

ORIGINAL

ATTACHMENT 1.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Order No. 17111 (Jan. 15, 1987)
(the "STS Order"), recon. denied and clarified, Order No.
17369 (issued Apr. 6, 1987) p. 13*

DOCUMENT NUMBER-DATE

07019 AUG-98

FPSC-COMMISSION CLERK

Some airports in Florida such as the Greater Orlando facility share trunks coming from the LEC central office. Airports are unique facilities, generally construed as being operated for the convenience of the traveling public. One unique communication need is the ability of airport tenants to quickly communicate with one another for security reasons. It is for this reason that we will permit intercommunications between and among tenants behind the PBX without accessing the LEC central office.

While we recognize the unique needs of airports such as GOAA, the sharing of local exchange service must be related to the purpose of an airport - the safe and efficient transportation of passengers and freight through the airport campus. To the extent that sharing of local trunks is limited to this purpose, there is no competition with nor duplication of local exchange service by the LEC. There was some discussion at the hearing of extending local sharing to facilities such as hotels, shopping malls and industrial parks. To the extent an airport engages in this type of local sharing, it must be certificated as an STS provider. Because of the unique nature of the airport, we consider it to be a single building. As an alternative to becoming certificated as an STS provider, the airport could partition the trunks serving these other entities. With these caveats, airports may continue to provide service under existing conditions.

C. Hospitals

The common theme in the record concerning the various forms of shared service, as distinguished from STS, has been the transient nature of the end user. In the case of hospitals, like other forms of shared use, the transient nature of the hospital population leads us to conclude that service, at least with regard to patients, does not duplicate or compete with local exchange service. As a practical matter, these patients should not be required to obtain service from the LEC. Separate and direct LEC service to administrative offices located in the hospital is also impractical because of the critical need for rapid communication of the hospital staff. We view this service as an extension by the hospital of the telephone system shared by patients.

However, to the extent physicians' offices are located in a separate building and these offices receive service through the hospital PBX through a sharing arrangement, this service could be provided directly by the LEC. Doctors in private practice should not be allowed to share local exchange service simply because their offices are located at or near the hospital. We have decided that shared service of this nature duplicates and competes with local exchange service provided the LEC. Sharing arrangements of this nature must be discontinued,

partitioned or comply with the restrictions and regulation applicable to STS. Therefore, shared service, other than to hospital staff should be discontinued on or before July 1, 1987, unless the trunks for such service are partitioned or the service qualifies as an STS provider.

D. Clubs, Yacht Basins, Time Share Facilities

Each of these existing tariff exceptions to the sharing of local exchange service involves transient end-users. No party to this proceeding has suggested that these exceptions compete with or duplicate local exchange service. As discussed previously with reference to transient end-users generally, these individuals would not find it practical to obtain service on their own. We find that continuation of this sharing arrangement and the present rate structure are in the public interest.

E. Dormitory Service

Many institutions of higher learning within Florida provide shared local telephone service to dormitory residents via a PBX. Students are transient in the sense they enter, leave and often change residences several times during the school year. Students often lack the credit needed to obtain telephone service. It would also create logistical problems for the LECs to provide direct service to large numbers of students at one time and then remove the accounts at the end of the school term.

All of these factors suggest that local exchange service provided to dormitory residents does not duplicate with nor compete with local exchange service. Most LEC has advocated abolition of this tariff exception. In the absence of local exchange service provided by colleges and universities, many students would otherwise be without service. We believe that dormitory service provided by colleges and universities to students is in the public interest and should continue under the present rate structure.

F. Nursing Homes, ACLFs, Continuing Care Facilities, Retirement Homes

Many of Florida's elderly population live in some form of group living or community facility, usually licensed by the State of Florida. Examples of this type of facility include nursing homes, adult congregate living facilities (ACLFs) and continuing care facilities. Often these various licensed entities co-exist within one umbrella organization. Patients may move from one licensed entity to another within the same facility during the course of their stay. Staff believes that the overlap of this type of facility precludes any meaningful distinction in terms of provision of local exchange telephone service.

ATTACHMENT 2.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 358:15-17
(Oct. 27-29, 1987)*

1 the next ten years?

2 A Our immediate plans over the next five years include
3 a third airport and 24 gates in an airside building which is
4 physically connected to the main terminal building by an
5 automated train system.

6 Q And you also intend to build a hotel, do you not?

7 A Our master plan does call for hotel integrations at
8 some indeterminate point in the future.

9 Q Mr. Macbeth, do you perceive a difference between the
10 arrangements offered by shared tenant service providers and the
11 telecommunications needs of your airport?

12 A According to the definitions that I have heard, a
13 shared tenant provider is primarily in the business of provid-
14 ing communications, and I think the airport sharing arrange-
15 ment, our primary business is in providing the movement of
16 passengers safely through the terminal where the telephone is
17 incidental but critical to the movement of those passengers.

18 Q Are you saying there is some sort of affiliation of
19 interest at the airport?

20 A We have an extreme community of interest among those
21 entities that are directly seen by the traveling public through
22 the facility, especially, where the traveling public perceives
23 multiple buildings to be as one building, and the direct sup-
24 port related activities to the airlines and other major carri-
25 ers that are operating through the facilities which would

ATTACHMENT 3.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, 277:15-17
(Oct. 27-29, 1987)*

1 Q Will you please summarize your --

2 COMMISSIONER NICHOLS: Counselor, do you want to
3 insert his testimony into the record as though read?

4 MR. LIPMAN: I was going to do it, Commissioner,
5 after his summary because there are several exhibits attached
6 to that as well.

7 COMMISSIONER NICHOLS: Okay.

8 Q (By Mr. Lipman) Could you please summarize your
9 testimony?

10 A My testimony is provided to describe the unique and
11 critical shared airport telecommunication needs for an air-
12 port operator such as the Greater Orlando Aviation Authority;
13 the shared PBX system that was designed and installed by
14 Southern Bell in 1981, which is currently in use at Orlando
15 International Airport; the substantial operational and safety
16 benefits offered by that system; and the disruption and poten-
17 tial safety risk and economic harm which would be created by
18 precluding our shared system or by imposing onerous and dis-
19 criminatory conditions on our sharing arrangement.

20 Q If you were asked the same questions contained in
21 your direct and rebuttal testimony, would you have the same
22 answers today?

23 A Yes, I would.

24 MR. LIPMAN: Commissioner, I would move at this time
25 that both Mr. Macbeth's initial and rebuttal testimony be

ATTACHMENT 4.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 284:14-16
(Oct. 27-29, 1987)*

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4 instead is required to be self-supporting through its own
5 operating revenues and bond issues; a requirement which means
6 that our operation must be run as efficiently and
7 economically as possible. I will also address the necessity
8 for GOAA to maintain a centralized communications system to
9 monitor and control communications in an airport environment
10 where security and safety are of paramount concern, and where
11 the facility must be able to adapt to new situations on an
12 almost daily basis; for example, where gate assignments are
13 often changed or "timeshared" among the airlines. In this
14 regard, I will also describe how timely, coordinated response
15 to assaults, thefts, medical emergencies, terrorist threats
16 and other airport emergencies through a cost-efficient shared
17 telecommunications system is a daily requirement at GOAA
18 facilities. Our ability to respond quickly and effectively
19 depends largely upon the capacity of the numerous airport
20 functional agencies, airlines and other tenants to
21 intercommunicate between and among each other in a dependable
22 and immediate fashion.

23
24 Q: Please describe the Greater Orlando Aviation Authority.

25 A: The GOAA, an agency of the City of Orlando, operates two
26 airports in the Orlando area which are owned by the City of
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ATTACHMENT 5.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 288:5-6,
11-12 (Oct. 27-29, 1987)*

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4 businesses that use that facility. Because of this
5 affiliated interest, GOAA and its tenants have a unique need
6 to communicate between and among themselves, particularly
7 with regard to the common airport-wide security system. In
8 fact, even before construction of our new terminal and
9 initiation of our shared PBX system, all tenants were
10 required to participate in an airport-wide intercom system.
11 Given these common characteristics and strong community of
12 interest, airports such as those operated by GOAA should be
13 treated as a single user of communications facilities.

14 At a minimum, the Commission should confirm that an
15 airport and its tenants are affiliated entities (as described
16 in the Holywell decision) and that they may intercommunicate
17 behind a PBX switch. In the "illustrative" tariff attached
18 to a document prepared by Southern Bell when it was marketing
19 a shared PBX system to GOAA, Southern Bell stated that such
20 affiliated tenants would be permitted to share a PBX and to
21 intercommunicate between and among themselves behind that
22 shared switch because of the recognized substantial need for
23 such intercommunication. (Attachment A hereto, Macbeth
24 Exhibit 1 at Illustrative Tariff Section A14.39.1.A(2).)
25 Specifically, the illustrative tariff represented that GOAA
26 would be permitted to share common PBX equipment where
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ATTACHMENT 6.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 353:9:16
(Oct. 27-29, 1987)*

1 building, the location of the shoeshine shop and the duty-free
2 shop also functioned as an emergency command post.

3 Q Mr. Macbeth, I'm trying to establish, and I think we
4 can do this, we can do the same --

5 COMMISSIONER WILSON: You're not contending that you
6 maintain a shoeshine shop and a duty-free shop for command
7 posts in the event of highjacking the Orlando Airport, are you?

8 WITNESS MACBETH: No, sir, that's also in the deposition.
9 However, one of our missions is to be always able to
10 respond to an unexpected event wherever it may happen through-
11 out the campus. And to the extent that the normal operation
12 of that business may not have anything directly to do with the
13 operation of the airport, when one looks at it from the stand-
14 point of being prepared for an emergency which can happen at
15 any time and any location then we may have an interest in that
16 location being of aid to the responding agencies.

17 Q (By Mr. Anthony) Let me just -- I hate to do this but
18 it looks like we're going to have to. Page 16, Line 8 of your
19 deposition, the question as posed: "Do you consider shoeshines
20 to be support services? Answer: In terms of what the passen-
21 ger expects of an airport, yes; in terms of airport operation,
22 no." And the next question is, "I want to talk about airport
23 operation. I want you to tell me what services you think are
24 necessary in order for airport operation to proceed as it is
25 required to under either the FCC laws or just commonsense

ATTACHMENT 7.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 356:23-24
(Oct. 27-29, 1987)*

1 COMMISSIONER WILSON: Tell me when, when a shoeshine
2 shop is essential for the operation of the airport? That's the
3 question.

4 WITNESS MACBETH: During such situations where we
5 have passengers moving through the terminal, where we have a
6 great need to intercommunicate on the terminal. For example,
7 if a person is engaged in baggage theft and we are trying to
8 track that person through the terminal so he can be appre-
9 hended, the tenants have a crime watch program which is util-
10 izing that intercommunication capability from tenant to tenant,
11 regardless of the course of business they are normally engaged
12 in, so that we can monitor that individual and apprehend him
13 before he reaches curbside and leaves the property.

14 Q (By Mr. Anthony) I believe we're back to Commissioner
15 Wilson's observation that you need a shoeshine
16 as some sort of sentinel outlook to report in helping crime.
17 In order for them to be that sentinel they need to be able to
18 intercommunicate with everybody else on the airport campus. Is
19 that the bottom line here?

20 A I believe what I'm saying is independent of a shoe-
21 shine, we do heavily utilize those businesses which have direct
22 customer contact as the passenger proceeds through the ter-
23 minal. We have integrated that into the airport emergency
24 response communication system.

25 Q Do you pay any of these people for their security

ATTACHMENT 8.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 352:24-25
- 353:1-2 (Oct. 27-29, 1987)*

1 operations. Are we operating on the same wave length here?

2 A Yes, we are. If Counsel will give me a minute to
3 review the full page?

4 Q Certainly. (Pause)

5 Q What I'm trying to establish is some sort of name for
6 these services that are necessary for the airport to function.
7 We realize that shoeshines are helpful. But it isn't necessary
8 for the airport to function.

9 A I believe, Mr. Anthony, and I'm at a loss to find the
10 exact page right now, I believe we had discussed further on
11 that we had such services as translation services where there
12 were personnel of that individual entity located in the kiosk
13 in the main concourse in direct contact with the public, and
14 that those would be very much involved in the airport opera-
15 tion. Whereas that same tenant may also have back offices
16 not immediately in view of the public which would not be as
17 directly associated. They would be the same tenant and it
18 would be the functionality of their location where we would
19 question what their support would be in the movement of
20 passengers.

21 And to further amplify that, the actual service of
22 shining a shoe is possibly arguable that it is not a direct
23 support service to moving a passenger through the terminal.
24 However, we also had noted that in the one instance where
25 the Orlando International Airport had been highjacked as a

1 building, the location of the shoeshine shop and the duty-free
2 shop also functioned as an emergency command post.

3 Q Mr. Macbeth, I'm trying to establish, and I think we
4 can do this, we can do the same --

5 COMMISSIONER WILSON: You're not contending that you
6 maintain a shoeshine shop and a duty-free shop for command
7 posts in the event of highjacking the Orlando Airport, are you?

8 WITNESS MACBETH: No, sir, that's also in the deposi-
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11 out the campus. And to the extent that the normal operation
12 of that business may not have anything directly to do with the
13 operation of the airport, when one looks at it from the stand-
14 point of being prepared for an emergency which can happen at
15 any time and any location then we may have an interest in that
16 location being of aid to the responding agencies.

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18 it looks like we're going to have to. Page 16, Line 8 of your
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20 to be support services? Answer: In terms of what the passen-
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23 operation. I want you to tell me what services you think are
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25 required to under either the FCC laws or just commonsense

ATTACHMENT 9.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 357:17-22
(Oct. 27-29, 1987)*

1 services and their crime reporting?

2 A No, we do not.

3 Q Then the only reason you can give for needing a
4 shoeshine to intercommunicate is in the event there is a crim-
5 they can pick up the phone and notify the proper parties?

6 A That's correct.

7 Q Thank you. Let me touch upon --

8 COMMISSIONER WILSON: You know this really explains
9 something; it explains cafeteria and food services in the
10 airport. Obviously they are primarily there for surveillance
11 and not serving food.

12 COMMISSIONER NICHOLS: And if you've ever eaten
13 at the Orlando Airport --

14 CHAIRMAN MARKS: You need that 911 number.

15 COMMISSIONER NICHOLS: -- it lends credence to the --

16 WITNESS MACBETH: If Commissioner Wilson would for-
17 give a facetious remark, in the past the one building-jacking
18 that we had did happen to take place on the ledge of the
19 restaurant and the ancillary shops around that from duty-free
20 to the news/gift were the staging command post for emergency
21 response to a hostage situation that transpired over several
22 hours.

23 Q (By Mr. Anthony) Mr. Macbeth, let me address some of
24 the expansion that you've got planned for the Orlando Airport.
25 Isn't it true that you're planning to add a third runway in

ATTACHMENT 10.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 295:25-26
(Oct. 27-29, 1987)*

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4 and other telephone communications at the airport would
5 cease. Given the level of development in the Orlando area,
6 such interruptions in telephone service unfortunately occur
7 quite regularly. (See, e.g. Attachment B hereto, Macbeth
8 Exhibit 2, Orlando Sentinel articles, April 26, 1986
9 (p. D-10) and May 9, 1986 (p. D-1).)

10 Moreover, it is an unfortunate circumstance of airport
11 operations today that we must also plan against man-made, as
12 well as natural, disasters. Consequently, telephone
13 connections from the airport to the central office must be
14 viewed as an additional area of vulnerability to terrorist
15 threats. Terrorist-proof redundancy of local loop facilities
16 may be one alternative to the present system in addressing
17 this problem, but it hardly seems to be in the interest of
18 local ratepayers to bear such expense, given the fact that a
19 shared PBX system avoids such expense entirely.

20 Another example of the detrimental effect of eliminating
21 or severely restricting our campus-wide ability to share a
22 PBX and common trunks would be the elimination of the
23 emergency calling system now in effect and its replacement
24 with a system which would threaten our ability to meet the
25 emergency response time of 180 seconds mandated by Section
26 139.49 of the Federal Aviation Administration ("FAA")
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ATTACHMENT 11.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, p. 296:18-22
(Oct. 27-29, 1987)*

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Regulations, 14 C.F.R. § 139.49 (1986). (In fact, I understand that the FAA is considering a reduction in that response time.) Today, a caller at any telephone throughout our campus connected to our shared PBX can reach a specially trained operator familiar with campus geography and our field conditions simply by dialing "0" or "2911". (Indeed, our airport operations have, at great expense, been established with this calling capability in mind.) Under this abbreviated dialing arrangement performed behind the switch, the calling number is displayed to the airport operator, who can then accurately identify the telephone's location, enabling accurate dispatch of medical, police or fire assistance.

Without the shared PBX system and the related intercommunication behind the switch, only dialing "911" would connect a caller to the airport operators, and these calls, routed through the Central Office, would be vulnerable to interruption as a result of power outages, construction site mishaps, or other factors. In fact, this vulnerability would be heightened by the fact that automatic "911" data is retrieved from Ft. Lauderdale and therefore must travel much further than even the local Central Office.

ATTACHMENT 12.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Hearing Tr., Vol. III, 379:19-25,
380:1-4 (Oct. 27-29, 1987)*

1 Telephone's switch at Tampa International Airport, isn't that
2 true?

3 A I have no direct knowledge of Tampa Airport's tele-
4 phone situation.

5 Q If there was a central office, if you take that as a
6 given at the Tampa International Airport, then the statements
7 that you have with regard to your testimony on vulnerability
8 wouldn't apply, isn't that true?

9 A Statements on vulnerability would be greatly
10 lessened, that is true.

11 Q How would your switch be any less vulnerable than
12 a central office of a telephone company located in the same
13 location?

14 A I think that would be the subject of study that we
15 would defer to consultants to give us a full and proper answer
16 to.

17 Q Excuse me?

18 A On the surface, our switch does resemble the central
19 office switch on the campus. I think one significant differ-
20 ence between a local exchange company's switch and the current
21 switch that we have is that on any phone that is connected to
22 the switch, when you dial zero you are connected with the air-
23 port communications center, not the local exchange operator.

24 And within that context, where we are currently under
25 a 180 second response time to respond to an emergency, and the

1 National Fire Protection Association has just recently indi-
2 cated they want to short that to 120 seconds, we would still
3 have concerns if dialing zero were to reference the local
4 exchange operator. To the extent that that could be techni-
5 cally routed back to our airport command center, that concern
6 would also be mitigated.

7 Q Well, your testimony with regard to vulnerability, as
8 far as I understood it, is that you were concerned that the
9 lines, the cables could be cut between the central office and
10 the airport. If the central office is located at the airport,
11 just like your switch, can you explain why it would be more
12 vulnerable? We are not talking about operator service, we are
13 talking about cable. Is it your testimony that the cable that
14 you put in is somehow better than the cable that we put in?

15 A No, that is not my testimony. The cable that was
16 put in was Southern Bell cable that was put in, and we believe
17 that is reasonably secure.

18 Q Didn't you state in your direct testimony on Page
19 12, starting at Line 4, "Given our unique characteristics,
20 these services could not be provided by the LEC without
21 the installation of a CENTREX type switch on our airport
22 campus"?

23 A Yes, I believe I did.

24 Q And wouldn't the central office or a CENTREX type
25 switch satisfy those concerns?

ATTACHMENT 13.

Docket 910867-TS, Staff Memorandum, Jan. 23, 1992 at 1
(*“1992 Staff Memorandum”*)

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

January 23, 1992

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS [G. FRY, GREER] *GF*
DIVISION OF APPEALS [MILLER] *CM* *RTA*

RE : DOCKET NO. 910867-T8 - PROPOSED AMENDMENT OF RULE 25-24.580, F.A.C., AIRPORT EXEMPTION

AGENDA: FEBRUARY 4, 1992 - CONTROVERSIAL - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

CASE BACKGROUND

- ⑥ October 24, 1991 - Staff recommendation to clarify Airport Exemption Rule to remove ambiguity since the rule provides that an airport must be certificated to provide shared tenant services but forego certification if the trunks are partitioned.
- ⑥ November 5, 1991 Agenda Conference - Commissioners vote to propose staff's rewording of Rule 25-24.580 F.A.C.
- ⑥ November 25, 1991 - Order 25390 issued - Notice of Proposed Rulemaking (Attachment A).
- ⑥ December 13, 1991 - Greater Orlando Aviation Authority's (GOAA) comments received. No other party filed comments. GOAA's comments did not request hearing but asked for clarification of rule. (Attachment B)

BST 6726
PSC

Final Exhibit
No. 201

DOCUMENT NUMBER-DATE

00854 JAN 23 1992

FPSC-RECORDS/REPORTING

Docket No. 910867-TS
January 23, 1992

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission insert the words suggested by the Greater Orlando Aviation Authority (GOAA) "on an unpartitioned basis" into the second proposed sentence of the rule?

RECOMMENDATION: No. However, the attached proposal (Attachment D) eliminates confusion, and still accomplishes the staff's goal. It should be adopted.

STAFF ANALYSIS:

- ① GOAA does not believe that any changes are necessary and at a minimum requests the Commission clarify the proposal.
- ② GOAA further suggests that the Commission add the wording "on an unpartitioned basis" so that the second sentence would read: "When shared local service is provided on an unpartitioned basis through the airport switch to a facility such as hotels, shopping malls and industrial parks, the airport shall not be exempted from the rules with regard to such services."
- ③ Above suggested change maintains the status quo and does not clarify the rule. If wording added, the rule could continue to authorize airports to provide partitioned local shared service, for example, to shopping malls which has several individual stores, without STS certification.
- ④ GOAA should be advised in writing that the rewording is for clarification only and in no way changes the interpretation of the Airport Exception in Docket No. 860455-TL since the issuances of Order Nos. 17111 and 17369 and the codification of Rule 25-24.580, F.A.C.
- ⑤ To address GOAA's concerns about the confusing language, yet still accomplish the staff's goal: to make it clear that an airport must get an STS certificate if it provides local service to a non-airport facility (e.g. hotel), regardless of whether it partitions its trunks, the staff has proposed a further revision (Attachment D).

In summary, our interpretation of the STS rules is as follows. An airport may share trunks for airport purposes. This requires no STS certification. An airport may also use one switch to do the following: It may partition trunks into two

Docket No. 910867-TS
January 23, 1992

trunk groups. The first trunk group will serve the airport. This group of trunks does not have to be certificated. The second group of trunks will serve an industrial park or a mall or some other arrangement that would be considered an STS arrangement. If shared local service is provided, this group of trunks must be certificated and must comply with all STS requirements. (If the partitioned trunks are purchased directly by the customer from the LEC, no sharing of trunks occurs and no certification is required. Attachment C is a diagram of the serving arrangements.

The reason we are proposing the language shown in Attachment D is to assure that this important point is clear and is known to the industry. Without this clarification, we fear that the industry (and airports especially) might wrongly interpret the rule to allow them to offer shared services to STS arrangements without certification.

ISSUE 2: Should the Commission proceed with filing the altered rule amendment (Attachment D) with the Department of State and close this docket?

RECOMMENDATION: Yes. This rule revision should be filed with the Department of State to become effective.

STAFF ANALYSIS:

⑥ Since no party has requested a hearing, the proposed rule revision should be filed with the Department of State. The modification responds to the points raised by GOAA.

910867.JOP

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Proposed Amendment of Rule) DOCKET NO. 910867-TS
25-24.580, F.A.C., Airport Exemption.) ORDER NO. 25390
ISSUED: 11/25/91

NOTICE OF RULEMAKING


NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-24.580, F.A.C., relating to Airport Exemption to Shared Tenant Service rules.

The attached Notice of Rulemaking will appear in the November 22, 1991 edition of the Florida Administrative Weekly. If requested, a hearing will be held at the following time and place:

9:30 a.m., December 20, 1991
Room 106, Fletcher Building
101 East Gaines Street
Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399, no later than December 13, 1991.

By Direction of the Florida Public Service Commission, this
25th day of NOVEMBER, 1991.


STEVE TRIBBLE Director
Division of Records & Reporting

(S E A L)

CBM
AMD24580.smj

BST 6729
PSC

004

DOCUMENT NUMBER-DATE

11711 NOV 25 1991

1 25-24.580 Airport Exemption.
2 Airports ~~shall be exempt~~ are exempted from the other STS rules
3 (Part XII of Chapter 25-24, F.A.C.) due to the necessity to ensure
4 the safe and efficient transportation of passengers and freight
5 through the airport facility. Such exemption shall not extend to
6 local shared service provided by an airport to any other facility
7 such as hotels, shopping malls and industrial parks, unless the
8 service is partitioned. When shared local service is provided
9 through the airport switch to a facility such as hotels, shopping
10 malls and industrial parks the airport shall not be exempt from the
11 STS rules with regard to such services. If airports extend their
12 sharing of local services to facilities such as hotels, shopping
13 malls and industrial parks, the airport will be required to be
14 certificated as a shared tenant service provider. However, the
15 airport could partition the trunks serving those entities and
16 forego STS certification.
17 Specific Authority: 350.127(2), F.S.
18 Law Implemented: 364.337, 364.339, 364.345, F.S.
19 History: New 1/28/91.
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CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Amendment of
Rule 25-24.580, F.A.C.,
Airport Exemption.

Docket No. 910867-TS

COMMENTS OF THE GREATER ORLANDO AVIATION AUTHORITY

The Greater Orlando Aviation Authority ("GOAA"), by its undersigned counsel, hereby submits its comments on the Notice of Rulemaking issued by the Commission in the above-referenced docket. GOAA, an agency of the City of Orlando, provides shared airport telecommunications services at its Orlando International Airport campus pursuant to the exemption from the shared tenant service ("STS") rules granted by the Commission in Order No. 17111, Docket No. 860455-TL on January 15, 1987 (the "STS Order"), and later codified in Section 25-24.580 of the Commission's Rules. This proceeding, which seeks to modify the terms of that rule, may substantially affect the manner in which GOAA is permitted to offer services at Orlando International. GOAA therefore has a significant interest in this proceeding and submits these comments for the Commission's consideration.

As a preliminary matter, GOAA is unsure why the Commission has proposed the instant changes to the current rules. GOAA is aware of no dispute or other matter which has arisen which would indicate that the existing rule is unclear or otherwise needs amendment. Moreover, GOAA is aware of no proceeding or other investigation which would support a modification of the decision

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of the Commission in its STS proceeding with respect to the exemption of airports from the STS rules. Indeed, any rule change which is inconsistent with, or would modify the substance of, that order would be highly inappropriate absent any new evidence or further proceedings.

In its 1987 STS Order, the Commission expressly found that, where the sharing of local telephone service at an airport is "related to the purpose of an airport - the safe and efficient transportation of passengers and freight through the airport campus. . . there is no competition with nor duplication of local exchange service by the LEC." STS Order at 18. As the current rule reflects, the STS Order provided that this exemption would not apply "[t]o the extent an airport [extends local sharing to facilities such as hotels, shopping malls and industrial parks], it must be certificated as an STS provider." Id., see also Rule 25-24.580. Importantly, however, the STS Order further provided that, "[a]s an alternative to becoming certificated as an STS provider, the airport could partition the trunks serving these other entities." Id. (emphasis added).

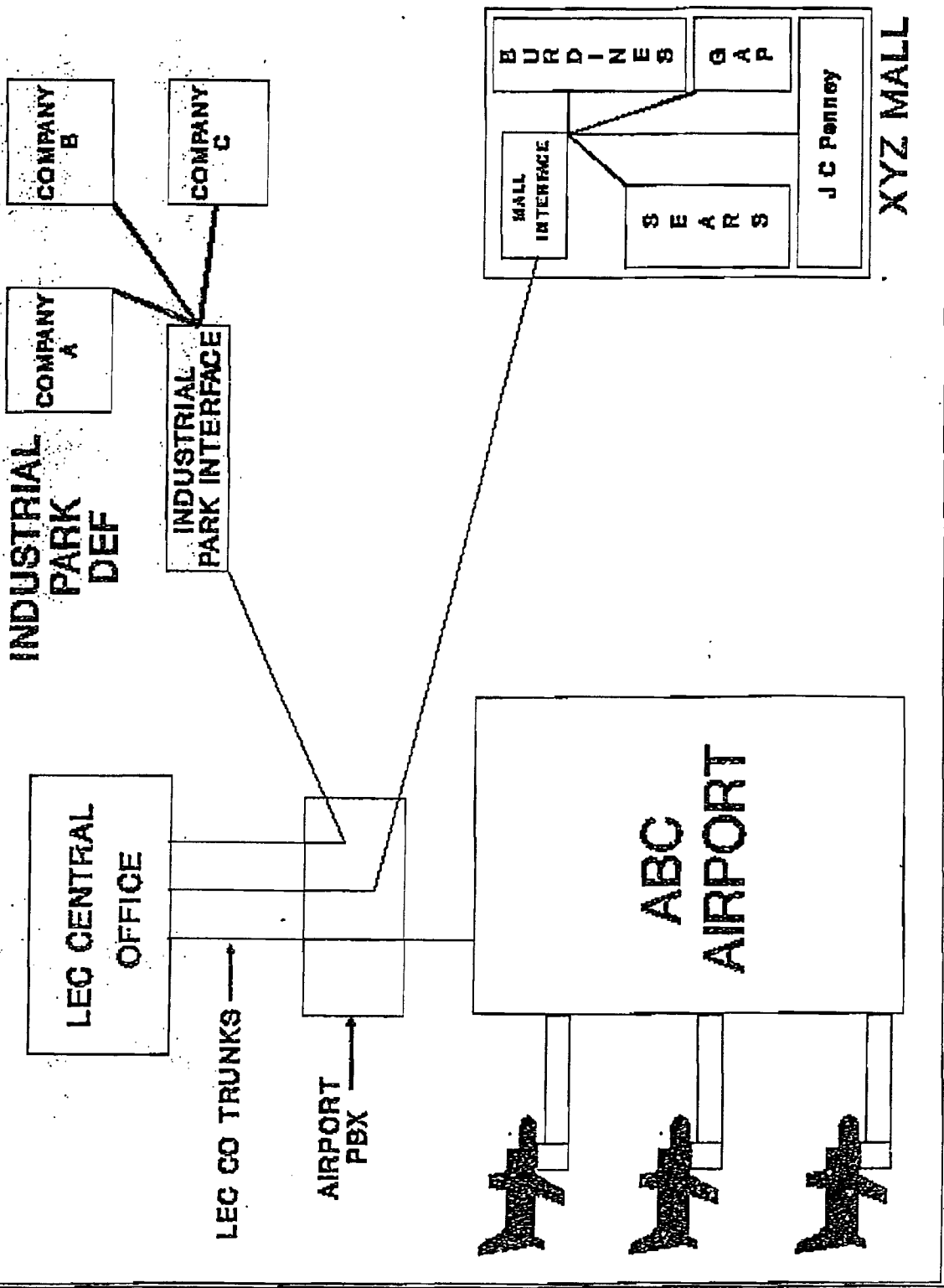
The proposed rule, without any explanation or evidentiary justification, would create substantial confusion as to the manner in which that critical aspect of the STS Order is to be applied and, indeed, could be read as eliminating the partitioning option altogether. While the proposed language continues to note that the airport STS exemption would be preserved even where service is provided to hotels, shopping

malls and industrial parks if the "service is partitioned," the proposed rule inconsistently goes on to ignore that option when it provides that "[w]hen shared local service is provided through the airport switch to a facility such as hotels, shopping malls and industrial parks the airport shall not be exempt from the STS rules with regard to such service." Proposed Rule 25-24.580 (emphasis added). The revision thereby appears to provide, for example, that any service to a hotel "through the airport switch," whether partitioned or not, would eliminate the airport exemption.

This seemingly inconsistent interpretation could well be unintended by the Commission. Indeed, it is hard for GOAA to believe that the Commission would propose to eliminate such a critical aspect of its airport exemption without further evidentiary proceedings or a factual record of any kind. It is equally unlikely that the Commission would intentionally propose internally inconsistent revisions. Nevertheless, whether intended or inadvertent, this new language should not be adopted. It is totally inconsistent with the Commission's STS Order, which was based on an extensive record and thoroughly briefed and argued by a number of parties. Moreover, the language of the STS exemption as codified in Rule 25-24.580 was extensively scrutinized by many of those same parties when it was adopted to assure that it was consistent with the STS Order. There is simply no need for any change in that language.

BST 6733
PSC

STS AIRPORT EXEMPTION DIAGRAM



25-24.580 Airport Exemption

1 25-24.580 Airport Exemption
2 Airports shall be exempt ~~are exempted~~ from the other STS rules
3 due to the necessity to ensure the safe and efficient
4 transportation of passengers and freight through the airport
5 facility. ~~If airports extend their sharing of local services to~~
6 ~~facilities such as hotels, shopping malls and industrial parks,~~
7 The airport shall obtain ~~will be required to be~~ a certificated as
8 a shared tenant service provider ~~before it provides shared local~~
9 ~~services to facilities such as hotels, shopping malls and~~
10 ~~industrial parks.~~ However, if the airport partitions its trunks,
11 it shall be exempt from the other STS rules for service provided
12 only to the airport facility ~~the airport could partition the trunks~~
13 ~~servng those entities and forego STS certification.~~

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CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

ATTACHMENT 14.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Special Agenda Tr. at Vol. II,
p. 201:1-5 (Jan. 8, 1987)*

1 would consider to be incidental usage that doesn't get
2 into a whole shopping mall or an industrial park or
3 hotel, but doesn't make them have to go through the
4 whole certification process because they've got a
5 newsstand and a coffee shop.

6 COMMISSIONER HERNDON: What are the burdens that
7 are imposed on the airport if they're an STS provider,
8 other than the trunk limitation that we talked about
9 earlier? What are the burdens that are imposed?
10 You've got to pay a regulatory assessment fee for that
11 element of the airport that is not governmental,
12 however that's figured out. You've got to file your
13 rates.

14 MR. VANDIVER: And all those other requirements
15 that you all voted on earlier.

16 COMMISSIONER WILSON: Which is that you advise --

17 COMMISSIONER HERNDON: Supply your customers with
18 access and so on and so forth.

19 MR. VANDIVER: Some other things I'm not quite
20 sure of.

21 COMMISSIONER WILSON: You can't bypass.

22 MR. VANDIVER: You can't bypass.

23 COMMISSIONER HERNDON: My concern -- I can see
24 where the trunk limitation may be a problem
25 specifically -- particularly in Orlando's case because

ATTACHMENT 15.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Special Agenda Tr. at Vol. II,
p. 271:2-7 (Jan. 8, 1987)*

1 be duplicative of existing LEC facilities.

2 COMMISSIONER HERNDON: Commissioner, would you
3 consider a possible friendly amendment that's a
4 serious possible friendly amendment not that would add
5 a fourth category that would say "and other commercial
6 activities that are unrelated to the mission of an
7 airport"?

8 COMMISSIONER GUNTER: Well, let me tell you where
9 I would have a problem with that, is that in some
10 people's minds that might exclude restaurants.

11 COMMISSIONER HERNDON: I understand. But it seems
12 to me that that decision comes back to us.

13 COMMISSIONER GUNTER: Fine.

14 CHAIRMAN NICHOLS: Wouldn't you say that --

15 COMMISSIONER WILSON: What was your language now?

16 COMMISSIONER HERNDON: And other commercial
17 activities that are unrelated to the mission of an
18 airport.

19 COMMISSIONER WILSON: Unrelated and not --

20 CHAIRMAN NICHOLS: Could you say not serving the
21 traveling public?

22 COMMISSIONER HERNDON: I hate to get into the
23 traveling public kind of thing because I think the
24 Commissioner brought up a good point earlier today
25 about freight handling and so forth, and that to me is

ATTACHMENT 16.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Special Agenda Tr. at Vol. II,
p. 272:6-10 (Jan. 8, 1987)*

1 a very relevant purpose to an airport. And that's why
2 I'm just trying to talk about the mission of an airport
3 in its broadest sense.

4 COMMISSIONER WILSON: You said not related to --

5 COMMISSIONER HERNDON: That's right. And in my
6 mind, a shopping mall clearly fits that category.
7 There may be others that we haven't thought of yet.
8 One, for example, is the Sebring Raceway that's down
9 there on the airport. I don't know how that fits
10 in, but it's not related to its mission, obviously.

11 MR. VANDIVER: How about the security perimeter?

12 CHAIRMAN NICHOLS: Not included within the
13 security --

14 MR. VANDIVER: That's where you walk in and you
15 get in the metal detectors and all that good stuff and
16 you're actually within the airport. That doesn't mean
17 the hotel.

18 CHAIRMAN NICHOLS: No, because in Tampa you don't
19 go through security until you get all the way out the
20 gate. You wouldn't even have the reservation ticket
21 counter, baggage claim.

22 COMMISSIONER HERNDON: That's absolutely related
23 to --

24 COMMISSIONER MARKS: Will somebody just now, as
25 Commissioner Cresse used to say, explain what this

ATTACHMENT 17.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Special Agenda Tr. at Vol. II,
p. 280:13-22 (Jan. 8, 1987)*

1 these three things. Then we've deprived ourselves of
2 the flexibility to visit something in the future.

3 CHAIRMAN NICHOLS: As I understand the motion now,
4 everything is included in the airport as being a unique
5 entity, and therefore exempt from the STS requirement
6 except for industrial parks, shopping malls, hotels, or
7 any other entity not materially related to the mission
8 of the airport.

9 COMMISSIONER MARKS: Well, see, I'll vote for
10 that because I think that would exclude then the flower
11 shop on the concourse; I think it would exclude then
12 the restaurant and all of that.

13 COMMISSIONER HERNDON: I think you have to go
14 though to the question about the mission of the
15 airport. The mission of the airport is to provide an
16 environment where travelers -- leaving aside the
17 freight for a moment -- where travelers can move in an
18 efficient, safe manner; they have the necessary kind of
19 amenities to make their travel productive. If their
20 clothes are ruined they can replace them. They can get
21 food, buy a trinket for relatives. I think those are a
22 part of the mission of the airport. I don't know about
23 flower shops.

24 COMMISSIONER WILSON: I would second the amended
25 motion.

ATTACHMENT 18.

*In re: Investigation into Appropriate Rates and Conditions
of Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, Special Agenda Tr. at Vol. II,
p. 273:15-23 (Jan. 8, 1987)*

1 motion is in walking around language?

2 COMMISSIONER GUNTER: Let me tell you what my
3 interpretation is. My interpretation is that the
4 airport, if you just picture a chain link fence around
5 nothing but the airport and you didn't have any
6 warehouses, you didn't have an industrial park and you
7 didn't have a hotel sticking up there -- everything
8 in there that can be construed in a reasonably
9 common-sense approach as being necessary for the
10 operation of the airport.

11 COMMISSIONER NICHOLS: And that would include --

12 COMMISSIONER GUNTER: And that would include the
13 traveling public and those aviation services that are
14 available at the airport.

15 COMMISSIONER MARKS: Let me ask a question then.
16 Does the bar that's on the concourse in the Tallahassee
17 municipal airport as you go past the metal detector on
18 the right, the little cubby hole looking bar, does that
19 include that that would be a part of that service?

20 CHAIRMAN NICHOLS: Yes.

21 COMMISSIONER GUNTER: I would think yes.

22 COMMISSIONER WILSON: Nobody drives out to the
23 Tallahassee airport to go to that bar.

24 COMMISSIONER MARKS: Well, that would include that
25 and that would be a part of the airport services in

ATTACHMENT 19.

GOAA Direct Testimony of Hugh J. Macbeth, *In re:*
Investigation into Appropriate Rates and Conditions of
Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, July 15, 1986 at p. 4.

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instead is required to be self-supporting through its own operating revenues and bond issues; a requirement which means that our operation must be run as efficiently and economically as possible. I will also address the necessity for GOAA to maintain a centralized communications system to monitor and control communications in an airport environment where security and safety are of paramount concern, and where the facility must be able to adapt to new situations on an almost daily basis; for example, where gate assignments are often changed or "timeshared" among the airlines. In this regard, I will also describe how timely, coordinated response to assaults, thefts, medical emergencies, terrorist threats and other airport emergencies through a cost-efficient shared telecommunications system is a daily requirement at GOAA facilities. Our ability to respond quickly and effectively depends largely upon the capacity of the numerous airport functional agencies, airlines and other tenants to intercommunicate between and among each other in a dependable and immediate fashion.

Q: Please describe the Greater Orlando Aviation Authority.

A: The GOAA, an agency of the City of Orlando, operates two airports in the Orlando area which are owned by the City of

ATTACHMENT 20.

Direct Testimony of Hugh J. Macbeth, *In re: Investigation into Appropriate Rates and Conditions of Service for Shared Local Exchange Telephone Service*, Docket No. 860455-TL, July 15, 1986 at pp. 16-17.

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Regulations, 14 C.F.R. § 139.49 (1986). (In fact, I understand that the FAA is considering a reduction in that response time.) Today, a caller at any telephone throughout our campus connected to our shared PBX can reach a specially trained operator familiar with campus geography and our field conditions simply by dialing "0" or "2911". (Indeed, our airport operations have, at great expense, been established with this calling capability in mind.) Under this abbreviated dialing arrangement performed behind the switch, the calling number is displayed to the airport operator, who can then accurately identify the telephone's location, enabling accurate dispatch of medical, police or fire assistance.

Without the shared PBX system and the related intercommunication behind the switch, only dialing "911" would connect a caller to the airport operators, and these calls, routed through the Central Office, would be vulnerable to interruption as a result of power outages, construction site mishaps, or other factors. In fact, this vulnerability would be heightened by the fact that automatic "911" data is retrieved from Ft. Lauderdale and therefore must travel much further than even the local Central Office.

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As good as "911" service currently is, it is materially less valuable than our shared service in two respects: first, in our experience most people dial "0" in an emergency, not "911"; and second, the possibility exists that "911" service would cease if the Central Office or lines to it are interrupted. Given the potential emergency situations existing at a major airport such as Orlando International, these alternatives to our JAS system would seriously increase our emergency and security response time -- a result we believe to be untenable.

The airport also needs to have a highly flexible shared telephone system to accommodate the special demands placed upon it. For example, gate assignments are often changed among the airlines, and, in some cases, may even be "timeshared" by airlines which do not have a full time need for a gate. Under such conditions, it would be virtually impossible (not to mention prohibitively expensive) for Southern Bell to be constantly moving and rearranging the lines among the airlines. Under our JAS system, moves and changes do not typically require the presence of the local telephone company, which reduces both the time and expense which would otherwise be incurred.

ATTACHMENT 21.

Direct Testimony of Hugh J. Macbeth, *In re: Investigation
into Appropriate Rates and Conditions of Service for
Shared Local Exchange Telephone Service*, Docket No.
860455-TL, July 15, 1986, at pp. 7-8.

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concern in choosing our telecommunications system was to ensure that communications throughout our airport campus are available at all times and that all telephone locations have the same state-of-the-art capabilities. Our need to provide the most cost-effective service possible to our airline and other tenants and airport functional agencies was also an important consideration in choosing a system. Finally, we also have a unique need for operational flexibility, and, in addition, require that the system include not only a voice communications system but also other systems such as video surveillance cameras, building controls (i.e., heating, ventilation and air conditioning), and specialized operator services, particularly for security purposes or for response to airfield alert or other medical emergency conditions.

Q: Is there a community of interest and affiliation among tenants in an airport that distinguishes them from tenants in other types of commercial developments?

A: Yes. GOAA, the airlines and other tenants, such as rental car agencies, airline food service companies, air cargo freight forwarders, tour operators and others, all share a community of interest in conducting the business of an airport and serving the needs of the general public and

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businesses that use that facility. Because of this affiliated interest, GOAA and its tenants have a unique need to communicate between and among themselves, particularly with regard to the common airport-wide security system. In fact, even before construction of our new terminal and initiation of our shared PBX system, all tenants were required to participate in an airport-wide intercom system. Given these common characteristics and strong community of interest, airports such as those operated by GOAA should be treated as a single user of communications facilities.

At a minimum, the Commission should confirm that an airport and its tenants are affiliated entities (as described in the Holywell decision) and that they may intercommunicate behind a PBX switch. In the "illustrative" tariff attached to a document prepared by Southern Bell when it was marketing a shared PBX system to GOAA, Southern Bell stated that such affiliated tenants would be permitted to share a PBX and to intercommunicate between and among themselves behind that shared switch because of the recognized substantial need for such intercommunication. (Attachment A hereto, Macbeth Exhibit 1 at Illustrative Tariff Section A14.39.1.A(2).) Specifically, the illustrative tariff represented that GOAA would be permitted to share common PBX equipment where

ATTACHMENT 22.

Rebuttal Testimony of Hugh J. Macbeth, *In re:*
Investigation into Appropriate Rates and Conditions of
Service for Shared Local Exchange Telephone Service,
Docket No. 860455-TL, August 4, 1986 at pp. 14-18.

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compensate the provider for such use. Without reasonable compensation, shared service providers will either have to recover the costs from the other tenants who do choose to utilize their services, or, if this is not possible because of competitive or other factors, the shared service providers will have to absorb the cost. The former results in an unfair cross subsidy from one group of tenants to another and the latter is clearly confiscatory. Moreover, in certain circumstances it may be difficult -- if not impossible -- for the shared service providers to obtain compensation directly from non-participating end users because there will be no contractual relationship between the two parties.

Thus, I believe that the shared service provider should be allowed to recover the applicable costs of such facilities from the LEC. Of course, the LEC could, in turn, recover these costs directly from the directly served subscriber in precisely the same manner as it would if it installed the wiring. It is my understanding that General's affiliates in Texas (General Telephone Company of the Southwest) and California (General Telephone Company of California) have agreed that compensation for STS provider-owned wiring is reasonable.

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Q: Several LEC witnesses have testified that the sharing of local telephone service by shared service providers will result in a significant loss in carrier revenues. Do you agree?

A: No. As I testified in my direct testimony, the LECs will not experience a significant loss in carrier revenues as a result of shared tenant services. (Macbeth at 20-21.) LEC claims of adverse financial impact do not withstand scrutiny. (Mickle at 4-5; McCullers at 3; Knight at 6; Glassburn at 3, 7.) It is particularly surprising to me that Southern Bell's witnesses state that the LEC would expect to lose revenue, since that company very actively and aggressively marketed our shared system to GOAA. In the five years since service inception in 1981, the GOAA sharing arrangement has exceeded the LEC revenue forecast Southern Bell had prepared as part of its marketing proposal. In our shared environment, station lines are 20 percent ahead of Southern Bell's forecast, while efficient trunk utilization has enabled the system to remain within the 125 trunk line per year growth planned by Southern Bell. Our sharing arrangement, by accommodating unexpected growth, would appear to increase, rather than decrease, carrier revenues over those

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3 projected. For the reasons I indicated in my initial
4 testimony, I believe that shared tenant services will result
5 in no significant loss in carrier revenues for LECs in
6 Florida. (Macbeth at 20-21.)
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8 The availability of shared service arrangements in Florida
9 will result in substantial cost savings for LECs in
10 transmission facilities, administrative duties, and other
11 activities, which should lead, in turn, to a reduction in the
12 LECs' revenue requirements. (See pp. 18-20, infra.) In
13 addition, the LEC witnesses have generally failed to take
14 into account new sources of revenue that will accrue as a
15 result of sharing arrangements. These revenue sources
16 include:

- 17 o increased DID charges, including charges
18 for assigning DID numbers;
- 19 o additional charges listing tenants with
20 non-dedicated lines in the telephone
21 directory;
- 22 o increased monthly trunk rate charges from
23 subscribers who might have otherwise
24 received service under less expensive
25 business line rates (see, for example,
26 Staff witness Hurd's testimony at 4.)
- 27 o additional charges for touch tone ser-
28 vice; and
- o increased call completion probability
 where message center services are offered
 by shared service operators.

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LEC cost savings in conjunction with the above-referenced increased revenues should eclipse any LEC revenues lost through the more efficient use of trunking occasioned by a PBX.

Q: Have you reviewed LEC projections of revenue loss expected from the sharing of local trunks by STS arrangements?

A: Yes. I have reviewed the testimony of Southern Bell, General and United's witnesses on this issue and, in my view, the LECs have failed to meet their burden of providing an empirical basis for their conclusions of decreased carrier revenues resulting from STS. In addition to the points I raised in the answer to the proceeding question -- failure to account for new revenue opportunities and cost savings -- the LEC testimony makes no attempt to quantify or support its conclusions, even though there are existing shared service arrangements in Florida (proposed and installed by the LECs themselves and, in some cases, predating 1978) which presumably could have been studied and which would either confirm or contradict the LEC conclusions. Without any such empirical information, and given their failure to account for additional revenue and cost savings, the LEC projections of revenue loss must be wholly discounted.

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Q: LEC witnesses have also testified that the cost savings associated with STS will be negligible. Do you agree?

A: No. I fundamentally disagree with the position of LEC witnesses that there will be no appreciable cost savings for LECs as a result of STS. (Glassburn at 9-10; Knight at 13-16.) On the basis of GOAA's experience, I believe that the availability of shared service in Florida results in meaningful cost savings for LECs and their ratepayers.

One major area of cost savings is in the more efficient utilization of LEC facilities occasioned by STS arrangements. The demand for telecommunications service in Florida is expected to grow rapidly over the next several years. As a result, Florida LECs must expand their physical plant if they are to keep pace with new demand at current levels of facilities utilization. Some of this capital expenditure can be deferred or avoided, as it was in the case of Orlando International Airport, if sharing arrangements with efficient trunking configurations are permitted to share local trunks. These LEC witnesses also fail to note that further savings in LEC capital expenditures will result from the fact that carriers generally will be freed from the obligation to