to
11 \$0.006 transit rate stripped of any other benefit a competing carrier may have
12 obtained through negotiations would still be considered acceptable by that carrier
13 on a stand-alone basis.

14 If BellSouth wants to offer its interconnection transit service through an
15 additional avenue other than an interconnection agreement, the Act expressly
16 grants BellSouth a right to "prepare and file with a State commission a statement
17 of the terms and conditions that [it] generally offers within that State to comply
18 with the requirements of section 251 ... and the regulations thereunder and the
19 standards applicable under this section [47 U.S.C. § 252(f)(1)]." Such a statement
20 is commonly referred to as a "SGAT." Even if BellSouth followed this procedure,
21 this Commission could only approve the offerings upon finding that the pricing
22 for such offerings complied with the TELRIC standards contained in 47 U.S.C. §

1 252(d). *See* 47 U.S.C. 252(f)(2). Under the plain reading of Section 252, even this
2 Commission's approval of a SGAT including a TELRIC priced interconnection
3 transit service would not relieve BellSouth of its duty to negotiate the terms and
4 conditions of an agreement under Section 251 if a carrier invoked its rights to
5 negotiate rather than simply utilize BellSouth's SGAT offerings. *See* 47 U.S.C. §
6 252(f)(5). 000648

7 In summary, there is no authority under the Act for BellSouth to avoid
8 application of the Act's TELRIC requirements simply by providing a list of transit
9 rates contained in its Florida interconnection agreements and arbitrarily selecting
10 \$0.003.

11 **A TRANSIT TRAFFIC TARIFF IS NOT APPROPRIATE**

12 **Q. In response to being asked if BellSouth's Transit Service Tariff is an**
13 **appropriate mechanism to address the transit service provided by BellSouth,**
14 **Mr. McCallen states in his Direct Testimony, "[y]es, unless the tariff is**
15 **superseded by a contract addressing transit traffic service. BellSouth is using**
16 **its network to provide a value-added service and should be compensated**
17 **accordingly" (McCallen page 13, lines 11-17). Do you agree with Mr.**
18 **McCallen's response?**

19 **A.** My Direct Testimony provides the basis for my assertion that, as an
20 interconnection service, BellSouth's transit service is not subject to being tariffed
21 (Pruitt page 9, line 18 through page 16, line 18; page 18, lines 8-23). I do agree
22 that BellSouth is entitled to be paid for the service that it provides. Rather than a

1 tariff, however, the appropriate mechanism is for BellSouth to be compensated 000649
2 pursuant to an appropriately negotiated and, if necessary, arbitrated 251/252
3 interconnection agreement with the originating party that utilizes BellSouth's
4 transit service (Pruitt, *id.*; page 19 lines 2-16; *see also* page 23 line 7 through page
5 24, line 5 (precedent exists that the FCC expects interconnection agreements to be
6 utilized between the Small LECs and BellSouth)).

7 BellSouth and the Small LECs appear to have attempted to negotiate the
8 terms under which BellSouth provides transit service to the Small LECs (*see*
9 McCallen page 2, line 14 through page 3, line 6). And Mr. McCallen
10 affirmatively asserts that "BellSouth is willing to negotiate interconnection
11 agreements with carriers addressing transit traffic service" (McCallen page 17,
12 lines 9-10). But apparently neither has exercised its statutory rights as a
13 telecommunications carrier to serve a request for interconnection under Section
14 252(a)(1) to trigger the statutory negotiation and arbitration timeline under
15 Section 252(b)(1) to establish a 251/252 interconnection agreement governing the
16 post-1996 exchange of traffic between their networks. If a Small LEC uses
17 BellSouth's transit service to deliver traffic originated on the Small LEC's
18 network to a third-party interconnected with the BellSouth network, and
19 BellSouth wants to get paid for the Small LEC's use of the BellSouth network,
20 then one of them should initiate the 251/252 process with the other.

1 **BLOCKING IS NOT AN ACCEPTABLE SMALL LEC ALTERNATIVE** 000650

2 **Q. Mr. McCallen states in his Direct Testimony that a Small LEC has**
3 **alternatives to routing traffic originated by a Small LEC end-user through**
4 **BellSouth's network for delivery to a third-party end-user, including an**
5 **alternative of "blocking" to prevent the Small LEC's end-users from calling**
6 **NPA-NXXs of any particular third-party carrier (McCallen page 5, lines 11-**
7 **13; page 13, lines 6-9). Do you agree that a Small LEC should be allowed to**
8 **block traffic originated by its end-users destined for a customer of Sprint**
9 **Nextel or T-Mobile?**

10 **A. No. The issue of when and how "blocking" may be appropriately used in the**
11 **context of a CMRS — rural LEC interconnection scenario was addressed by the**
12 **Tennessee Regulatory Authority ("TRA") in its recent Order entered in the case**
13 ***In re: Petition for Arbitration of CELLCO Partnership d/b/a Verizon Wireless,***
14 **"Order of Arbitration Award," Docket No. 03-000585 (January 12, 2006)**
15 **(hereinafter "*CELLCO Arbitration Order*").**

16 The Tennessee CMRS-RLEC arbitration is a consolidated action that was
17 initiated by five arbitration petitions originally filed by Sprint PCS (n/k/a Sprint
18 Nextel herein), T-Mobile, Verizon Wireless, Cingular, and AT&T Wireless (now
19 merged with Cingular) against a coalition of 21 rural incumbent LECs
20 ("RLECs"). The Small LECs' witness in this Florida Docket, Mr. Steven W.
21 Watkins, testified in the Tennessee CMRS-RLEC case to advance substantially
22 the same arguments on behalf of the Tennessee RLECs as he is testifying to on

1 behalf of the Small LECs in this Docket. In Tennessee, it was the RLECs that 00651
2 contended that they should have a right to block traffic originated by a CMRS
3 provider and transited by BellSouth to an RLEC. In determining the limited
4 situation and manner in which blocking might be used, the TRA found:

5 The CMRS providers are carriers of a significant amount of local
6 traffic. Cellular service may be used in emergencies and as a
7 substitute for Coalition and local service. *Considering the manner*
8 *of use of cellular service, the Arbitrators determined not to adopt*
9 *any policy that would put the flow of this traffic at risk.* Therefore,
10 the Arbitrators voted unanimously that traffic may be blocked and
11 the Interconnection Agreement may be terminated only in the
12 event of default of a non-disputed amount and upon a ninety-day
13 notice. Further, before blocking traffic, a carrier shall obtain
14 approval from the FCC, the TRA or some other governing body
15 having the appropriate jurisdiction.
16

17 *CELLCO Arbitration Order*, page 64 (emphasis added). A copy of the TRA's
18 January 12, 2006 *CELLCO Arbitration Order* is attached as Exhibit No. _____
19 (BHP-6).

20 The exact same public policy reasons cited by the TRA in refusing to
21 sanction the blocking of traffic originated by a wireless end-user are equally
22 applicable in this case to prohibit the blocking of a Small LEC end-user's calls to
23 a wireless end-user. As a matter of safety, as well as day-to-day communications,
24 Small LEC end-users need to be able be reach a wireless end-user in an
25 emergency, as well as to communicate with another end-user that has opted to
26 rely solely upon wireless service as a wireline service replacement. Clearly,
27 blocking of any type is not an "alternative" that a responsible Small LEC should
28 even contemplate using without prior approval of an appropriate regulatory

1 authority, much less as a matter of course to gain a commercial advantage in lieu of
2 of exercising its 251/252 rights to seek and obtain an appropriate interconnection
3 agreement with another carrier.

4 **SECTION II – DIRECT TESTIMONY OF STEVEN W. WATKINS**

5 **RESPONSE TO SUMMARY STATEMENTS**

6 **Q. Mr. Watkins' Direct Testimony includes a four point summary of his Direct**
7 **Testimony (Watkins page 4, line 3 through page 5 line 7). Can you generally**
8 **identify the points that you agree or disagree with regarding the positions**
9 **Mr. Watkins lists in the summary of his testimony?**

10 **A.** Yes. With respect to Mr. Watkins' numbered, summarized positions:

11 1) Based upon my prior testimony, we both clearly agree that a tariff is not the
12 proper mechanism to establish terms, conditions, and rates for BellSouth's
13 provision of transit service. There are aspects of Mr. Watkins' underlying
14 rationale that I disagree with as further explained in detail below.

15 2) I disagree with Mr. Watkins' position that the underlying operative tariff terms
16 imposed improper obligations upon a Small LEC if it chose to use BellSouth's
17 transit service. On that point, I agree with BellSouth, as well as the TRA in the
18 *CELLCO Arbitration Order* at page 24 and the authorities previously cited in my
19 Direct Testimony (Pruitt page 19, line 18 through page 21, line 4), that it is the
20 obligation of an originating carrier, including a Small LEC, to pay BellSouth
21 when the originating carrier uses BellSouth's network.

1 3) I disagree with Mr. Watkins' positions that Small LECs' interconnection 000653
2 obligations are limited to direct connection at a point of interconnection on the
3 Small LEC network, and that a Small LEC has no obligation to pay for transit of
4 Small LEC traffic beyond an interconnection point on its network. The *CELLCO*
5 *Arbitration Order* clearly explains that

6 . . . [by utilizing] the BellSouth tandem as opposed to their own
7 tandem to handle the exchange of traffic between an ICO and a
8 CMRS provider, the ICO members *have in fact extended their*
9 *networks past the existing POI to the tandem switch*. Thus, the
10 Coalition's assertion that the Authority cannot require an ICO to
11 take financial responsibility for transport of CMRS traffic to the
12 tandem switch must be rejected. As the networks exist, utilizing
13 BellSouth's tandem, the ICO members have an obligation for the
14 cost associated with utilizing the trunking facilities.

15
16 (*Id.*, page 29) (emphasis added).

17 4) And, I disagree with Mr. Watkins' position that an originating carrier may be
18 compelled by operation of a "threshold mechanism" to establish direct
19 interconnection with a Small LEC.

20 **MR. WATKINS' RATIONALE REGARDING**
21 **INAPPROPRIATENESS OF TRANSIT TRAFFIC TARIFF**

22 **Q. Do you agree with any of Mr. Watkins' underlying rationale for his**
23 **conclusion that a tariff is not an appropriate mechanism to be used in this**
24 **case?**

25 **A.** Yes. I agree with Mr. Watkins' rationale that "[a]s a *fundamental* matter [the Act]
26 contemplates that the terms and conditions of non-access interconnection
27 arrangements between carriers should be the subject of a request, negotiation, and
28 the establishment of terms and conditions in a contract that governs that

1 relationship.” I also agree that the FCC’s *T-Mobile Order* cited in my Direct **000654**
2 Testimony makes it clear that the FCC does not sanction the filing of tariffs to
3 implement a carrier’s interconnection obligations. (See Watkins page 16, line 16
4 through page 17, line 16 (emphasis added) and *cf.* Pruitt Direct Testimony page
5 25, line 18 through 27, line 10; page 18, lines 8-23; Pruitt Rebuttal Testimony
6 page 5 line 4 through page 6 line 5).

7 **Q. Do you disagree with any of Mr. Watkins’ rationale for his conclusion that a**
8 **tariff is not an appropriate mechanism to be used in this case?**

9 A. Yes. Absent further clarification regarding what Mr. Watkins may have otherwise
10 intended, I disagree with several statements he has made as part of his supporting
11 rationale to conclude a tariff is not appropriate in this case.

12 **Q. What is the first statement that you wish to address regarding Mr. Watkins’**
13 **rationale for concluding a tariff is not appropriate in this case?**

14 A. At page 17, lines 21 – 22 of his Direct Testimony, Mr. Watkins states that “proper
15 arrangements should be put in place which address the rights and responsibilities
16 of *all the parties*” (emphasis added), and ultimately goes on to further respond to
17 a question that asks “[w]hat are some of the terms and conditions that must be
18 addressed in a *multi-party arrangement?*” (emphasis added) (Watkins page 18,
19 line 14 through page 21, line 13).

20 I agree with Mr. Watkins that “proper arrangements should be put in place
21 which address the rights and responsibilities” *between BellSouth and a Small LEC*
22 that uses BellSouth’s transit service. And, as I have previously testified, it is

1 incumbent upon the Small LECs or BellSouth to initiate 251/252 negotiations to 000655
2 establish such rights and responsibilities between the Small LECs and BellSouth
3 regarding the Small LECs' use of the BellSouth transit service to deliver traffic
4 originated on the Small LEC network to a third-party. But, it is unclear to me
5 from Mr. Watkins' testimony if his use of the phrase "*all the parties*" or "*multi-*
6 *party arrangements*" is intended to suggest that whenever BellSouth's transit
7 service is used the "proper arrangements" must be between all of the parties via
8 the establishment of a 3-way interconnection contract between the Small LEC,
9 BellSouth, and the third-party CLEC/CMRS carrier. If this is Mr. Watkins' intent
10 (as it was in the Tennessee CMRS-RLEC case), then I disagree with Mr. Watkins.
11 The TRA expressly rejected the RLEC concept of a mandatory 3-party
12 interconnection agreement in the *CELLCO Arbitration Order*, ISSUE 4, pages 25-
13 27. The TRA found that nothing in the Act, FCC Rules or any FCC Order
14 requires 3-party interconnection agreements, and the FCC actually discourages 3-
15 party interconnection agreements. Thus, an originating carrier is required to
16 negotiate an interconnection agreement with the transit provider, while the
17 originating and terminating carriers negotiate a separate interconnection
18 agreement that establishes the terms for traffic exchanged between their networks,
19 including traffic transited indirectly.

20 **Q. Is there another statement that you wish to address regarding Mr. Watkins'**
21 **rationale for concluding a tariff is not appropriate in this case?**

1 A. Yes. Mr. Watkins makes a further statement to the effect that the Small LECs 000656
2 need meaningful options “other than being forced into involuntary arrangements
3 at the demands of CLECs, CMRS providers, and BellSouth” (Watkins page 17
4 line 23 through page 18 line 2). I am not aware how either Sprint Nextel or T-
5 Mobile has the ability to force a Small LEC into undefined “involuntary
6 arrangements” or “demands” regarding the same. It is my understanding that
7 Sprint Nextel and T-Mobile have met their obligations to negotiate a 251/252
8 interconnection agreement with BellSouth as the transit provider. I further
9 understand that in accordance with their respective practices, as well as per the
10 FCC’s *T-Mobile Order* and 47 C.F.R. §20.11, they will likewise negotiate a
11 251/252 agreement with any Small LEC that requests such negotiations, and they
12 have.

13 **Q. Is there any other statement that you wish to address regarding Mr.**
14 **Watkins’ rationale for concluding a tariff is not appropriate in this case?**

15 A. Yes. Mr. Watkins’ rationale also included a statement to the effect that that the
16 transit services provided by BellSouth to the CLEC/CMRS providers impose
17 “additional and extraordinary costs on the Small LECs who were never part of
18 any negotiation” (*id.* page 18, lines 5-6).

19 Regarding the imposition of any “additional” costs to a Small LEC when
20 traffic is exchanged in today’s environment, Mr. Watkins’ simply ignores the
21 changes that are being implemented as a result of the Act. All LECs, including
22 Small LECS, are now prohibited from “assess[ing] charges on any other

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1 telecommunications carrier for telecommunications traffic that originates on the
2 LEC's network" (47 C.F.R. 51.703(b)). It is based on this rule that the Small
3 LECs are responsible for the cost associated with the delivery of their traffic to a
4 terminating network.

5 **Q. Do you agree with Mr. Watkins' characterization that the imposition of**
6 **transit costs upon Small LECS would somehow constitute "extraordinary**
7 **costs"?**

8 A. No. To the contrary and for several reasons, a transit cost should be regarded as
9 an "ordinary" cost of doing business that applies objectively to all carriers in a
10 competitive environment. First, to the extent a Small LEC uses BellSouth's
11 tandem switches to deliver its traffic to other telecommunications carriers also
12 connected to the BellSouth tandem switches, it is a matter of competitive fairness
13 that the Small LEC is expected to incur the same cost that any other carrier incurs
14 to use the same functions. Second, BellSouth certainly does not have to provide
15 the service for free and, it would be discriminatory on its face for BellSouth to
16 permit the Small LECs to utilize BellSouth's network without charge while
17 charging CLEC or CMRS carriers not only for their own use of the BellSouth
18 network *but also the Small LECs' use of the BellSouth network*. Third, a transit
19 cost arises from, and is equally applicable to, the Small LECs as part of the very
20 rights that the Act grants CLECs and CMRS providers with respect to the
21 exchange of traffic with Small LECs, i.e.:

- 1 1) Under 47 U.S.C. § 251(a) the Small LECs are required to provide the type of 000658
2 interconnection, i.e. direct or indirect, for the exchange of traffic as requested by
3 the CLEC/CMRS provider;
- 4 2) the Small LECs and CLECs or CMRS providers such as Sprint Nextel and T-
5 Mobile are respectively compensated for the termination of traffic on their
6 networks on a reciprocal, symmetrical basis as provided under 47 U.S.C. §
7 251(b)(5);
- 8 3) the originating party pays all costs associated with delivering its traffic to the
9 terminating network as provided by 47 C.F.R. § 51.703(b) and the decisions
10 implementing that rule; and
- 11 4) the Small LECs are required to treat calls from their customers to the customers
12 of Sprint Nextel and T-Mobile according to the LEC's dialing parity obligations
13 under 47 U.S.C. § 251(b)(3) and 47 C.F.R. § 51.207.

14 **Q. Do you agree with Mr. Watkins' inference that the Small LECs should have**
15 **been involved in any prior interconnection agreement negotiations between**
16 **BellSouth and either Sprint Nextel or T-Mobile with respect to BellSouth's**
17 **transit service?**

18 A. No. With respect to the past negotiations between Sprint Spectrum and BellSouth,
19 I negotiated the interconnection agreement in question. No Small LEC was
20 involved in such negotiations because, as also recognized by the TRA (*CELLCO*
21 *Arbitration Order* pages 25-26), both the Act and the FCC contemplate a bi-
22 lateral rather than a 3-party interconnection agreement. Further, to the extent

1 BellSouth agreed to deliver indirect traffic to Sprint Nextel, T-Mobile, or any 000659
2 other carrier for that matter, the very existence of such traffic was dependent upon
3 the originator of the traffic (e.g. a Small LEC) choosing to route its traffic in such
4 a manner that it transits BellSouth's network. As a two-party bi-lateral agreement
5 with Bellsouth, both the Sprint Nextel and T-Mobile interconnection agreements
6 simply cannot, and do not, impose any obligations upon any carrier other than the
7 parties to the interconnection agreement.

8 **Q. Are there any additional statements that you wish to address regarding Mr.**
9 **Watkins' rationale for concluding a tariff is not appropriate in this case?**

10 Mr. Watkins also supports his rationale with a statement that the very
11 *BellSouth* tariff that *CLECs and CMRS carriers, including Sprint Nextel and T-*
12 *Mobile, oppose* "would allow BellSouth, CLECs and CMRS providers to impose
13 involuntary terms and effectively 'trap' the Small LECs into the tariffed service
14 arrangement" (Watkins page 18, lines 12-13). The foregoing implies an intent on
15 the part of CLECs and CMRS providers that, at least as to Sprint Nextel and T-
16 Mobile, simply does not exist and it is not an accurate conclusion. To the
17 contrary, Sprint Nextel and T-Mobile believe that interconnection carried out
18 within the confines of the Act and supporting FCC rules eliminate these very
19 concerns.

20 **BENEFITS OF TRANSITING TO SMALL LECs**

21 **Q. Regarding the existing BellSouth arrangements for transiting traffic between**
22 **the Small LECs and the CLECs and CMRS providers, Mr. Watkins states in**

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1 **his Direct Testimony that “[t]he CLECs and CMRS providers have been the**
2 **direct beneficiaries of these arrangements” (Watkins page 6, lines 5-6). What**
3 **is your response?**

4 A. I agree that the CLECs and the CMRS providers have benefited from the
5 transiting arrangements with BellSouth but only to the same extent that the Small
6 LECs have benefited. The transiting arrangements have proven to be an effective
7 means of exchanging traffic with other telecommunications carriers when the
8 level of traffic does not economically justify a direct connection. However,
9 BellSouth’s delivery of CLEC and CMRS traffic to a terminating Small LEC
10 network is only half the equation. When used by the Small LEC, the very same
11 arrangements provide the exact same benefits to the Small LECs to enable traffic
12 to mutually flow in both directions between the parties respective subscribers.

13 **ECONOMIC IMPACT UPON SMALL LECS**
14 **OF IMPLEMENTING CPNP REQUIREMENTS UNDER FCC RULES**

15 **Q. In his Direct Testimony Mr. Watkins characterizes BellSouth’s efforts to**
16 **charge the Small LECs transit as a “new treatment [that] will impose a new**
17 **cost to be imposed on the Small LECs that the Small LECs and the**
18 **Commission never contemplated when the CLECs and CMRS providers**
19 **established their arrangements with BellSouth” (Watkins page 8, lines 10-**
20 **13). What is your response?**

21 A. The 1996 Act and the subsequent FCC rules to implement the Act unquestionably
22 changed the dynamics of intercarrier relationships. The resulting changes to the

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1 then-existing relationships were not, however, immediately implemented due to
2 system and network limitations.

3 Historically, when CMRS providers used BellSouth as a transit provider
4 for termination of wireless-originated traffic to the Small LECs, due to the
5 limitations of BellSouth's billing system, the Small LECs were actually paid
6 terminating access by BellSouth for wireless intraMTA telecommunications
7 traffic despite the inapplicability of the access regime to intraMTA wireless
8 traffic. BellSouth, in turn, charged the CMRS providers an amount intended to
9 recoup the access charges that BellSouth paid the Small LECs. Because the Act
10 clearly provides that such traffic is non-access traffic subject to Section 251(b)(5)
11 reciprocal compensation instead of access charges, the wireless carriers pursued
12 negotiations with BellSouth that gave rise to the current "meet-point" billing
13 arrangements that resulted in BellSouth's ability to provide a terminating carrier
14 industry standard 110101 records to identify originating CMRS provider traffic.
15 Once this was accomplished, there was no basis for BellSouth to bill CMRS
16 providers for anything other than a transit charge for the transit functions provided
17 by BellSouth to indirectly deliver CMRS originated traffic to a terminating
18 carrier, including the Small LECs. Likewise, there was no basis under the Act for
19 the Small LECs to bill, or BellSouth to pay the Small LECs, for the termination of
20 intraMTA wireless traffic at all, much less at access rates.

21 It is unknown as to why BellSouth has taken so long to pursue the Small
22 LECs to collect transit charges associated with Small LEC-originated transit

1 traffic. What is clear from Mr. Watkins Direct Testimony, however, is that the 00662
2 Small LECs were apparently perfectly content as long as they could reap
3 inappropriate terminating access charges with respect to indirectly delivered
4 intraMTA wireless traffic and utilize BellSouth's transit service for free. (See
5 Watkins page 8, lines 14-22 claiming that "[i]t was not until recently, with
6 BellSouth's filing of pending tariff terms, that the issue of potential charges to the
7 Small LECs has arisen.") Nevertheless, any delay by BellSouth does not alter
8 what is required under the Act and its implementing rules. Neither the Act nor the
9 rules regarding who pays transit are "new", as demonstrated by the authorities I
10 rely upon in my Direct Testimony and this Rebuttal Testimony. Various
11 Commissions considering the same issue of "who pays transit" are coming to the
12 same conclusion, i.e., it is the originating carrier that pays the transit.

13 **Q. To the extent that the Small LECs incur costs by complying with federal law**
14 **that requires them to pay any transit charges associated with the Small**
15 **LECs' originated traffic, how should the Small LECs recover their costs?**

16 A. I agree with the Small LECs' witness, Mr. Watkins, when he states on page 50 of
17 his Direct Testimony that this might entitle the Small LECs to increase local rates.

18 **SMALL LECs' REFUSAL TO ACKNOWLEDGE THE APPLICABILITY OF**
19 **THE ACT'S RECIPROCAL COMPENSATION PROVISIONS**
20 **TO INDIRECT INTERCONNECTION**

21 **Q. Mr. Watkins states throughout his Direct Testimony that a Small LEC is not**
22 **obligated to either pay for transit service, or honor a CLEC or CMRS**
23 **provider's request for interconnection that contemplates a point of**

1 interconnection beyond the Small LECs' network because the Act and its 000663
2 implementing rules do not require such action by a Small LEC. *See e.g.*
3 Watkins page 4, lines 9-14 (no obligation to pay for transit service to deliver
4 traffic beyond technically feasible interconnection point on Small LEC
5 network to accommodate CLEC/CMRS request for such interconnection).

6 **What is your response?**

7 A. Read in the context of all of Mr. Watkins' testimony, it is clear that the Small
8 LECs' position is that they are only required to enter into interconnection
9 agreements that include the payment of reciprocal compensation when the CLECs
10 and CMRS providers request direct interconnection (i.e., the establishment of
11 dedicated interconnection facilities between the parties' respective networks). Mr.
12 Watkins' testimony suggests that the Small LECs do not agree that they have any
13 obligation to enter into reciprocal compensation arrangements for traffic that is
14 delivered on an indirect basis. I disagree with Mr. Watkins on his basic premises,
15 that 1) the Small LECs have no obligation to pay for their costs for delivery of
16 their originated traffic outside their network, and 2) that a CMRS provider must
17 interconnect at a technically feasible point on the Small LEC network.

18 **Q. Do the Small LECs have a duty to establish reciprocal compensation**
19 **arrangements with wireless carriers?**

20 A. Yes. Within the Section 251(b) second tier of interconnection obligations that I
21 referred to in my Direct Testimony (Pruitt page 6, lines 15-18), subsection

1 251(b)(5) provides a “duty to establish reciprocal compensation arrangements for 000664
2 the transport and termination of telecommunications.”

3 **Q. Has Congress defined the term, “reciprocal compensation”?**

4 A. Yes. Reciprocal compensation is defined in Section 252(d)(2)(A)(i) of the Act as
5 an arrangement “provid[ing] for the mutual and reciprocal recovery by each
6 carrier of costs associated with the transport and termination on each carrier’s
7 network facilities of calls that originate on the network facilities of the other
8 carrier.”

9 **Q. Has the FCC adopted rules that define and implement the scope of a LEC’s**
10 **reciprocal compensation obligation with respect to traffic exchanged with a**
11 **CMRS provider?**

12 A. Yes. FCC Rule 51.701(b)(2) defines the geographic scope of the Petitioners’
13 reciprocal compensation obligation to Sprint Nextel and T-Mobile to include
14 “[t]elecommunications traffic exchanged between a LEC and a CMRS provider
15 that, at the beginning of the call, originates and terminates within the same Major
16 Trading Area, as defined in Sec. 24.202(a) of this chapter.” Rule 51.701(b) (2) is
17 commonly referred as the “intraMTA rule.”

18 **POINT OF INTERCONNECTION BEYOND THE SMALL LEC NETWORK**
19 **FOR THE DELIVERY OF SMALL LEC ORIGINATED TRAFFIC**

20 **Q. Do you agree with Mr. Watkins that a CMRS provider is required to**
21 **interconnect at a technically feasible point in the incumbent LEC network**
22 **before the Small LEC has any reciprocal compensation obligations?**

1 A. No. The FCC's First Report and Order and FCC rules clearly provide the 000665
2 framework for indirect interconnection, i.e. the exchange of traffic without the use
3 of dedicated facilities installed between the originating and terminating parties'
4 networks. The fact that a CMRS provider is not directly connected to a Small
5 LEC does not mean that a 251(b) (5) obligation does not exist between the two
6 parties. Thus, the issue is not whether the parties are directly interconnected, but
7 whether or not the Small LECs have a duty to interconnect on an indirect basis for
8 the mutual exchange of intraMTA telecommunications traffic as defined in 47
9 C.F.R. 51.701(b)(2). The plain language of section 251(b)(5) simply states the
10 LEC has a duty "to establish reciprocal compensation arrangements for the
11 transport and termination of telecommunications." There is no dispute that
12 intraMTA traffic exchanged between a CMRS provider and the Small LECs is
13 telecommunications traffic, and there simply is no restriction in the Act that limits
14 the duty to establish reciprocal compensation arrangements based upon whether
15 the parties' telecommunications traffic is delivered via a direct or indirect
16 interconnection. *See CELLCO Arbitration Order* pages 13-18 (a rural LEC has an
17 obligation to interconnect directly or indirectly, and the reciprocal compensation
18 obligations of 251(b) (5) apply to traffic exchanged indirectly by a CMRS
19 provider and a rural LEC).

20 **Q. Mr. Watkins appears to contend in his Direct Testimony that since Section**
21 **51.701(c) of the Subpart H Rules defines "transport" in the context of a**
22 **transmission "from the interconnection point between the two carriers" then**

1 **a Small LEC is only responsible for costs associated with the exchange of 000666**
2 **traffic when such an interconnection point is established within the Small**
3 **LECs' network (See Watkins page 24 line 18 through page 29 line 11). What**
4 **is your response?**

5 A. Mr. Watkins is attempting to interpret the rules so that a LEC is never responsible
6 for any cost to deliver its traffic in the context of an indirect interconnection. In
7 the *CELLCO Arbitration Order* the TRA fully considered and flatly rejected Mr.
8 Watkins assertion that the definition of transport does not contemplate an indirect
9 network architecture that is subject to reciprocal compensation, and disagreed
10 with the Small LEC's specific interpretation of 47 C.F.R. § 51.701(c) by finding
11 "“from the interconnection point between the two carriers' ... just as easily
12 applies to the present situation where the parties interconnect through BellSouth
13 and the interconnection point between the two carriers is BellSouth.” *CELLCO*
14 *Arbitration Order* page 17.

15 47 C.F.R. §51.701(c) and (d) provide the basic framework for the
16 components to be considered in the development of reciprocal compensation
17 rates. The essential components required to complete a normal voice call in most
18 LEC networks today are tandem switches, transport to terminating interconnected
19 carriers, and terminating end office or equivalent facility switches. Reciprocal
20 compensation rates are designed to recover the forward looking incremental costs
21 associated with the terminating LEC's components which are to be billed on a
22 reciprocal and symmetrical basis between the originating and terminating carriers.

1 **Q. Are the same network components identified in 47 C.F.R. § 51.701(c)**⁰⁰⁰⁶⁶⁷
2 **Transport and (d) Termination used in a call exchanged between the Small**
3 **LECs and the CMRS providers when the parties are indirectly**
4 **interconnected via the BellSouth network?**

5 A. Yes. For an intraMTA call exchanged utilizing the BellSouth network, the
6 involved components are 1) the BellSouth tandem switch, 2) the transmission
7 facilities between the BellSouth tandem and the Small LEC switch, and 3) the
8 Small LEC end office switch. Clearly, the components of the network defined by
9 the rules are part of the network components discussed in this proceeding. The
10 fact that an interconnection is “indirect” does not mean there is no transport and
11 termination.

12 **SMALL LECS ARE RESPONSIBLE FOR DELIVERING TRAFFIC**
13 **BEYOND THEIR EXCHANGE BOUNDARY NETWORK**
14

15 **Q. Mr. Watkins states in his Direct Testimony that “an incumbent LEC has no**
16 **responsibility to deliver local traffic to an interconnection point that is**
17 **neither on its network or to a point where the incumbent LEC is not an**
18 **incumbent” (e.g. Watkins page 30, lines 18-20). What is your response?**

19 A. I disagree. This is yet another rural argument that was carefully considered and
20 flatly rejected by the TRA in the *CELLCO Arbitration Order*:

21 The ICO members currently have established points of
22 interconnection (“POI”) with BellSouth at the furthest points
23 within the ICO members’ serving areas. As part of this
24 arrangement, the ICO members have opted, at this time, not to
25 utilize their own tandem switching, but instead to use a BellSouth
26 tandem switch that is located outside their serving areas. Because
27 the ICOs have opted to utilize the BellSouth tandem as opposed to

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1 their own tandem to handle the exchange of traffic between an ICO
2 and a CMRS provider, the ICO members *have in fact extended*
3 *their networks past the existing POI to the tandem switch*. Thus,
4 the Coalition's assertion that the Authority cannot require an ICO
5 to take financial responsibility for transport of CMRS traffic to the
6 tandem switch must be rejected. As the networks exist, utilizing
7 BellSouth's tandem, the ICO members have an obligation for the
8 cost associated with utilizing the trunking facilities.

9 *CELLCO Arbitration Order*, page 29. (emphasis added).

10 **Q. Mr. Watkins suggests that the Florida Commission has previously**
11 **“embraced the concept that the interconnection point for the exchange of**
12 **traffic ‘would be at any technically feasible point within the ILEC’s**
13 **network” and “cit[ed] Sprint’s comments about technically feasible point on**
14 **the incumbent LEC’s network” (Watkins page 27, lines 16-22). What is your**
15 **response?**

16 **A.** Review of the decision cited by Mr. Watkins reveals that it identifies CLECs and
17 LECs as the participants. Additionally, the portion of the decision referred to by
18 Mr. Watkins pertains to a CLEC's right, within the context of a direct
19 interconnection, to select a single technically feasible point on a LEC's network
20 to interconnect for an entire LATA. Accordingly, the decision has no bearing in
21 this Docket which speaks to the central issue being addressed throughout
22 BellSouth territory, i.e. in the context of an indirect interconnection, is a Small
23 LEC obligated under the Act and implementing rules to pay for its use of another
24 carrier's network to deliver the Small LEC's originated traffic to a terminating
25 network? In two states that have addressed this issue, Georgia and Tennessee, the
26 answer is clearly “yes,” and federal law compels the same result in Florida.

1 **SMALL LEC PROPOSAL FOR TRAFFIC**
2 **THRESHOLD TO DICTATE A DIRECT CONNECTION**

3 **Q. Mr. Watkins states in his Direct Testimony that “a reasonable level of traffic**
4 **for a threshold would be the amount of traffic that constitutes one T-1**
5 **amount of traffic usage” (Watkins page 41, lines 5-9), and that an agreement**
6 **with BellSouth should “set forth terms under which tandem transit**
7 **arrangements would not be available to carriers (e.g., above some potential**
8 **threshold of traffic)” (id., page 20, lines 21-22). What is your response?**

9 **A. I disagree, and the Commission should not establish such a mandatory threshold.**
10 Originating carriers should be permitted to determine when direct end office
11 trunks (“DEOTs”) are justified based on the economics of route-specific distance
12 and usage characteristics. As I stated in my Direct Testimony, “[t]he
13 determination of what is the best business decision for the originating carrier
14 should be solely left to the originating carrier.” From a practical perspective,
15 because the distance between the tandem and end office varies and transport costs
16 are mileage sensitive, a fixed usage threshold, as proposed by Mr. Watkins, would
17 require telecommunications carriers routing traffic on an indirect basis to establish
18 DEOTs without regard to the specific cost variations associated with distance-
19 sensitive transport costs. Carriers should be permitted to make efficient, economic
20 trunk decisions on a route-by-route basis.

21 **Q. Has this issue been addressed by the FCC?**

22 **A. Yes. In *Petition of WorldCom, Inc. Pursuant to Section 252(e) (5) of the***
23 ***Communications Act for preemption of the Jurisdiction of the Virginia State***

1 *Corporation Commission Regarding Interconnection Disputes with Verizon*
2 *Virginia, Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218, 00-249,
3 and 00-251, Memorandum Opinion and Order, 17 FCC Rcd 27039, paragraph 88
4 (2002), the FCC rejected the establishment of a DEOT threshold in an
5 interconnection arbitration order. The FCC stated:

6 [w]e reject Verizon's proposed language to AT&T and Cox
7 requiring the establishment of direct end office trunks when traffic
8 to a particular Verizon end office exceeds a DS-1 level. It appears
9 that competitive LECS already have an incentive to move traffic
10 off of tandem interconnection trunks onto direct end office trunks,
11 as their traffic to a particular end office increases. Indeed, it would
12 appear that, just like Verizon does, competitive LECs have the
13 incentive to move their traffic onto direct end office trunks when it
14 will be more cost-effective than routing traffic through the Verizon
15 tandems. The record indicates that competitive LECS already
16 move their traffic onto direct end office trunks as their traffic
17 volumes increase.

18 Not only would a threshold be contrary to FCC precedent, there is simply
19 no reason to require one. If, for example, a Small LEC is originating a sufficient
20 volume of traffic that it believes warrants a direct interconnection,
21 notwithstanding a differing view of Sprint Nextel or T-Mobile, under the *T-*
22 *Mobile Order* the Small LEC can always request negotiation of a 1-way direct
23 facility to be paid by the originating Small LEC for the delivery of the Small
24 LEC's traffic. Imposing a mandatory threshold where Sprint Nextel or T-Mobile
25 does not choose to install one, however, is akin to dictating when a Small LEC
26 must subtend BellSouth. As Mr. Watkins states in his Direct Testimony,
27 "BellSouth has no more right to dictate to the Small LECs end office/tandem
28 subtending arrangements than the Small LECS have such right to dictate such

1 network decisions to BellSouth” (Watkins p. 11, lines 20-23). The same is equally
2 applicable with respect to dictating network arrangements between a Small LEC
3 and Sprint Nextel or T-Mobile.

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4 **BELLSOUTH CAN COMMINGLE TRAFFIC ON A COMMON TRUNK**

5 **Q. Mr. Watkins asserts in his Direct Testimony that “BellSouth has no**
6 **automatic right to commingle third party traffic with BellSouth’s access or**
7 **local traffic” (Watkins page 40, lines 13-14). What is your response?**

8 **A.** I am not aware of anything under the Act that prohibits BellSouth from
9 commingling the transit traffic originated by multiple third-parties over the same
10 trunk group for delivery to a Small LEC network. There is no technological
11 reason to prevent commingling, it is a common industry practice, and promotes
12 economic efficiency. Indeed, being able to commingle traffic is one, if not the,
13 essential function that a historical Feature Group C trunk (over which transit
14 traffic is typically delivered) was designed to perform. Further, requiring the
15 establishment of separate and distinct trunks to run “through” the BellSouth
16 network is the functional equivalent to mandating direct interconnection between
17 a third party and a terminating Small LEC network, which is contrary to an
18 interconnecting carrier’s right under the Act to choose whether or not to directly
19 interconnect with a Small LEC network. A common pipe also works efficiently in
20 the opposite direction, allowing the Small LEC to bundle its outbound traffic on a
21 single facility, gaining economies of scale. As long as Bellsouth can properly time
22 the calls, and supplies a terminating carrier, upon request, industry standard

1 110101 records that enable the terminating carrier to rate and bill such calls. 000672
2 BellSouth should be permitted to continue this practice. (*See CELLCO*
3 *Arbitration Order* page 32-34.)

4 **SMALL LEC PROPOSAL TO INCLUDE ENFORCEMENT ACTIONS**
5 **AGREEMENTS BETWEEN BELLSOUTH AND A SMALL LEC**
6

7 **Q. Mr. Watkins suggests that an agreement between a Small LEC and**
8 **BellSouth should have terms that “requires the tandem operator to take**
9 **enforcement actions against other carriers with which the tandem provider**
10 **has a transit traffic arrangement in the event of default or non-payment by**
11 **such carrier (again, for components of traffic that are subject to reciprocal**
12 **compensation” (Watkins page 21, lines 1-4). What is your response?**

13 **A.** I previously testified in this Rebuttal Testimony that, as a two party bi-lateral
14 agreement with BellSouth the respective Sprint Nextel and T-Mobile agreements
15 simply cannot, and do not, impose any obligation upon any carrier other than the
16 parties to the interconnection agreement. For the same reasons, there is no basis
17 for an interconnection agreement between BellSouth and a Small LEC to include
18 any terms dealing with the “enforcement” of the relationship between Sprint
19 Nextel or T-Mobile and a Small LEC. Any issues associated with default or non-
20 payment must be covered by terms within the respective interconnection
21 agreement between a Small LEC and Sprint Nextel or T-Mobile that has been
22 negotiated or arbitrated pursuant to the Act and the FCC rules.

23 **COMMISSION ACTION**

24 **Q. What action do you believe the Commission should take in this Docket?**

1 A. The Commission should enter an Order that holds:

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2 1) BellSouth's Transit Traffic Service Tariff is invalid under federal law, and
3 withdraws approval of such tariff;

4 2) To the extent any carrier, including a Small LEC, utilizes BellSouth's Transit
5 Traffic Service and BellSouth wants to be paid, then BellSouth needs to issue a
6 request for negotiation to such LECs to negotiate and, if necessary arbitrate, a
7 251/252 interconnection agreement between the two parties;

8 3) Under the FCC's Calling Party Network Pays ("CPNP") rule, the party that
9 originates transit traffic is responsible for compensating the transiting party for
10 providing the transit service;

11 4) An incumbent LEC's transit service is an interconnection service subject to the
12 negotiation and arbitration provisions of 251/252, including the TELRIC pricing
13 standards, and the Commission should make a determination of what BellSouth
14 can charge as its Florida TELRIC transit rate;

15 5) BellSouth may combine traffic over the same trunk provided a) the calls can be
16 properly timed, and b) BellSouth supplies to a terminating carrier upon request
17 industry standard 110101 records that enable the terminating carrier to rate and
18 bill such calls;

19 6) It is a matter of a carrier's network management business judgment, as well as
20 its right under the Act, to decide when to directly interconnect with a Small LEC
21 and therefore, it is inappropriate to mandate direct interconnection based upon a
22 specific threshold of any kind;

1 7) Whether intraMTA traffic is directly or indirectly exchanged between CMRS 000674
2 providers and Small LECs, such traffic is non-access telecommunications traffic
3 subject to mutual, reciprocal compensation under 47 U.S.C. § 251 (b) (5); and,
4 8) A Small LEC is required to provide dialing parity to directly and indirectly
5 interconnected carriers. This means the Small LEC will program its switches to
6 enable its end-users to dial a CMRS NPA-NXX associated in the Local Exchange
7 Routing Guide (“LERG”) with the exchange of the Small LEC, or with another
8 incumbent LEC with whom local dialing exists (e.g. non-toll, 7 or 10 digit
9 dialing), in the same manner the Small LEC end-user would dial another wireline
10 end-user of the Small LEC or other incumbent LEC with whom local dialing
11 exists.

12 **Q. Does this conclude your Rebuttal Testimony?**

13 A. Yes, it does.

1 BY MR. SELF:

2 Q Mr. Pruitt, do you have a summary of your testimony?

3 A Yes, I do. Thank you.

4 Good afternoon, Madam Chair and Commissioners. I
5 appreciate the opportunity to discuss these issues with you
6 today. I have a few key items that I would like to present to
7 you this afternoon.

8 One of the issues being presented in this docket is
9 whether or not transit service is an interconnection service
10 under the Act. It is the position of Sprint Nextel and
11 T-Mobile that the Act provides a specific statutory framework
12 under which Congress granted telecom carriers the right to
13 efficiently interconnect their networks directly or indirectly
14 to exchange traffic in a competitive pro-consumer environment.

15 Section 251(a)(1) of the Act specifically requires
16 all telecommunications carriers to interconnect with other
17 carriers on a direct or indirect basis. There, there appears
18 to be no disagreement among the parties that transiting service
19 is essential to a connecting carrier's right to indirectly
20 interconnect and exchange traffic with other carriers that are
21 interconnected with BellSouth.

22 Section 252(c)(2)(a) of the Act requires an incumbent
23 LEC to provide interconnection with a LEC network for
24 transmission and routing of telephone exchange service and
25 exchange access service. Transiting certainly provides for the

1 transmission and routing of indirect traffic. There are no
2 exclusions in this section that would limit its application or
3 exclude transit traffic. Transit service is, therefore, an
4 interconnection service.

5 Section 251(c)(2)(c) requires that an incumbent LEC
6 must provide interconnection that is at least equal in quality
7 to that provided by the local exchange carrier to itself or to
8 any subsidiary affiliate or any other party to which the
9 carrier provides interconnection. BellSouth is clearly
10 providing its end-user customers the ability to call and
11 receive calls from telecommunications carriers connected to the
12 BellSouth tandem. Sprint Nextel and T-Mobile simply expect to
13 receive the same interconnection to other telecommunications
14 carriers that BellSouth is providing itself.

15 Section 252(c)(2)(d) unambiguously requires that the
16 rates, terms and conditions under which interconnection is
17 provided be just, reasonable and nondiscriminatory in
18 accordance with the requirements of Section 252.

19 Section 252(d)(1) requires that prices for
20 interconnection services shall be priced, one, based on the
21 cost determined without reference to a rate of return or other
22 rate-based proceeding of providing the interconnection, and,
23 two, must be nondiscriminatory and may include a reasonable
24 profit. This is the TELRIC standard.

25 Clearly, these statutes make transit service and

1 interconnection service whose rates must be determined
2 according to the TELRIC standard.

3 As stated in my testimony, a number of state
4 commissions have come to the same conclusion that transiting
5 service is an interconnection obligation. In addition, the FCC
6 has recognized the vital role of transit service in its current
7 intercarrier compensation proceedings.

8 I would like to make three final points. First, the
9 FCC's T-Mobile order requires that interconnection and the
10 associated rates, terms and conditions be established through
11 the Act's negotiation and arbitration process rather than
12 through tariffs. BellSouth's use of a tariff to establish
13 rates for transit service is, therefore, inappropriate.

14 Second, pursuant to federal law, an originating
15 carrier is responsible for all costs, including transit costs,
16 associated with delivering traffic originated on its network to
17 the terminating carrier's network. There is nothing in the law
18 that limits an originating carrier's cost responsibility to
19 costs within their service area as suggested by the rural LECs
20 in this proceeding.

21 Finally, I would like to reinforce the concept that
22 under no circumstances should a carrier be allowed to block
23 traffic to or block traffic being received from another
24 telecommunications carrier as some parties may suggest. The
25 blocking of traffic is an inappropriate remedy to solve

1 exchange of traffic issues between two carriers, and ultimately
2 this would be extremely detrimental to the consumers of
3 Florida.

4 I believe that a Commission ruling that supports
5 transit as an interconnection service priced at TELRIC is
6 compliant with the Act. But just as importantly, such a ruling
7 would spur competition and ensure that Florida consumers,
8 particularly rural Florida consumers, would continue to be
9 provided quality service in today's competitive environment.
10 That concludes my summary. Thank you.

11 MR. SELF: Thank you, Mr. Pruitt.

12 Madam Chairman, the witness is available for cross.

13 CHAIRMAN EDGAR: Thank you. Mr. Tyler.

14 MR. TYLER: Thank you, Madam Chair.

15 CROSS EXAMINATION

16 BY MR. TYLER:

17 Q Good afternoon, Mr. Tyler. I'm John Tyler.

18 A Good afternoon, Mr. Tyler.

19 Q You'll remember that I took your deposition on the
20 13th of this month?

21 A Yes, I do.

22 Q And you've worked in the telecommunications industry
23 for 37 or 38 years; is that correct?

24 A I hate to admit that, but, yes.

25 Q And you agree with the telecommunications industry

1 concept that the cost causer pays for the costs that it causes;
2 is that right?

3 A Yes, I do.

4 Q And in a transit traffic situation, which party would
5 you say is the cost causer?

6 A The originating party.

7 Q And certainly not the intermediary transiting party;
8 correct?

9 A That is correct.

10 Q Do you believe that like every other carrier, small
11 LECs should be held to the same standard?

12 A Yes, I do.

13 Q Are you aware of any law, regulation or rule whereby
14 an originating party is not responsible for the cost it creates
15 associated with sending a call across a transit service
16 provider's network for termination when that call is sent for
17 termination past the party's exchange boundary?

18 A No, I am not.

19 Q Do you agree that EMI 110101 records are commonly
20 used throughout the industry for billing purposes?

21 A I am no expert on those records, but, yes, I agree
22 that 110101 records are commonly used.

23 Q And these records provide the small LECs with
24 information that they can use to bill originating carriers for
25 traffic that terminates on the small LEC networks; is that

1 right?

2 A Yes, I believe so.

3 Q Would you agree with me that when BellSouth sends
4 various types of traffic over a single trunk, it's making a
5 more efficient use of its network than if it sent only one type
6 of traffic over several separate trunks?

7 A Yes, I would agree. It's common in the industry to
8 try to implement the most efficient trunking scenario possible.

9 Q Now, sir, is it your contention that Section 251 of
10 the Telecommunications Act requires a carrier to provide a
11 transit service?

12 A Section 251 does not require a carrier to provide a
13 transiting service. However, when a transiting service is
14 provided, it is defined as an interconnection service pursuant
15 to 251.

16 Q And would you agree with me that the word "transit,"
17 T-R-A-N-S-I-T, does not appear anywhere in Section 251?

18 A Yes, I would agree that the word "transit" itself
19 does not appear in 251. But certainly 251(a)(1) specifically
20 calls for direct and indirect interconnection, and indirect
21 interconnection is dependent on a transit service such as that
22 service provided by BellSouth.

23 Q And do you realize that the Florida Public Service
24 Commission has held in the past that carriers are not obligated
25 to provide transit services?

1 A I understand that in some arbitration proceedings
2 between two carriers that the Commission has so ruled. But I
3 would hope that a proceeding like this where it is a general
4 proceeding would bring out more clarification on what the Act
5 and the rules say too, and I would hope that the Commission
6 would, would rule that a transit service is an interconnection
7 service.

8 Q And, Mr. Pruitt, are you aware of any FCC order
9 explicitly stating that transiting is a Section 251
10 obligation?

11 A I'm not -- no, I'm not aware of a specific order.
12 However, the FCC has commented that transit service is
13 essential for the provision of indirect interconnection, and it
14 so stated that in its inter, in some of its intercarrier
15 compensation form statements.

16 Q So your answer was no, sir?

17 A Yes.

18 Q And if transiting is not a Section 251 obligation,
19 wouldn't it logically following that TELRIC pricing for
20 transiting would not be mandated?

21 A The answer is no. I'm not sure that it logically
22 follows.

23 Q Turn with me to Page 22 of your deposition. Let me
24 know when you get there, please.

25 A I am there.

1 Q We were talking about the same thing during your
2 deposition. And I asked you at Line 1, my question to you was,
3 and this is a quote, my question to you was, "Under my
4 hypothetical, if transiting is not a 251 obligation, wouldn't
5 it logically follow that TELRIC pricing would not be a mandate?
6 I'm talking about TELRIC as a mandate for a
7 non-251 obligation." Read your answer at Line 5.

8 A "I think that's an assumption that could be made."

9 Q Thank you.

10 A However, other assumptions could also be made, such
11 as under Florida law this Commission has the right or would
12 want to enforce competitive networks and would want to make
13 sure that services are provided in an undiscriminatory way.

14 MR. TYLER: Madam Chair, I'd like to pass out an
15 exhibit, if I could, please.

16 CHAIRMAN EDGAR: You may.

17 MR. TYLER: Thank you. And we'd like to have this
18 sequentially marked. I believe we were at --

19 CHAIRMAN EDGAR: Okay. We will show this as Exhibit
20 50.

21 MR. TYLER: 50. And if I could have that exhibit
22 titled "Interconnection Collocation and Resale Agreement for
23 the State of Florida, February 9th, 2006, LecStar Telecom,
24 Inc., and Sprint Florida, Incorporated, Filed with the FPSC on
25 February 16th."

1 CHAIRMAN EDGAR: So noted.

2 MR. TYLER: Thank you.

3 (Late-Filed Exhibit 50 identified.)

4 BY MR. TYLER:

5 Q Have you got that document, sir?

6 A Yes, I do.

7 Q Please go to Page 96 of 184. And I'll submit to you
8 that this is an excerpt. I don't have the entire document in
9 front of you. However, this was filed with the Florida Public
10 Service Commission. You see that on the cover page, do you
11 not, down in the right-hand corner where there is a stamp where
12 it's been filed with the Commission?

13 A I do see the stamp, even though I have never seen
14 this document before, and I'm somewhat uncomfortable with not
15 having the entire document.

16 Q Well, I'm sorry for your discomfort, sir.

17 If you would turn to Page 96 of 184, please.

18 A I am there.

19 Q And if you look at 68, that says, "Transit Traffic."
20 That's the heading; is that correct?

21 A Yes.

22 Q 68.1 reads, "Transit service (non-251 service) means
23 the delivery of transit traffic, i.e. local traffic or
24 ISP-bound traffic originated by CLEC terminated to a third
25 party LEC, ILEC or CMRS provider or originated by a third party

1 and terminated to CLEC using Sprint's tandem switch over the
2 local intralata interconnection trunks." Did I read that
3 correctly?

4 A Yes.

5 Q And in that parenthetical, according to Sprint's own
6 definition, transit service is a non-251 service; isn't that
7 correct?

8 A This is a Sprint Florida, Incorporated, local
9 agreement that I'm not familiar with. I would say that appears
10 to be what Sprint Florida agreed to in this document.

11 Q And the date on that document was February 9th; 2006;
12 correct, sir?

13 A Yes.

14 Q Turn with me to Page 166 of 184. It should be the
15 last page in that document. Are you there?

16 A Yes, I am.

17 Q Do you see the heading where it says, "Transit
18 service"?

19 A Yes. I do see "Transit service charge per minute of
20 use."

21 Q Underneath the heading "Transit Service," it says
22 "Transit service charge-per MOU," which is minute of use;
23 correct?

24 A Correct.

25 Q And then if you look to the right it has a transit

1 charge of .005, does it not, sir?

2 A Yes. That's what the document says.

3 MR. TYLER: No further questions.

4 CHAIRMAN EDGAR: Mr. Gross.

5 MR. GROSS: No questions. Thank you.

6 MR. HATCH: No questions.

7 MR. O'ROARK: No questions.

8 MR. PALMER: No questions.

9 MS. BERLIN: Let me ask a real quick question.

10 CHAIRMAN EDGAR: Ms. Berlin.

11 CROSS EXAMINATION

12 BY MS. BERLIN:

13 Q Hi, Mr. Pruitt.

14 A Hi.

15 Q Do you know anything about this company LecStar
16 that's in an agreement with Sprint?

17 A I know nothing about the company.

18 Q If you were told that they were a straight UNE-P only
19 provider, would you expect that they would make any use of
20 transit service?

21 A I believe the answer to that is no.

22 MS. BERLIN: Thank you.

23 CHAIRMAN EDGAR: Mr. Atkinson.

24 MR. ATKINSON: It's our witness, Madam Chair.

25 CHAIRMAN EDGAR: Oh, that's right. Thank you.

1 MR. ATKINSON: No friendly cross today.

2 CHAIRMAN EDGAR: You're supposed to sit together when
3 it works that way. Okay?

4 (Laughter.)

5 Mr. McDonnell.

6 MR. McDONNELL: No questions. Thank you.

7 CHAIRMAN EDGAR: Thank you. Mr. Gerkin.

8 MR. GERKIN: No questions, Madam Chairman.

9 CHAIRMAN EDGAR: Questions from staff.

10 MS. BANKS: No questions from staff.

11 CHAIRMAN EDGAR: Thank you.

12 A question from Commissioner Arriaga.

13 COMMISSIONER ARRIAGA: Mr. Pruitt.

14 THE WITNESS: Hi.

15 COMMISSIONER ARRIAGA: Hello, sir. Would you kindly
16 clarify for me according to your own criteria what are the
17 components of a TELRIC rate? I know cost is one. But is there
18 an additional component to a TELRIC rate?

19 THE WITNESS: I am no cost expert, but it is
20 generally the cost plus some reasonable rate of return that's
21 included in a TELRIC rate.

22 COMMISSIONER ARRIAGA: And how do you define
23 reasonable rate of return?

24 THE WITNESS: I apologize, but I'm not a cost expert.
25 I think sometimes that's determined by the state commission.

1 And other than that, I really don't know.

2 COMMISSIONER ARRIAGA: Okay. Thank you.

3 CHAIRMAN EDGAR: Redirect?

4 MR. SELF: I have no redirect.

5 CHAIRMAN EDGAR: Mr. Atkinson, redirect?

6 MR. ATKINSON: None. Thank you, Madam Chair.

7 CHAIRMAN EDGAR: Thank you. Okay. Let's take up the
8 exhibit.

9 MR. TYLER: Thank you, Madam Chair. BellSouth would
10 ask that Exhibit 50, I believe it was, Madam Chair --

11 CHAIRMAN EDGAR: Yes, sir. Number 50.

12 MR. TYLER: Thank you. We would respectfully ask
13 that it be moved into the record.

14 CHAIRMAN EDGAR: Mr. Self.

15 MR. SELF: Madam Chairman, I have no objection. This
16 is obviously a filed interconnection agreement with the
17 Commission. I do have a problem with the fact that it's just a
18 couple of pages out of something that's at least 184 pages, and
19 I would request that the entire agreement be put in if they're
20 going to put the agreement in so we can see the entire context
21 for the agreement.

22 CHAIRMAN EDGAR: Mr. Tyler, do you have a problem
23 with late filing the entire agreement?

24 MR. TYLER: It's already an agreement of record,
25 Madam Chair, it's with the Commission, but certainly BellSouth

1 has no, no problem reintroducing it to the Commission.

2 CHAIRMAN EDGAR: Okay. Let's go ahead and do that
3 and request that by Monday with the other late-filed exhibits.
4 Does that work for you?

5 MR. TYLER: Yes, ma'am.

6 CHAIRMAN EDGAR: Thank you.

7 MR. SELF: Would that still have number 50 as the
8 exhibit number for it?

9 CHAIRMAN EDGAR: Let's keep that as Number 50, and it
10 will be late-filed on Monday, April 3rd.

11 MR. SELF: Thank you, Madam Chairman.

12 CHAIRMAN EDGAR: Thank you.

13 MR. SELF: And with that, Madam Chairman, may the
14 witness be excused?

15 CHAIRMAN EDGAR: And the witness may be excused.
16 Thank you very much.

17 THE WITNESS: Okay. Thank you.

18 CHAIRMAN EDGAR: Mr. Gross, we'll take a moment and
19 then we'll call your witness.

20 (Transcript continues in sequence in Volume 6.)
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1 STATE OF FLORIDA)
): CERTIFICATE OF REPORTER
 2 COUNTY OF LEON)

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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 13TH DAY OF APRIL, 2006.

Linda Boles

 LINDA BOLES, RPR, CRR
 FPSC Official Commission Reporter
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