ORIGINAL

IN THE FLORIDA SUPREME COURT

MCCAW COMMUNICATIONS OF FLORIDA, INC. Appellant, v. SUSAN F. CLARK, etc. et al., Appellee.	)	CASE NO. 86,866

INITIAL BRIEF OF APPELLANT
McCAW COMMUNICATIONS OF FLORIDA, INC.

Floyd R. Self, Florida Bar No. 608025
Norman H. Horton, Jr., Florida Bar No. 156386
Messer, Caparello, Madsen, Goldman & Metz, P.A.
Suite 701, First Florida Bank Building
P.O. Box 1876
Tallahassee, FL 32302-1876
Telephone: 904-222-0720

Attorneys for Appellant

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Florida Constitution

Florida Rules of Appellate Procedure

Florida Statutes

Laws of Florida

IN THE FLORIDA SUPREME COURT

MCCAW COMMUNICATIONS OF FLORIDA, INC.	)	
Appellant,	)	
v.	)	CASE NO. 86,866
SUSAN F. CLARK, etc. et al.,	)	
Appellee.	)	

INITIAL BRIEF OF APPELLANT McCAW COMMUNICATIONS OF FLORIDA, INC.

INTRODUCTION

The Order on appeal, Order No. PSC-95-1247-FOF-TL (issued October 11, 1995), is a final order of the Florida Public Service Commission that eliminated the longstanding and successful formula that determined the usage charges paid by mobile telecommunications service providers such as McCaw to the local exchange companies. The Commission's decision to break the formula's link to changes in interexchange carrier access charges should be reversed because it was made (i) without competent substantial evidence of record, (ii) in violation of the doctrine of administrative finality, and (iii) in an arbitrary and capricious manner.

STATEMENT OF THE CASE AND FACTS

A. Procedural Statement

McCaw Communications of Florida, Inc., on behalf of itself and its Florida regional affiliates, appeals Order No. PSC-95-1247-FOF-TL (issued October 11, 1995), a final order of the Florida Public Service Commission ("Commission"), pursuant to Article V, section 3(b)(2) of the Florida Constitution, section 364.338, Florida Statutes, and Rule 9.030(a)(1)(B)(ii) of the Florida Rules of Appellate Procedure.[1] To avoid confusion with the other orders discussed herein, the order being appealed shall be referred to as the "1995 Order." To put the 1995 Order in its proper context, first it is necessary to examine the Commission's two prior proceedings relating to the rates at issue in this appeal.

B. Interconnection History: The Original Interconnection Decision -- the 1988 Order

For the last eight years, Appellant McCaw has provided cellular telephone service in Florida pursuant to an interconnection usage rate formula first approved by the Commission in 1988. A. 50-81 (Order No. 20475, issued December 20, 1988, hereinafter referred to as the "1988 Order"). While McCaw builds and operates its own wireless networks that enable cellular telephones to make and receive calls, McCaw's cellular networks must be interconnected with the existing landline or local exchange networks so a caller on one network can reach anyone on the other network. These local landline networks are the historic bottleneck monopolies operated by the "local exchange companies" or "LECs" (e.g., Centel, GTE Florida, Southern Bell, and United Telephone).

---

[1] "R.___" refers to pages of the Record. Appellant's Appendix "A.__" contains the 1995 Order and the other two relevant orders discussed herein.

Cellular telephone service, also referred to as commercial mobile radio service, is a part of the larger wireless services market that includes paging providers. In the 1995 Order, cellular and paging providers are referred to as "mobile service providers" ("MSPs") or "mobile carriers."

When the Commission first set mobile service provider interconnection rates in the 1988 Order, the Commission determined that for cellular-to-landline calls, the cellular carrier must pay the LEC a usage charge derived from a formula that was linked to the intrastate access charges paid by the interexchange carriers (long distance companies such as AT&T and MCI).[2] Since there are different ways of engineering interconnection, these minutes of use charges are sometimes referred to by their technical designations, e.g., Type 1, Type 2A, or Type 2B, although the Commission set the rate for each type of interconnection to be the same.[3] Although sought by the mobile carriers, there was no corresponding requirement that the LECs pay reciprocal usage charges for the termination of landline-to-mobile calls. In addition, the 1988 Order established an optional land-to-mobile usage rate payable by the mobile carriers to the LECs that was also derived from a formula linked to access charges. This "land-to-mobile option" rate enables mobile carriers to pay a separate

---

[2]Access charges are the compensation paid by the long distance carriers to the LECs for the origination and termination of long distance calls, since the long distance carriers do not run wires to every house and business. Intrastate access charges relate to calls originating and terminating within Florida and have historically been set by the Florida Public Service Commission. Interstate access charges, on the other hand, relate to calls that originate in one state and terminate in a different state and are set by the Federal Communications Commission. Contrary to what one might expect, Florida intrastate access charges are higher than interstate access charges.

[3]The engineering differences are diagramed at A. 7-9 (1995 Order, at 7-9). Subsequent to the 1988 Order, Type 2A-CCS7, Type 2D, Type 2D-CCS7, and Type 2T interconnection were added.

rate so landline callers may make certain calls to cellular telephones or beepers at no charge; without this option such calls would otherwise require the landline callers to pay long distance charges.

The cornerstone of the Commission's rate determination was the requirement that the interconnection usage charges were to be automatically adjusted each and every time there was a change in access charges. In the 1988 Order the Commission identified several reasons for linking mobile interconnection charges to access charges: (i) to ensure LEC cost recovery, (ii) to prevent discrimination and arbitrage in rates, (iii) to maintain rate consistency, and (iv) to simplify billing. A. 60-70 (1988 Order, at 10-20). In establishing this link, the Commission knew that access charges, and therefore mobile interconnection usage charges, were and, for the foreseeable future, would remain substantially above cost. Indeed, during this same period the Commission was implementing various policies based upon the recognition that access charges needed to decrease over time and move toward cost due to emerging competitive pressures. See, e.g., Order No. 17053 (Jan. 2, 1987); Order No. 18598 (Dec. 24, 1987); Order No. 19677 (July 15, 1988).

Several parties sought reconsideration or clarification of the 1988 Order, but the usage rate formula was not challenged on reconsideration. No party appealed the 1988 Order.

Consistent with the requirements of the 1988 Order, the LECs filed and the Commission approved the required implementation tariffs. Using the individual access charges applicable to each LEC, these implementation tariffs reflected each LEC's calculation of the mobile interconnection usage charges derived from the formula. In addition, each tariff also either set forth the formula or cross-referenced the 1988 Order and its requirement that changes would be made in the usage prices as was required by the formula.

Following the 1988 Order, each and every access charge change made by a LEC was flowed through to the mobile interconnection usage rates as required by the 1988 Order. See, e.g., Order No. 21520 (July 7, 1989); Order No. 23628 (Oct. 16, 1990); Order No. 24049 (Jan. 31, 1991); Order No. 24178 (Jan. 31, 1991); Order No. 24942 (Aug. 20, 1991); Order No. 25582 (Jan. 8, 1992); Order No. PSC-92-0199-FOF-TL (Apr. 14, 1992); Order No. PSC-92-0383-FOF-TL (May 20, 1992); Order No. PSC-92-0401-FOF-TL (May 26, 1992); Order No. PSC-92-0708-FOF-TL (July 24, 1992); Order No. PSC-93-0108-FOF-TL (Jan. 21, 1993); Order No. PSC-93-1338-FOF-TL (Sept. 14, 1993); Order No. PSC- 94-0095-FOF-TL (Jan. 27, 1994); Order No. PSC-94-0271-FOF-TL (Mar. 9, 1994); Order No. PSC-94-0289-FOF-TL (Mar. 14, 1994); Order No. PSC-94-0730-FOF-TL (June 14, 1994); and Order No. PSC-95-0073-FOF-TL (Jan. 12, 1995). Notwithstanding the flow through in access charge reductions to the mobile interconnection rates, both access charges and the mobile usage charges remain substantially above cost today. A. 15 (1995 Order, at 15).

C. Interconnection History: Southern Bell Petition Rejected -- the 1994 Order

On September 13, 1993, Southern Bell filed a petition with the Commission to break the link between access charges and the mobile interconnection usage rates. After hearing the comments of the parties, the Commission rejected Southern Bell's petition. In its final order, referred to hereinafter as the "1994 Order," the Commission reviewed each of Southern Bell's arguments for breaking the linkage with access charges and found that its petition was not supported. A. 47 (1994 Order, at 5). Critically, the Commission found no merit in Southern Bell's argument that mobile interconnection usage rates can be affected differently depending upon how the LEC determines it

shall reduce individual access charge rate elements rather than any unique use of the LEC network by the mobile carriers.[4] The 1994 Order stated:

> We agree, however, the formula has worked this way since its adoption; this is not something new or different. It was recognized in Order 20475 [the 1988 Order] that "(T)he usage rates were determined by using an access charge component that varied from LEC to LEC and fluctuated as LEC switched access charges changed." In its instant filing, SBT [Southern Bell] has not shown that this variation has become problematic. Indeed, the formula merely appears to be working as originally intended.

A. 44 (emphasis added) (1994 Order, at 2). The Commission concluded by stating that while changes in the industry have the "potential to impact the . . . formula," "[t]he formula is still useful for many of the reasons it was implemented." A. 47 (1994 Order, at 5). No party sought reconsideration or appealed the 1994 Order.

D. Interconnection History: The Order on Appeal -- the 1995 Order

Given the presence of only one LEC in the case leading to the 1994 Order and the fact that mobile interconnection had not been reviewed in six years, the Commission decided to initiate an industry-wide investigation "to determine whether the formula for mobile service provider usage charges is still appropriate, or whether it should be abandoned, or replaced with a revised formula." A. 47 (1994 Order, at 5). The parties actively participating in these industry-wide proceedings included McCaw, which was granted party status by Order No. PSC-94-0532-PCO-FOF-TL, as well as other cellular providers, Office of the Public Counsel, the paging carriers' association, the pay telephone association, and the four large LECs (Centel, GTE Florida, Southern Bell, and United Telephone). R. 2-34, 43, 53-58.

---

[4]Access charges are the sum of several rate elements (such as local switching, local transport, and carrier common line) that relate to various subparts of the telephone network.

During the proceedings below, only two of the 13 LECs, Southern Bell and GTE Florida, advocated breaking the link with access charges. Extensive discovery was undertaken by the parties on this and other issues, the Commission conducted a two-day evidentiary hearing on March 27 and 28, 1995, and on April 28, 1995 the parties submitted post-hearing briefs on the issues. R. Hearing Tr., Vol. 1-4; R. 546-771 (post-hearing briefs). The Commission Staff filed its recommendation on the issues on July 6, 1995. R. 772-837. But the Commission Staff also filed a second recommendation that same day proposing that the Commission order the parties to file legal briefs on the Commission's authority to conclude the docket in view of the recent 1995 amendments to Chapter 364. R. 838-840; Ch. 95-403, 1995 Fla. Law 3311. At its regularly scheduled Agenda Conference on July 18, 1995, the Commission heard from its Staff and the parties on the proposal to have the parties brief these legal issues. The Commission adopted this recommendation and held in abeyance any ruling on the substantive issues until after the legal briefs were filed. R. 841 (Order No. PSC-95-0916-FOF-TL, July 28, 1995, order requiring legal briefs).

The legal briefs were filed on August 15, 1995, with reply legal briefs filed on August 24, 1995. R. 849-942 (initial legal briefs); R. 943-983 (reply legal briefs). On September 1, 1995 the Staff submitted a recommendation on the briefed legal issues that proposed that the savings clause of Chapter 95-403 enabled the Commission to conclude the docket on the basis of the former law. R. 984-995. At the Agenda Conference on September 12, 1995, after little discussion, the Commission adopted the Staff's recommendation on the legal issues and then approved the July 6th recommendation on the substantive issues. The Commission's decisions are contained within Order No. PSC-95-1247-FOF-TL, the 1995 Order which is the subject of this appeal. A. 1-42 and R. 996-1037.

The 1995 Order makes numerous changes in the policies and rates established by the 1988 Order. Of relevance for this appeal, the Commission broke the link between access charges and the mobile interconnection usage rates for the land-to-mobile option and for the mobile-to-land forms of interconnection designated as Type 1, Type 2A, Type 2A-CCS7, Type 2D, and Type 2D-CCS7 (hereinafter, these specific "Types" of mobile-to-land interconnection, which are the only mobile-to-land rates at issue in this appeal, shall be referred to as "the mobile-to-land rates on appeal"). In breaking the link with access charges, the Commission froze the usage rates for these forms of interconnection at their then effective price levels and ordered the LECs to not flow through any further access charge reductions. The consequences of this decision for the mobile carriers are especially severe in light of the revisions to Chapter 364, by which the Legislature has mandated access charge reductions while eliminating the Commission's jurisdiction to set mobile service provider interconnection rates, thus leaving the pricing of this monopoly service subject only to the goodwill of the LECs. A. 10 (1995 Order, at 10); §§ 364.051, 364.161, Fla. Stat. (1995). McCaw is not appealing any of the other rate changes or policies set forth in the 1995 Order.[5] No party sought reconsideration of the 1995 Order. On November 13, 1995, McCaw timely filed its notice of appeal. R. 1038.

---

[5]For example, the Commission also broke the link with access charges for Type 2B and set the rate for this service in an entirely different way. A. 19 (1995 Order, at 19). All of the parties agreed that the Type 2B interconnection usage rate should be set differently, disagreeing only as to the price. Due to the substantial evidentiary basis in the record for the decision on Type 2B rates, that decision is <u>not</u> being appealed.

SUMMARY OF ARGUMENT

Florida's Administrative Procedure Act requires that all agency orders be supported by competent substantial evidence in the record. In support of the 1995 Order, all the Public Service Commission could muster as "evidence" was a hodgepodge of conclusory statements and suppositions. The 1995 Order not only lacks evidence which could possibly rise to the level of competent and substantial, the "evidence" it did rely upon makes the 1995 Order internally inconsistent. This Court has consistently held the Commission to the statutory standard and set aside orders which were not supported by competent substantial evidence. Since the Commission acted without credible evidence, much less competent substantial evidence, in deciding to break the link with access charges, it acted improperly. Further, there is absolutely no evidentiary basis for breaking the link for the toll component of the mobile-to-land rates on appeal or for the land-to-mobile option. Accordingly, the 1995 Order must be set aside.

Assuming *arguendo* that the Commission could have produced competent substantial evidence to support breaking the link, application of the doctrine of administrative finality would prevent the Commission from modifying the 1988 Order. The doctrine of administrative finality requires that, at some point, an agency's action must pass from its control. Thereafter, the established policy cannot be changed without first demonstrating changed facts and circumstances. Not only did the Commission fail to produce competent substantial evidence to support its new approach to mobile interconnection pricing, it further failed to demonstrate the necessary changed facts and circumstances that were required to modify the 1988 Order that had certainly passed from its control. Without such changed facts and circumstances supported by the record, the Commission was barred from adopting a new policy. Thus, even assuming the Commission had produced

competent substantial evidence to support an alternative approach, the doctrine of administrative finality requires that the 1995 Order be set aside because the Commission failed to establish changed facts and circumstances that would justify abandoning existing policy.

Further assuming, *arguendo,* that the Commission had sufficiently demonstrated changed facts and circumstances, and then produced competent substantial evidence to support breaking the link with access charges, the 1995 Order would still be an improper arbitrary and capricious abuse of discretion. The Commission arbitrarily and capriciously favored the LECs when it broke the link with access charges by leaving the mobile carriers to deal with admitted monopolies that, without the link, have no impetus to negotiate rates. Without any evidence that breaking the link would promote negotiations, let alone that such rate negotiations were an appropriate regulatory goal, the Commission nevertheless broke the link in the hope that meaningful negotiations would occur. For the Commission, without any rational basis, to leave the mobile carriers subject to pricing unrestrained by competition, at the same time that the Commission's authority to regulate prices has been severely reduced, is exactly the type of arbitrary and capricious action that contravenes well established legal requirements (not to mention the public interest) and must be set aside.

The Administrative Procedure Act and established case law require that when an agency acts outside its bounds, be it acting without competent substantial evidence, acting arbitrarily and capriciously, or violating the doctrine of administrative finality, that the agency action be set aside. Where further proceedings are necessary, the case is remanded back to the agency. Where further proceedings are not necessary, the agency's previous order, if one exists, is restored. In this case, further proceedings are not needed or required. Each of the parties had a full and fair chance to demonstrate the necessary changed facts and circumstances required to modify the 1988 Order.

Parties were also given a full and fair opportunity to produce competent substantial evidence to support breaking the link with access charges. The LECs failed on both accounts. No further opportunity is required nor warranted. Therefore, the appropriate remedy is to set aside the 1995 Order on these limited rate issues and reinstate the 1988 Order.

ARGUMENT

I. There is no competent substantial evidence of record to support breaking the link with access charges for the mobile-to-land rates on appeal and the land-to-mobile option rates, and no evidence at all to support breaking the link for the land-to-mobile or the toll component of the mobile-to-land rates on appeal.

It is well settled that the Commission's decisions must be supported by competent substantial evidence in the record. § 120.68(10), Fla Stat. (1995); MCI Telecommunications Corp. v. Florida Pub. Serv. Comm'n, 491 So. 2d 539, 541 (Fla. 1986); Duval Utility Co. v. Florida Pub. Serv. Comm'n, 380 So. 2d 1028, 1031 (Fla. 1980); Citizens of Florida v. Hawkins, 356 So. 2d 254, 259 (Fla. 1978); City of Plant City v. Mayo, 337 So. 2d 966, 974 (Fla. 1976). This Court has consistently stated that competent substantial evidence is

> such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred [or] . . . such relevant evidence as a reasonable mind would accept as adequate to support a conclusion.

De Groot v . Sheffield, 95 So. 2d 912, 916 (Fla. 1957); cited with approval in Duval Utility, 380 So. 2d at 1031. In Citizens v. Hawkins, the Court required that this standard must be applied separately to each finding on which the agency's action depends:

> Each determination must be based on specific independent findings supported by competent substantial evidence.

Citizens v. Hawkins, 356 So. 2d at 259 (citations omitted). While the Commission's orders are presumed correct, when the evidence does not meet these evidentiary standards, such orders are to be overturned. United Telephone Co. v. Public Serv. Comm'n, 496 So. 2d 116, 118 (Fla. 1986); MCI Telecommunications Corp. v. Florida Pub. Serv. Comm'n, 491 So. 2d 539, 541 (Fla. 1986). The 1995 Order fails such standards and so should be reversed.

When the Commission established the interconnection usage rate formula in the 1988 Order, it found that each mobile-to-land call was being terminated by the LEC as either a *local* call or a *toll* (long distance) call. However, the Commission did not establish two separate rates. Rather, it set a composite rate consisting of a local component and a toll component, weighted 80% and 20%, respectively. For the toll component, the charge was linked to full access charges, since this roughly equated to the service being received. For the local component, the charge was linked to only two of the access charge elements, i.e., local switching and local transport, since these two elements alone approximated the service associated with a local call. With respect to the land-to-mobile option, since it also approximated the service recovered through full access charges, it too was linked to the full access charge rate like the toll component.

In the 1995 Order, the Commission's decision to break the link with access charges was based upon the following finding:

> We believe LEC pricing decisions on switched access rates are being influenced by the existence of the flow-through requirement. That is, when LECs determine which switched access rate elements to reduce, they must consider the fact that some of the elements are flowed through to the MSP usage formula in both the local and toll components, while others just to the toll component. The LECs have become somewhat unwilling to reduce the Local Switching and Local Transport rate elements to the degree they otherwise would have because of the impact of the flow through requirement. Although we do not believe that this has caused any major market distortions at this point, we do not think that it should continue. Cellular and paging usage has grown substantially since the last mobile interconnection case, and with it, the revenue impact on LECs of the flow through requirement. Given the new legislative mandate to reduce intrastate switched access charges to 12/31/94 interstate levels, we believe the magnitude of the LEC revenue impacts associated with the current formula and flow through requirement could become undesirably large.

A. 14-15 (emphasis added) (1995 Order, at 14-15). This crucial finding lacks competent substantial evidence in the record and is internally inconsistent with other findings and conclusions.

First, the 1995 Order fails the competent substantial evidence requirements. The only support in the record relating to the effect of the access charge linkage is the following testimony offered by Southern Bell's witness Sims:

> And I think that over time because of the access reductions and the fact that the formula is driven by whatever reduction you make in whichever rate element -- if you make a reduction in your local switching element, it flows though 100% in the formula. If you make a reduction in your carrier common line [one of the other access charge elements], it flows through 20% of the formula. So you are victim of where you are adjusting your rates as far as what happens with mobile service provider rates and charges. And I just think you should divorce that.
>
> I don't think it's appropriate to totally eliminate access charges in the formula. I think access charges are appropriate for the toll components, and I think it's appropriate to flow though those reductions in the toll component. But I think you need to divorce the local component from switched access and set it at some other benchmark.

R. Hearing Tr., at 490.

Under this Court's competent substantial evidence standard, this quoted passage does not rise to the level needed to support the Commission's finding that the magnitude of the future flow through of access charge reductions could have an undesirably large impact on LEC revenues. Indeed, the quoted passage says nothing about adverse LEC revenue consequences, as is claimed by the 1995 Order. Ms. Sims testified only that "you are [a] victim" as to deciding which access charge rate elements should be reduced. It is unclear as to whether Southern Bell is the only LEC being victimized. It is also unstated as to why these adjustments create a material problem for any LEC. In any case, this testimony is at best unsubstantiated hearsay, since Southern Bell cannot testify as to the situation of the other LECs nor is there any testimony to explain how and to what extent the flow through requirement causes adverse consequences to Southern Bell or any other LEC.

This absence of adverse evidence is recognized in the Order: "[Southern Bell's] arguments of insufficient cost recovery are not adequately supported." A. 15 (1995 Order, at 15). And specifically as to future access reductions, the Staff Recommendation, upon which the Commission relied in rendering its decision, made the following critical conclusion:

> Despite LEC statements to the contrary, current usage rates are substantially in excess of LRIC [long run incremental cost, the Commission's cost floor]. Even if all switched access charges were reduced to current interstate levels [as is required by revised chapter 364], mobile interconnection usage rates, under the current formula, would still be above LEC incremental costs. (Exh. 17; 24; 26; Sims Tr. 483-485)

R. 788 (emphasis added) (Staff Memorandum, at 17). While unsubstantiated hearsay is admissible in administrative proceedings, standing alone, as it does here, and in contrast with the unrefuted evidence of record, it is not sufficient to support a finding of fact. § 120.58(1)(a), Fla. Stat. (1995).

Even assuming that this testimony can somehow be twisted to meet the competent substantial evidence standard as to the local component of the formula, it absolutely does not support breaking the link for the toll component of the mobile-to-land rates on appeal or the land-to-mobile option rate. As Ms. Sims testified, the link with access charges should not be broken for the toll component of the mobile-to-land rates on appeal and, by extension, to the land-to-mobile option rate as well. R. Hearing Tr., at 490. The argument for not breaking the link for the toll component is consistent with the 1988 Order's goal of preventing rate discrimination -- to no longer reduce the toll component or the land-to-mobile option would leave the mobile carriers in a position of paying more than the long distance carriers for basically the same service, which as the quoted Staff Memorandum passage above indicates would remain in excess of cost. Thus, Southern Bell is not a source for any evidence supporting the break with access charges for the land-to-mobile option or

the toll component. GTE Florida, the only other LEC to advocate breaking the link, offered a different theory for breaking the link premised upon detariffing and negotiations that was partially withdrawn on cross-examination and otherwise rejected by the Commission. A. 13-14 (1995 Order, at 13-14). Therefore, there is simply not a scintilla of evidence, let alone competent substantial evidence, to support breaking the link for the toll component of the mobile-to-land rates on appeal nor the land-to-mobile option rate.

Finally, in addition to these evidentiary problems, the 1995 Order is facially inconsistent. In the section of the 1995 Order titled, "Should the current methodology for establishing MSP rates be abandoned in favor of a mandate to negotiate[]," the Commission finds: "The evidence does not support the wholesale abandonment of the status quo." A. 11 (1995 Order, at 11). Yet, when the Commission turned to an examination of the rates for each specific type of interconnection, it did exactly that -- it abandoned the established methodology.

The 1995 Order's specific examination of the Type 2A interconnection usage rates reveals the true nature of the record. At the outset of this discussion, the Commission acknowledges that "[t]he LECs did not provide detailed proposals concerning the appropriate Type 2A usage rates." A. 16 (1995 Order, at 16); see also A. 14 (1995 Order, at 14). Indeed, after examining the "general preferences" of the only two LECs advocating change, the Commission was compelled to conclude: "No party presented a strong or compelling basis to modify the current rates." A. 17 (1995 Order, at 17). Still, the Commission approved the wholesale abandonment of the status quo and significantly and materially changed interconnection usage rates by ending the formula. It does not make sense.

In summary, there is no competent substantial evidence to break the link with access charges for the mobile-to-land rates on appeal or for the land-to-mobile option rates. And notwithstanding any other findings, there is absolutely no evidentiary basis to support breaking the link for the land-to-mobile option or the toll component of the mobile-to-land rates on appeal.

II. In violation of the doctrine of administrative finality, the Commission failed to demonstrate changed facts and circumstances to support its decision to break the link with access charges.

Just as the 1995 Order fails the requirement for competent substantial evidence in the record to support breaking the link with access charges, the 1995 Order also fails to meet the requirements of the doctrine of administrative finality. This Court has held that

> orders of administrative agencies must eventually pass out of the agency's control and become final and no longer subject to modification. This rule assures that there will be a terminal point in every proceeding at which the parties and the public may rely on a decision of such an agency as being final and dispositive of the rights and issues involved therein. This is, of course, the same rule that governs the finality of decisions of courts. It is essential with respect to orders of administrative bodies as with those of courts.

Peoples Gas Sys., Inc. v. Mason, 187 So. 2d 335, 339 (Fla. 1966). This rule does not bind an agency for eternity, as agencies may later undertake new policy directions. But as this Court also recognized, this power to change an existing policy

> may only be exercised after proper notice and hearing, and upon a specific finding based on adequate proof that such modification . . . is necessary in the public interest because of changed conditions or other circumstances not present in the proceedings which led to the order being modified.

Id. (emphasis added). See also Austin Tupler Trucking, Inc. v. Hawkins, 377 So. 2d 679, 681 (Fla. 1979). The 1995 Order does not meet these requirements.

As was discussed in the prior section, there is no competent substantial evidence in the record to support the Commission's assumption that LEC revenue impacts "could become undesirably large" or that whatever reduction might occur would be adverse to the public interest. A. 15 (1995 Order, at 15). Indeed, the Staff Recommendation relied upon by the Commission to render its vote explicitly found that even if intrastate access charges were reduced to interstate levels and such reductions were flowed through to the mobile interconnection usage rates, "mobile interconnection usage rates, under the current formula, would still be above LEC incremental costs." R. 788 (emphasis added) (Staff Memorandum, at 17). On this basis alone the Commission has failed to meet the requirement of Peoples Gas for "a specific finding based on adequate proof," thus requiring reversal of the 1995 Order.

But even assuming there is adequate proof, there is no demonstration on the record that a modification to the interconnection rate formula established by the 1988 Order is necessary because of changed conditions or other circumstances. First, there is no finding that the goals of the 1988 Order were inappropriate or have been unmet. Without any analysis or statement of relationship to the goals of the 1988 Order, the 1995 Order claims that the LECs are unwilling to reduce the local switching and local transport elements of access charges due to the flow through obligation. However, as has been previously discussed, the testimony of the only LEC witness addressing this subject is at best ambiguous. And without any other LEC evidence, the leap made by the Commission to generalize about the situation for the other 12 LECs is problematic, even assuming it is a problem for Southern Bell. But more importantly, in the very next sentence, the Commission finds that this situation has not caused any market distortions. A. 15 (1995 Order, at 15). Indeed,

this finding is entirely consistent with the conclusion made only a year earlier, but ignored in the 1995 Order, that the formula is working exactly as intended. A. 44 (1994 Order, at 2).

Second, there is no finding in the 1995 Order that the goals of the 1988 Order are no longer appropriate. Again, without relating its discussion to any of the goals of the 1988 Order, the 1995 Order assumes an "undesirably large" revenue impact without defining the size of the impact or how the magnitude of such impact produces an undesirable result. Such bare assertions fly in the face of the Commission's express conclusion that cost recovery and contribution levels are satisfactory. A. 15 (1995 Order, at 15).

Finally, to the extent the new legislation is relevant, the 1995 Order is silent as to how the goals stated in the 1988 Order or the findings in the 1994 Order are inconsistent with the new legislative mandate to reduce access charges to interstate levels. Indeed, McCaw's legal brief specifically advised the Commission that continuation of the link with access charges was not only consistent with the principles of revised Chapter 364, but that breaking the link posed adverse consequences that could not have been intended by the Legislature. R. 888 (McCaw's Initial Legal Brief). But as referenced above, the Commission specifically rejected any need to consider the new law in making its decision. A. 6-7 (1995 Order, at 6-7). Moreover, to the extent that the new law's mandate to reduce access charges is relied upon at page 15 of the 1995 Order, there is no evidence in the record regarding the impact of this legislation or how such legislation affects the goals of the 1988 Order because the legislation passed long after the close of the evidentiary record. And again, to the extent there is factual evidence of record that can be used to calculate the impact of flowing through the mandated access charge reductions to the mobile interconnection usage rates, the Commission Staff advised the Commission that the resulting rates would remain above cost. R. 788

(Staff Memorandum, at 17). There is nothing in the record to suggest, let alone prove, "undesirable" consequences from the new statute.

In summary, this Court has required agencies to adhere to their existing policies in order to bring predictability and certainty while permitting new policy directions only upon proof that such initiatives are required by changed facts or circumstances in the public interest. In the 1995 Order, the Commission has completely ignored this fundamental legal requirement by not examining its new policy within the context of the decisions set forth in the 1988 Order that had been reaffirmed by the 1994 Order only the year before. The absence of such an inquiry violates the doctrine of administrative finality and is a material error requiring reversal.

III. The Commission's order to break the link between access charges and the mobile interconnection rates and order negotiations should be reversed as an arbitrary and capricious abuse of discretion.

An agency's action cannot be upheld where the agency has acted arbitrarily or has abused its discretion. Citizens of Florida v. Public Serv. Comm'n, 425 So. 2d 534, 539 (Fla. 1982); Shevin v. Yarborough, 274 So. 2d 505, 508-09 (Fla. 1973). The Commission's decision to break the link between mobile interconnection charges and access charges for the purpose of promoting rate negotiations between the mobile carriers and LECs is arbitrary and a complete abuse of its discretion. The proceedings below were instituted by the Commission on its own motion pursuant to section 364.14, Florida Statutes (1995), to determine "whether the formula for mobile service provider usage charges is still appropriate, or whether it should be abandoned, or replaced with a revised formula." A. 47 (1994 Order, at 5). By the time of the Commission's decision it had lost sight of this goal and its responsibility to determine rates that are fair, just, and reasonable. §

364.14(1)(a), Fla. Stat. (1995). Instead, the Commission changed its focus to attempting to facilitate negotiations between the parties.

The Commission correctly summarized the record by finding that

> there is an important role for negotiations to address new services, rates, and other issues affecting network interconnection and the efficiency of those interconnections. The record supports that some negotiation has been successful. Given the parties' past difficulties, there is insufficient justification to abandon the existing tariffs to be replaced by new, negotiated arrangements. Rather, the parties shall be permitted to continue to negotiate changes in the existing interconnection tariffs.

A. 14 (1995 Order, at 14). But notwithstanding the fact that the Commission found "insufficient justification to abandon the existing tariffs," the Commission ordered the LECs to file new tariffs breaking the link with access charges for the land-to-mobile option and the mobile-to-land rates on appeal in the event the parties were unsuccessful in negotiating new arrangements. A. 16-18, 20 (1995 Order, at 16-18, 20). The Commission's sole rationale for this action was stated thus:

> Breaking the link with access charges <u>may</u> facilitate future negotiation processes, which would be desirable.

A. 15 (emphasis added) (1995 Order, at 15).

There is no articulation in the 1995 Order as to how breaking the link would facilitate negotiations or why a LEC, with a predetermined default rate broken free from future access charge reductions, would want to negotiate. The occasional past successful negotiations referenced in the 1995 Order were as to new services or technical matters, and they were accomplished only under the implied threat that an aggrieved party could initiate a rate case at the Commission. A. 12-14 (1995 Order, at 12-14). It is arbitrary to break the link and order negotiations within 60 days unless there is a rationale basis for believing they might succeed and serve some public interest -- but none is

identified because none exists. A decision premised upon the hope that negotiations might prove successful is, under these circumstances, unrealistic and irresponsible.

Related to the desire for negotiations is the effect of the revisions to Chapter 364. The last sentence of the Commission's finding for breaking the link, quoted at page 13 supra, notes the new legislative mandate to reduce access charges that became law some three months after the close of the evidentiary record in this case. Reliance on the new law is inappropriate since, in the 1995 Order, the Commission specifically declared that the case was to be decided solely on the basis of the preexisting law. A. 6-7 (1995 Order, at 6-7). Admittedly, McCaw's legal brief argued that the Commission should consider relevant aspects of the new law before rendering a decision, even though McCaw agreed that the Commission could conclude the case on the basis of the preexisting law. R. 888 (McCaw's legal brief). However, there is no basis in the record for saying that there will be significant revenue reductions that will occur because of the effectiveness of the new law. To do so without also considering that the Legislature did not break the linkage between access charges and mobile interconnection charges, and that no other mechanism for adjusting LEC pricing downward toward cost was provided, is conspicuously arbitrary.

Four other facts demonstrate and reinforce the arbitrary nature of the Commission's decision. First, as the Commission recognized, in revising Chapter 364, the Legislature mandated access charge reductions to equal interstate access charge levels. A. 15 (1995 Order, at 15). For most LECs, this represents a significant reduction compared to current access charge rates.

Second, the Commission Staff correctly advised the Commission that even if the mobile interconnection rates remained linked to access, such rates would still be above cost. R.788 (Staff

Memorandum, at 17). It would be inappropriate to have the charges reduced below cost, but this will not occur even under the mandatory access charge reductions.

Third, the 1995 Order specifically found that mobile interconnection will remain a monopoly service after the introduction of local telephone competition:

> LEC interconnection is and will remain a monopoly service for each LEC even after landline local exchange competition is introduced. This is especially important considering that most cellular traffic is mobile-to-land.

A. 10 (1995 Order, at 10). Since mobile interconnection will remain a monopoly, local exchange competition will not provide the mobile service providers with any realistic alternative to LEC interconnection.

Fourth, as McCaw pointed out to the Commission in its legal brief, in mandating access charge reductions and permitting the LECs to choose price regulation, the Legislature eliminated the Commission's jurisdiction to set prices for each LEC that elects price regulation. R. 888 (Legal Brief); See § 364.051(1)(c), Fla. Stat. (1995). Presently, the Commission has acknowledged Southern Bell's price regulation election and the other three large LECs have either filed their elections or have announced their intentions to do so in the immediate future. See, e.g., Order No. PSC-96-0036-FOF-TL (Jan. 10, 1996).

A negotiation assumes that each side has something to offer. Here, the idea that the mobile carriers can negotiate with the LECs, who have no incentive to negotiate, while the mobile carriers have no recourse to the Commission, leaves the mobile carriers with nothing to offer. The desire to promote negotiations is laudable, but in view of this record, laughable. The LECs have been inappropriately and arbitrarily benefited to the detriment of the mobile service providers.

Accordingly, the decision to break the link with access charges for the land-to-mobile option and Types 1, 2A, 2A-CCS7, and 2D interconnection should be reversed.

IV. The 1995 Order should be set aside and the 1988 Order restored where this Court finds that the Commission acted without competent substantial evidence in the record, where the Commission has violated the doctrine of administrative finality, or when it has acted arbitrarily and in abuse of its discretion.

Where this court finds that the Commission violated the doctrine of administrative finality, the 1995 Order must be reversed and the 1988 Order restored with respect to the link to access charges for the land-to-mobile option and the mobile-to-land rates on appeal. Even if this Court finds that the doctrine of administrative finality has not been violated, the 1995 Order must still be reversed and the 1988 Order restored without further proceedings where this Court finds that the Commission acted arbitrarily and abused its discretion or lacked competent substantial evidence in the record to support its decision.

The remedy for violations of the doctrine of administrative finality is to nullify the agency's attempted modification and fully restore the preexisting order. See, e.g., Peoples Gas, 187 So. 2d at 339. Remand is not warranted nor necessary. See, e.g., id. Where this Court finds that the Commission violated the doctrine of administrative finality by attempting to modify the 1988 Order, the 1995 Order must be set aside and the 1988 Order restored. See, e.g., Austin Tupler, 377 So. 2d 681 (Fla. 1979) (vacating the Public Service Commission's attempted re-litigation of the issue of dormancy after two years where no "significant change in circumstances or great public interest" existed); Peoples Gas, 187 So. 2d at 339-40.

Although requiring one extra step, the same remedy is warranted under section 120.68(10), Florida Statutes, where this Court finds that the Commission acted arbitrarily and abused its

discretion or lacked competent substantial evidence. Section 120.68(10) provides that courts shall not substitute their judgment for that of the agency regarding the weight of the evidence on any disputed finding of fact. However, section 120.68(10) further requires that a court set aside agency action and remand, if necessary, if it finds that the agency's action depends on any finding of fact not supported by competent substantial evidence. Florida courts have consistently held agencies to section 120.68(10)'s standard, setting aside decisions that are arbitrary and an abuse of discretion as well as decisions not supported by competent substantial evidence. E.g., Duval, 380 So. 2d at 1031; Rabren v. Department of Professional Regulation, 568 So. 2d 1283, 1290 (Fla. 1st DCA 1990).

After setting aside the agency action under section 120.68(10) courts have, where necessary, remanded the case back to the agency for further proceedings. No further proceedings are necessary in this case. The parties had a full and fair opportunity to demonstrate evidence to support breaking the link with access charges. As is plain from the 1995 Order and the analysis herein, no such evidence was demonstrated. No issues remain, rendering remand unnecessary and the statutory requirements of section 120.68(10) satisfied.

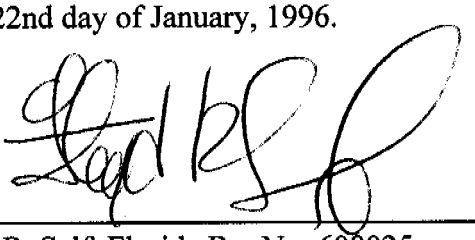
Thus, where this Court finds that the Commission's action was arbitrary and constituted an abuse of discretion, was not supported by competent substantial evidence, or violated the doctrine of administrative finality, the same remedy is warranted -- the 1995 Order should be set aside and the link with access charges for the land-to-mobile option and the mobile-to-land rates on appeal established in the 1988 Order should be reinstated. § 120.68(10), Fla. Stat.; Duval, 380 So. 2d at 1031; Austin Tupler, 377 So. 2d at 681; Rabren, 568 So. 2d at 1290.

CONCLUSION

The Commission's action to break the link between access charges and mobile interconnection rates for the land-to-mobile option and the mobile-to-land rates on appeal is not supported by competent substantial evidence in the record and is in violation of the doctrine of administrative finality. Further the Commission abused its discretion by breaking the link with access charges in an arbitrary and capricious manner.

Accordingly, the Court should reverse the 1995 Order on these limited issues with directions to reinstate the mobile interconnection usage rate formula for the land-to-mobile option and Types 1, 2A, 2A-CCS7, 2D, and 2D-CCS7 interconnection usage rates established by the 1988 Order, with further instructions that the LECs file tariff amendments to reinstate the formula for these interconnection usage rates consistent with the 1988 Order.

Respectfully submitted this 22nd day of January, 1996.



Floyd R. Self, Florida Bar No. 608025
Norman H. Horton, Jr., Florida Bar No. 156386
Messer, Caparello, Madsen, Goldman & Metz, P.A.
P.O. Box 1876
Tallahassee, FL 32302-1876
Telephone: 904-222-0720
Attorneys for McCaw Communications of Florida, Inc. and its Florida regional affiliates

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of McCaw Communications of Florida, Inc.'s Initial Brief in Case No. 86,866 has been sent by U.S. Mail on this 22nd day of January, 1996 to the following parties of record:

√David Smith, Esq.
Division of Legal Services
Florida Public Service
Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

√Jack Shreve, Public Counsel
Office of the Public Counsel
111 W. Madison St., Room 812
Tallahassee, FL 32399-1400

√David M. Falgoust, Esq.
4300 Southern Bell Center
675 West Peachtree Street, NE
Atlanta, Georgia 30375

√C. Everett Boyd, Esq.
Ervin, Varn, Jacobs,
Odom & Ervin
305 S. Gadsden St.
Tallahassee, FL 32301

√Patrick K. Wiggins, Esq.
Wiggins & Villacorta, P.A.
501 E. Tennessee St.
Tallahassee, FL 32301

√Richard Fletcher
GTE Florida, Inc.
106 E. College Ave., Suite 1440
Tallahassee, FL 32301

√Anthony Gillman, Esq.
GTE Florida Incorporated
201 N. Franklin St.
Tampa, FL 33602

√Jeffry Wahlen, Esq.
Macfarlane, Ausley, Ferguson &
McMullen
227 S. Calhoun St.
Tallahassee, FL 32301

√Robert G. Beatty
c/o Nancy Sims
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

√Carl V. Povelitis
GTE Mobile Communications
245 Perimeter Center Parkway
Atlanta, GA 30346

√Kenneth A. Hoffman
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
215 S. Monroe St., Suite 420
Tallahassee, FL 32302-0051

√Angela B. Green, Esq.
Florida Public
Telecommunications
Association
125 S. Gadsden St., Suite 200
Tallahassee, FL 32301

√Mr. George Lee
ALLTEL Florida, Inc.
206 White Ave., SE
Live Oak, FL 32060

√Mr. F. Ben Poag
Sprint/United - Florida
315 S. Calhoun St., Suite 740
Tallahassee, FL 32301

√Mr. A. D. Lanier
Gulf Telephone Company
115 W. Drew St.
Perry, FL 32347

√Mr. Robert M. Post, Jr.
Indiantown Telephone
System, Inc.
15925 S.W. Warfield Blvd.
Indiantown, FL 34956

√David Erwin, Esq.
Young Van Assender, et al.
225 S. Adams St. Suite 300
Tallahassee, FL 32301

√Mr. John A. Carroll, Jr.
Northeast Florida Telephone
Company, Inc.
130 N. Fourth St.
Macclenny, FL 32063-0485

√Mr. Daniel V. Gregory
Quincy Telephone Company
107 W. Franklin St.
Quincy, FL 32351

√Mr. Jeff L. McGehee
Southland Telephone Company
210 Brookwood Road
Atmore, AL 36502

√Mr. John Vaughn
St. Joseph Telephone and
Telegraph Company
502 Fifth St.
Port St. Joe, FL 32456

√Mr. Ferrin Seay
The Florala Telephone Company,
Inc.
522 N. Fifth St.
Florala, AL 36442

√Mr. Jerry M. Johns
United Telephone Company of
Florida
555 Lake Border Drive
Altamonte Springs,
FL 32703

√Ms. Lynn B. Hall
Vista-United Telecommunications
3100 Bonnet Creek Road
Lake Buena Vista, FL 32830

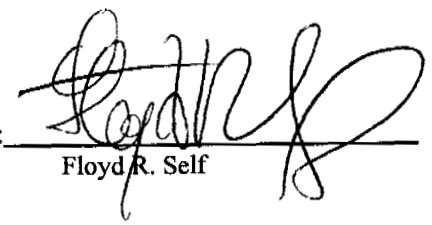
By: 
Floyd R. Self

TABLE OF CONTENTS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into the rates for interconnection of mobile service providers with facilities of local exchange companies.	)	DOCKET NO. 940235-TL ORDER NO. PSC-95-1247-FOF-TL ISSUED: October 11, 1995

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER ESTABLISHING RATES FOR INTERCONNECTION OF MOBILE SERVICE PROVIDERS WITH FACILITIES OF LOCAL EXCHANGE COMPANIES

Pursuant to Notice, a Hearing in this docket was held on March 27 and 28, 1995, in Tallahassee, Florida.

APPEARANCES:

Patrick K. Wiggins, Esquire, and Marsha E. Rule, Esquire, Wiggins & Villacorta, P.A., Post Office Drawer 1657, Tallahassee, Florida 32302
On behalf of BellSouth Mobility Inc. (BellSouth Mobility)

C. Everett Boyd, Jr., Esquire, Ervin, Varn Jacobs, Odom & Ervin, Post Office Drawer 1170, Tallahassee, Florida 32302
On behalf of Florida Mobile Communications Association, Inc.. (FMCA)

Angela B. Green, Esquire, 125 South Gadsden Street, Suite 200, Tallahassee, Florida 32301
On behalf of Florida Public Telecommunications Association, Inc.. (FPTA)

Anthony Gillman, Esquire, Post Office Box 110, FLTC0007, Tampa, Florida 33601
On behalf of GTE Florida Incorporated. (GTEFL)

Kenneth A. Hoffman, Esquire, Rutledge, Ecenia, Underwood, Purnell & Hoffman, P.A., Post Office Box 551, Tallahassee, Florida 32302-0551
On behalf of GTE Mobilnet Incorporated. (GTE Mobilenet)

Floyd R. Self, Esquire, and Norman H. Horton, Jr., Esquire, Messer, Vickers, Caparello, Madsen, Goldman & Metz, P.A., Post Office Box 1876, Tallahassee, Florida 32302-1876
On behalf of McCaw Communications of Florida, Inc.. (McCaw)

Robert G. Beatty, Esquire, and Phillip J. Carver, Esquire, c/o Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301, and
David M. Falgoust, Esquire, and Kevin A. Hall, Esquire, 4300 Southern Bell Center, 675 West Peachtree Street, N.E., Atlanta, Georgia 30375
On behalf of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company. (SBT)

Lee L. Willis, Esquire, and J. Jeffry Wahlen, Esquire, Macfarlane, Ausley, Ferguson & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of United Telephone Company of Florida and Central Telephone Company of Florida and ALLTEL Florida, Inc.. (United/Centel) and (ALLTELL)

Jack Shreve, Esquire, and Charles J. Beck, Esquire, Office of Public Counsel c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida. (OPC)

Robert V. Elias, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

Prentice Pruitt, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commissioners.

BY THE COMMISSION:

I. CASE BACKGROUND

In Docket No. 870675-TL, the Commission investigated the interconnection of mobile carriers with facilities of Local Exchange Companies (LECs). That investigation culminated with the issuance of Order No. 20475 on December 20, 1988, in which the Commission approved rates, terms and conditions for interconnection between mobile service providers (MSPs) and LECs. Included in those rates, terms and conditions was a composite mobile-to-land usage rate, which is the charge for mobile carrier interconnection with LEC facilities. The Commission also approved an optional land-to-mobile usage rate for mobile carrier interconnection with LEC facilities. This option allows intraLATA direct dialed long distance calls and expanded local calling area calls from telephone numbers served by the LEC and terminating in an MSP network to be excluded from the originating customer's bill. The result is that the mobile carrier pays for the call instead of the landline caller. Other issues included mutual compensation, NXX establishment charges, operator services, DID numbers, facilities charges, and nonrecurring charges.

Specifically, the Commission ordered a composite usage rate for mobile-to-land traffic that consists of two components: a local component and a toll component. The Commission adopted a statewide rate structure and statewide terms and conditions of service in order to obtain consistency in mobile interconnection offerings and to achieve equal treatment among LEC customers. The Commission adopted a weighting ratio of 80% local and 20% toll for the purpose of calculating the composite usage rate. With respect to the optional land-to-mobile usage rate, the Commission ordered that this rate would be equal to the toll component of each LEC's composite usage rate. The toll components equate to the terminating switched access charges paid by Interexchange Carriers (IXCs) for traffic comparable to that of the mobile carriers.

For the toll component, the Commission required LECs to use full switched access charges, including a per minute equivalent of the Busy Hour Minutes of Capacity (BHMOC) and Carrier Common Line (CCL) charges. For the local component, LECs were required to use the traffic sensitive elements of intrastate switched access charges--local switching and local transport. These rates and rate structure were roughly equivalent to the rates approved for other interconnectors to the local network, such as pay telephone providers (PATS) and shared tenant services providers (STS). The Commission further required that the composite usage rates be adjusted when LEC switched access charges change.

On September 15, 1993, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (SBT or Company) filed a petition to disassociate usage-based mobile interconnection charges from switched access charges. On the same date, the Company filed a tariff (hereafter, the restructure tariff) which incorporated negotiated rates for Mobile Service Provider (MSP) network usage charges and which restructured the MSP tariff. These filings were considered in Docket No. 930915-TL.

Although the Commission recognized that changes in the industry and in switched access charges do have the potential to impact the validity of the formula, it found that SBT had not fully supported its Petition to disassociate the MSP network usage rates from access charges. The formula was deemed to be still useful for many of the reasons it was implemented. Additionally, the Commission found that the formula, which was established with input from many parties, should not be discarded on the basis of a Petition from one company. SBT's Petition has major implications for the mobile service provider industry throughout the state because the formula is used by the other LECs. The Commission acknowledged that there are forces which ultimately may render the MSP network usage charge formula obsolete. While it may be possible to continue the use of this formula in the short run, the Commission found that it is appropriate to examine the impact of impending changes on a statewide basis.

Accordingly, the Commission denied SBT's Petition and undertook a generic investigation in this docket to determine the appropriate rates, terms and conditions for mobile interconnection, including whether the formula for mobile service provider usage charges is still appropriate, or whether it should be abandoned, or replaced with a revised formula.

A hearing was held on March 27 and 28, 1995. The parties that participated in the docket were ALLTEL, GTEFL, SBT, Centel, United Telephone, FMCA, McCaw, BellSouth Mobility, Contel Cellular of the South, GTE Mobilnet of Tampa, FPTA, and OPC.

After the hearing was held and briefs were filed, substantial additions, revisions and amendments to Chapter 364, Florida Statutes, were approved by the Florida legislature. These changes became law on June 18, 1995, effective July 1, 1995. Several provisions of the law, depending upon the interpretation, construction and application deemed appropriate, could significantly impact the decisions made by the Commission concerning the issues identified for resolution in this docket.

To assure that the Commission's decisions fully consider the appropriate application of the changes to Chapter 364, Florida Statutes, the parties were required by Order No. PSC-95-0916-FOF-TL, issued July 28, 1995, to address the following issues:

1. What are the potential effects of the recently enacted Section 364.163(1), Florida Statutes, capping the rates for network access service "...at the rates in effect on July 1, 1995" effective January 1, 1996, on the resolution of the issues identified for decision in this docket?

2. What is the effect of the recently enacted Section 364.163(3), Florida Statutes, prohibiting any "...revisions in the rates, terms, and conditions for commercial mobile radio service access, which revisions are inconsistent with the requirements or methodologies of the Federal Communications Commission" on the resolution of the issues identified for decision in this docket?

3. What, if any, are the effects of the various amendments to section 364.385, Florida Statutes (savings clauses), on the resolution of the issues identified for decision in this docket?

4. Is there any other provision of the recently enacted changes to Chapter 364, Florida Statutes, which would limit, require or prohibit any action proposed by any party to resolve the issues identified for decision in this docket?

ALLTEL Florida, Inc. (ALLTEL), BellSouth Mobility Inc (BMI), the Florida Public Telecommunications Association, Inc. (FPTA), GTE Florida Incorporated (GTEFL), GTE 2Mobilnet Incorporated, GTE Mobilnet of Tampa and Contel Cellular of the South, Inc. (collectively MOBILNET), McCaw Communications of Florida, Inc. (MCCAW), BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (SBT) and United Telephone Company of Florida and Central Telephone Company of Florida (UNITED) filed briefs on August 15, 1995. On that same date The Florida Mobile Communications Association (FMCA) filed a notice of adoption of the brief of McCaw Communications of Florida, Inc. GTEFL, MOBILNET, MCCAW, SBT and UNITED filed reply briefs on August 24, 1995 in accord with the schedule established by Order No. 95-0916-FOF-TL.

Having considered the evidence and argument of the parties, we now enter our final order.

II. POST HEARING MOTION

On April 11, 1995, McCaw Communications, of Florida, Inc. (McCaw) timely filed its Objection to Late Filed Exhibit No. 29, submitted by BellSouth Telecommunications, Inc. witness Nancy Sims. Commission staff asked for and proffered Late-Filed Exhibit No. 29.

It is longstanding Commission policy that late filed exhibits are taken subject to objection of the parties of record. This is because parties have not had an opportunity to conduct cross-examination on the late filed exhibit so as to determine the reliability or credibility of that evidence. McCaw has filed a legitimate and timely objection to these exhibits. In its objection, McCaw specifically cites its inability to conduct cross-examination on the exhibit and alleges that cross-examination would show a number of flaws. In and of itself, the inability to conduct cross-examination is a sufficient basis to deny the admission into evidence of this exhibit. Therefore, we find that Late-Filed Exhibit 29 be shall excluded from the record in this docket..

III. IMPACT OF REVISIONS TO CHAPTER 364, FLORIDA STATUTES

Section 364.385(2), Florida Statutes, states in pertinent part:

> Proceedings including judicial review pending on July 1,1995, shall be governed by the law as it existed prior to the date on which this section becomes a law. No new proceedings governed by the law as it existed prior to July 1, 1995, shall be initiated after July 1, 1995. Any administrative adjudicatory proceeding which has not progressed to the stage of a hearing by July 1, 1995, may, with the consent of all parties and the commission, be conducted in accordance with the law as it existed prior to January 1, 1996.

This proceeding (Docket No. 940235-TL) was pending on July 1, 1995. A hearing was held in this proceeding on March 27 and 28, 1995. Applying the standards set forth in Section 364.385(2), Florida Statutes, yields the conclusion that this proceeding must be decided based on the prior law. No party urges an interpretation that is inconsistent with this conclusion. Therefore, we find that the application of Section 364.385(2), Florida Statutes, to this proceeding mandates that the issues identified for decision in this docket be resolved based on the law as it existed prior to July 1, 1995.

We believe this issue is dispositive and controlling with respect to the other legal issues identified in Order No. PSC-95-0916-FOF-TL. Because Section 364.385(2), Florida Statutes, is controlling, no newly enacted provision of the law could have any necessary application to the resolution of the issues identified for decision in this proceeding.

Because the savings clause (Section 364.385(2), Florida Statutes) controls, this docket will be resolved in accord with the law effective prior to July 1, 1995. Therefore, Section 364.163(1), Florida Statutes, has no effect on the resolution of the issued identified for resolution in this docket. The questions of 1) the appropriate "rates effective on July 1, 1995" if a local exchange company opts to become price regulated pursuant to Section 364.051, Florida Statutes, on January 1, 1996; and 2) the applicability of Section 364.163(1), Florida Statutes, to Commercial Mobile Radio Service providers are not ripe for decision. To avoid confusion as to what rates apply after January 1, 1996, the tariffs to be filed pursuant to our decisions on the substantive issues shall be filed no later than sixty days after the date of the final order, with an effective date of December 31, 1995. This does not, as a matter of law, prejudge the issue of what rates would be applicable to a local exchange company electing price regulation effective January 1, 1996. If necessary, that decision will be made when there is an actual case in controversy.

No party has suggested that any other provision of the recently enacted changes to Chapter 364, Florida Statutes, would limit, require or prohibit any action proposed by any party to resolve the issues identified for decision in this docket. Further research has not indicated any other provision of the recently enacted changes to Chapter 364, Florida Statutes, that would limit, require or prohibit any action proposed by any party to resolve the issues identified for decision in this docket.

Therefore, we find that no other provision of the recently enacted changes to Chapter 364, Florida Statutes, would limit, require or prohibit any action proposed by any party to resolve the issues identified for decision in this docket.

IV. SUBSTANTIVE ISSUES

A. TYPES OF INTERCONNECTION AVAILABLE BETWEEN A LEC AND A MOBILE CARRIER

There is no disagreement among the parties as to the type interconnections that are now or will be available and how they function. These are all standard interconnections and are

technically provisioned following specifications furnished by BellCore. All LECs do not have all types available. The interconnection types that are available or will be available are listed below along with a technical description of each.

Type-1: Two way direct connection between the MSP and a LEC end office that utilizes trunk type signaling but provides all services available to any line served by the end office. In general the MSP switch functions like a PBX with DID Trunks.

Type-2A: Two way trunk connection between the MSP switch and the LEC Tandem office providing LATA wide local service and 1+ inter LATA toll service only. This interconnection requires the MSP to purchase a full NXX code and treats the MSP switch like an end office. It switches all incoming traffic to the dedicated NXX to MSP switch.

Type-2B: Two way trunk connection between the MSP switch and a LEC end office providing only local service to and from that specific end office. This connection works in conjunction with the MSP type 2A trunks in that, if all of the 2B trunks are busy the call will be routed over the 2A trunk group.

Type-2C: A future one way interconnection between the MSP switch and a LEC 911 tandem to provide emergency service. Not available at this time.

Type-2D: Two way connection between the MSP switch and the LEC operator service tandem that provides local and toll operator services including directory assistance.

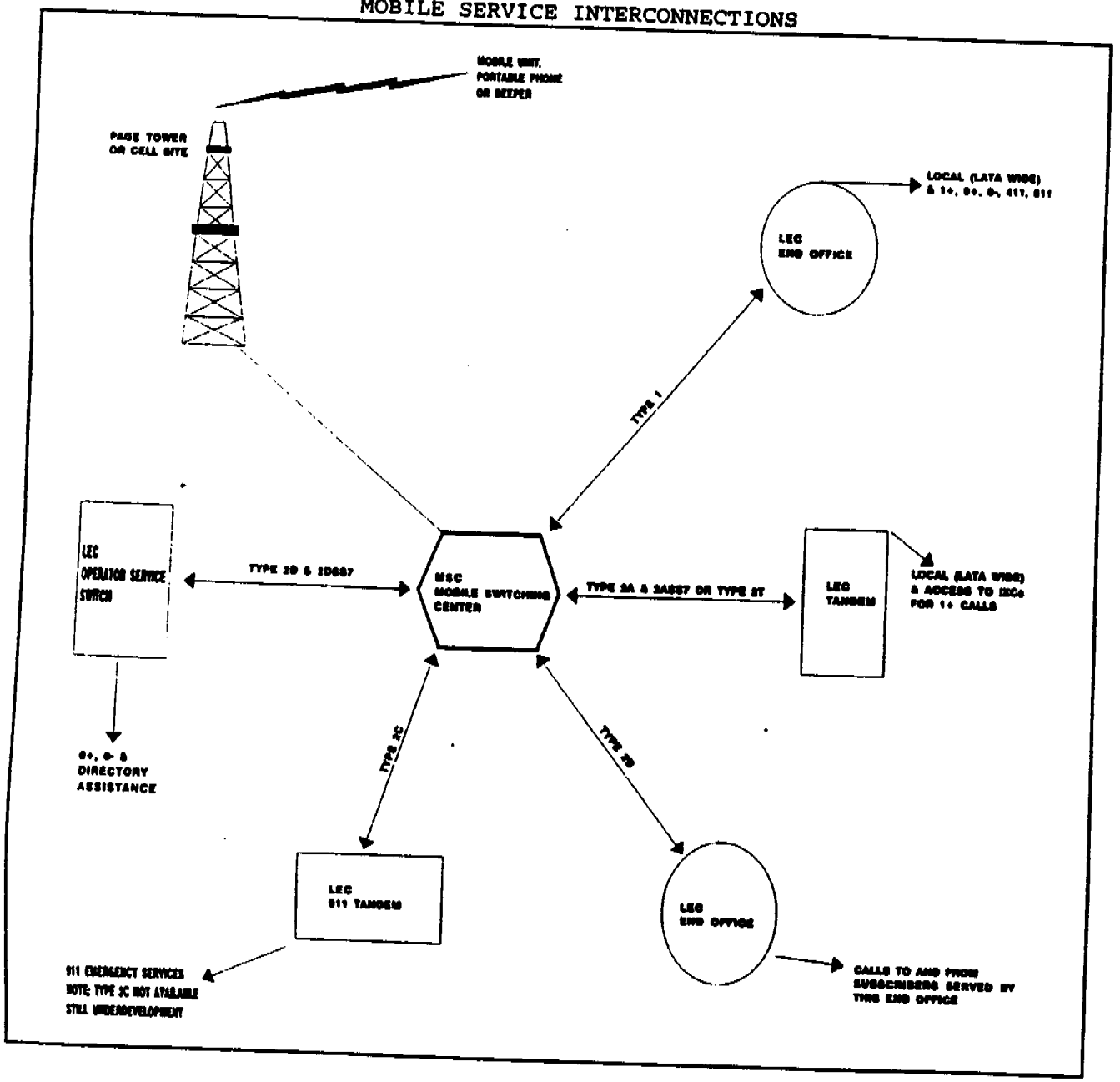
Type-2A-SS7: Functions the same as type 2A except that out of band signaling is employed using signaling system seven (SS7).

Type-2D-SS7: Functions the same as type 2D except that out of band signaling is employed using signaling system seven (SS7).

Type-2T-: A new offering by GTE that allows the MSP to provide its end users with equal access to interexchange carriers.

All of the above interconnections are depicted on Chart 1 on the following page.

CHART 1
MOBILE SERVICE INTERCONNECTIONS



B. APPROPRIATENESS OF NEGOTIATED RATES, TERMS AND CONDITIONS FOR INTERCONNECTION BETWEEN INDIVIDUAL LECS AND MSPS

The majority of the parties to this proceeding favor negotiation for establishment of MSP network interconnection rates, terms and conditions. Only FMCA did not support negotiated rates. However, even FMCA witness Cabrera agreed that "negotiations can and should be conducted, and in many cases will solve the problems that arise."

In favor of negotiation, several of the parties testified that negotiations work well in other states. In Florida, United and Centel have been involved in successful negotiations on several occasions. Additionally, GTE Mobilnet argues in its brief that negotiated rates would be consistent with the policy of the Federal Communications Commission (FCC).

No party seriously objects to interested parties negotiating revisions to service arrangements. Indeed, new services and rate related matters have been negotiated and implemented in Florida. As McCaw witness Giannella testified, several of the new service arrangements, such as Type 2D and Type 2A-CCS7, and some of the proposed new service arrangements, such as Type 2C, are the result of industry negotiations. In addition, some of FMCA's rate problems with United's tariff were resolved through negotiations.

The parties overwhelmingly agree that the Commission should establish the rates, terms and conditions if the parties are unable to agree. In that case, the parties argue that the Commission should intervene to arbitrate. In the negotiation process, the role of this Commission remains critical. As GTEFL's witness Bailey acknowledged, LEC interconnection is and will remain a monopoly service for each LEC even after landline local exchange competition is introduced. This is especially important considering that most cellular traffic is mobile-to-land. Consequently, the Commission must continue to exercise its jurisdiction to resolve any disputes arising out of the failure of negotiations or after-the-fact disputes, including the product of those negotiations.

There are three critical areas of concern with regard to negotiated rates:

1) Should the current methodology for establishing MSP rates be abandoned in favor of a mandate to negotiate?

2) What criteria should be utilized by the parties in negotiating interconnection agreements and by the Commission in resolving interconnection rate issues which are not successfully negotiated by the parties?

3) Should negotiations conducted by the parties result in a tariff?

1) Should the current methodology for establishing MSP rates be abandoned in favor of a mandate to negotiate?

Since there is no strong objection to negotiation, the real question is whether the LECs and mobile carriers to should be directed to immediately negotiate a completely new interconnection arrangement that would replace the existing interconnection tariffs with either new tariffs or contracts. The evidence does not support the wholesale abandonment of the status quo.

While the current methodology is discussed beginning at page 14 of this order, it is appropriate to consider some of the parties' arguments on that issue as they relate to negotiated rates. Some of the parties support allowing the current method for establishing rates to remain in effect until new rates are negotiated by the parties. McCaw witness Maass argued that "immediate elimination of the current methodology for establishing MSP rates coupled with a mandate to negotiate is a recipe for heavy-handed negotiating by the LECs and ultimately a return to the Commission to establish rates."

On the other hand, the LECs argue that the formula should be abandoned and the network interconnection rates, terms and conditions for MSPs should be negotiated between the parties.

The LECs argue that negotiated rates, terms and conditions will allow the parties to deal with changing circumstances and unique situations more efficiently than under the present tariff system. They state that, under the current system, the LECs must offer standard rates, terms and conditions and have limited ability to address the needs of their different MSP customers. To the extent there are bona fide differences between MSPs, negotiation would enable the parties to recognize and reflect those differences in the rates, terms and conditions for the unique MSP. The negotiation process would also allow the LECs and MSPs to share valuable information and become aware of things that might not otherwise be available to them.

2) What criteria should be utilized by the parties in negotiating interconnection agreements and by the Commission in resolving interconnection rate issues which are not successfully negotiated by the parties?

The parties disagree on the appropriate criteria to be used in negotiating rates, or, failing successful negotiations, to be used by the Commission in establishing rates. Some of the parties agree that the rates should be cost-based (using each LEC's long-run incremental costs) and based upon MSP specific interconnection costs. SBT witness Sims argues that the local component of the rate should be consistent with shared tenant services and public access telephone service usage rates.

If negotiation is allowed, United and Centel believe that the network interconnection rates, terms and conditions for MSPs should be consistent with the rates, terms and conditions LECs charge other interconnectors for similar interconnection services, at least to the extent possible. United and Centel believe that this will be increasingly important in the future as it becomes more difficult to distinguish the type of traffic being terminated to LECs networks as local or toll.

3) Should negotiations conducted by the parties result in a tariff filed with this Commission?

Some companies would prefer private contracts, but would be open to public contracts or tariffs. United/Centel witness Poag argues that portions of public contracts might need to be kept confidential, and public contracts or tariffs negotiated by the parties should be presumptively valid.

Authorizing LECs to negotiate interconnection arrangements is a hollow benefit when they must still go through the regulatory process after an agreement is reached. As noted by GTEFL witness Charles Bailey:

> . . . [A]s I stated a little earlier, if I'm attempting to negotiate on a good faith basis with my customer but the interconnections or the rules here in Florida dictate that those interconnection arrangements be tariffed, . . . it just doesn't make a lot of sense to me. . . . [N]egotiations take time and work; and to go through that and then end up with a proposal in front of the commission and then have to go through the tariffing and regulatory process, it is really double the amount of work. (emphasis added)

The only other issue associated with this subject is GTE Florida's proposal to detariff mobile interconnection. However, GTE Florida's witness Bailey agreed that filing negotiated contracts with the Commission would not be a problem. Given the number of carriers that ultimately may be taking mobile interconnection service from each LEC, continued tariff filings would appear to be more appropriate than the development and filing of multiple interconnection contracts.

While there is some merit to the notion of being able to respond to changing circumstances and unique conditions, perhaps the greatest impediment to negotiation rates is the parties' inability to successfully negotiate any major agreements in the past. While certain individual problems have been resolved, prior attempts at wholesale negotiation, though laudable, have been fraught with difficulties.

Prior to initiation of the instant docket, a number of parties negotiated an agreement which precipitated SBT's petition to disassociate mobile interconnection usage charges from the formula which is based on switched access charges. There was no written document evidencing that agreement. FMCA initially supported SBT's petition and tariff filing. Subsequent to SBT's petition and tariff filing, but long before the matter was resolved, FMCA withdrew its support for the petition and filing. The basis for FMCA's withdrawal of its support of SBT's proposed tariff filing was FMCA's concerns with regard to mutual compensation, which is payment by the LEC to mobile carriers for termination of land-line originated calls.

It is the current policy of this Commission that the LECs must "exert efforts to participate with mobile carriers in planning network interconnection and facility requirements." (Order No. 20475, at 8) GTEFL witness Bailey argues that the Commission's present policy does not preclude efforts by LECs and mobile carriers to negotiate interconnection issues prior to submitting tariff filings to the Commission. McCaw argues in its brief that the parties can already negotiate whenever such negotiations are deemed appropriate. McCaw further argues that, consistent with Florida policy, the FCC requires the LECs to negotiate in good faith the terms and conditions of mobile carrier interconnection. See Second Report and Order, In re: Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services, 9 FCC Rcd 1411, para. 229 (FCC 94-31, GN Docket 93-252, adopted February 3, 1994 and released March 7, 1994).

We believe that there is an important role for negotiations to address new services, rates, and other issues affecting network interconnection and the efficiency of those interconnections. The record supports that some negotiation has been successful. Given the parties' past difficulties, there is insufficient justification to abandon the existing tariffs to be replaced by new, negotiated arrangements. Rather, the parties shall be permitted to continue to negotiate changes in the existing interconnection tariffs.

Therefore, we find that the Commission shall continue to establish network interconnection rates, terms and conditions, consistent with the revisions to Chapter 364, Florida Statutes. If the parties are able to negotiate appropriate elements of interconnection, they are not precluded from doing so.

C. SHOULD THE USAGE RATES CONTINUE TO BE BASED ON INTRASTATE SWITCHED ACCESS CHARGES?

All the parties except FMCA endorse the concept of negotiating their own rates rather than having the Commission set them. Most parties agree, however, that if they are unable to successfully negotiate, then the Commission should set rates or at least mediate the dispute. GTEFL goes further and proposes that mobile interconnection rates be detariffed. As discussed above, the parties have been unable to successfully negotiate a resolution to their differing interests concerning interconnection.

Parties' opinions vary with respect to the continued use of the current formula for determining the usage rate. The LECs advocate abolishment of the usage rate formula, at least in its current form. They offer various reasons, but their primary objection is that the formula ties mobile interconnection usage rates to switched access charge rate levels, which are gradually decreasing. The cellular carriers endorse continued use of the current formula, since they are assured of ever decreasing usage rates as long as access charges continue to be reduced.

The LECs did not provide specific proposals for usage rates in this case.

We believe LEC pricing decisions on switched access rates are being influenced by the existence of the flow-through requirement. That is, when LECs determine which switched access rate elements to reduce, they must consider the fact that some of the elements are flowed through to the MSP usage formula in both the local and toll components, while others just to the toll component. The LECs have become somewhat unwilling to reduce the Local Switching and Local

Transport rate elements to the degree they otherwise would have because of the impact of the flow through requirement. Although we do not believe that this has caused any major market distortions at this point, we do not think that it should continue. Cellular and paging usage has grown substantially since the last mobile interconnection case, and with it, the revenue impact on LECs of the flow through requirement. Given the new legislative mandate to reduce intrastate switched access charges to 12/31/94 interstate levels, we believe the magnitude of the LEC revenue impacts associated with the current formula and flow through requirement could become undesirably large.

As detailed in this order, we believe that the current rate levels are satisfactory, except for the rate for type 2B interconnection. It is prudent to hold those rates at their current levels, rather than allow them to continually move downward, which would occur with usage rates under the current formula. No party has stated a major objection to the current usage rate levels except SBT. From our review of the available evidence, we conclude that cost recovery and contribution levels are satisfactory. SBT's arguments of insufficient cost recovery are not adequately supported.

Switched access charge prices will continue their downward trend. Setting permanent usage rates will more or less stabilize contribution levels derived from mobile interconnection usage rates (assuming incremental costs are stable). Breaking the link with access charges may facilitate future negotiation processes, which would be desirable.

Therefore, we find that, except as to type 2B interconnection, usage rates for mobile interconnection shall be frozen at their current levels. As to all mobile interconnection usage rates, the flow through requirement for switched access charges shall be eliminated. The decision to freeze and/or set rates now is for the purpose of resolving the issues in the immediate proceeding only.

In the course of this proceeding, it has been learned that four LECs (ALLTEL, St. Joe, Gulf, and Quincy), who have mobile interconnection tariffs, did not followed the requirements of Order No. 20475 (DN 870675-TP), with respect to flowing through reductions in switched access to mobile interconnection usage rates. Given our decision to freeze the mobile interconnection rates at current levels, these four small LECs shall adjust their MSP usage rates to reflect the access reductions that have occurred since their mobile interconnection tariffs were approved. These tariff revisions, when filed and determined by staff to be correct, be allowed to go into effect as a matter of law.

D. APPROPRIATE RATES, TERMS AND CONDITIONS FOR TYPE 1 INTERCONNECTION

Type 1 interconnection is a trunk-side interconnection between the Mobile Service Provider's (MSP) point of termination (POT) and a local exchange company (LEC) end office.

All of the LECs agree that the current rates for Type 1 interconnection are not appropriate, due to the linkage with switched access charges. On the other hand, the MSPs argue that the current Type 1 interconnection rate are appropriate and should not be changed. All of the parties who take a position, with the exception of FMCA, agree that negotiations would be an appropriate means to set the Type 1 interconnection rate.

Currently, Type 1 interconnection is provided at the same rates as Type 2A interconnection. None of the parties presented evidence that the Type 1 rate should be different from the Type 2A rate.

Therefore, we find that if the parties do not negotiate an alternative usage rate for Type 1 interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rate at its current level, and eliminating the link with access charges.

E. APPROPRIATE RATES, TERMS AND CONDITIONS FOR TYPE 2A INTERCONNECTION

The parties agree that the usage rates for Type 1 and 2A should be the same. As discussed above, the LECs agree that the current rates for Type 1 interconnection are not appropriate, due to the linkage with switched access charges. Non-LEC parties generally consider the current rates, terms and conditions for the usage rates to be reasonable.

The LECs did not provide detailed proposals concerning the appropriate Type 2A usage rates. They did offer some general preferences. ALLTEL and United/Centel suggested only minor adjustments that do not constitute a change in policy. SBT took the position that the formula, in its current form, should be abandoned. GTEFL believes that incremental cost should be the basis for rates if they are not detariffed but did not propose to change the current usage rate level for Type 2A.

SBT witness Sims advocated changing the local component of the usage rate. The local component, which consists of the Local Switching and Local Transport switched access rates, weighted at

80%, was originally designed to be reasonably close to the rates that other providers of local service, such as STS and PATS providers, pay. Over the years, SBT's switched access reductions that have flowed through to its MSP rates have reduced the local component below what other local providers are paying, according to SBT witness Sims. SBT is the only LEC that actually wants to increase the current usage rate for Types 1, 2A and 2D.

The effect of SBT's proposed change, assuming no other adjustments are made, would be to raise SBT's MSP usage rate, and to lower those of other LECs. This is because SBT's access charges are lower than any other LECs, and are lower than its PATS and STS usage rates. For all other LECs, modifying the local component of their MSP rates to match their PATS/STS rates would serve to decrease the overall MSP rate.

No party presented a strong or compelling basis to modify the current rates. Therefore, we find that if the parties do not negotiate a usage rate for Type 2A interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rates at the current levels, and eliminating the link with access charges.

F. APPROPRIATE RATES, TERMS AND CONDITIONS FOR TYPE 2A-CCS7 INTERCONNECTION

Type 2A-CCS7 interconnection is a direct trunk connection between an MSP's point of termination and the trunk side of a company tandem switch using out of band signaling. Unlike Type 2A interconnection, which uses in-band signaling, this interconnection incorporates common channel signaling using signaling system 7 (CCS7). The primary difference between this interconnection and the type 2A is the signaling. The type 2A-CCS7 interconnection requires that the MSP establish signaling links, which enable out-of-band signaling, with the company to transport internetwork call control messages. CCS7 interconnection also enables the cellular carrier and the LEC to exchange the information necessary to support the CLASS features, such as Caller ID. Type 2A-CCS7 interconnection is currently offered by GTEFL and SBT, but not by United or Centel.

Much of the evidence on this issue concerned whether or not there was greater network efficiency due to the use of CCS7, and accordingly, a basis for a lower facilities rate. The parties are divided as to whether Type 2A-CCS7 interconnection should have a different rate from Type 2A interconnection.

McCaw witness Giannella stated that the hallmark of SS7 is greater network efficiency, which means improved call set up time. McCaw witness Maass argued that SS7 interconnectivity between a mobile carrier and a landline carrier provides benefits to both carriers and their respective customers. He states that if the Commission chooses to continue to set rates and not require negotiated rates, the evidence supports a new policy of Type 2A-CCS7 shared interconnection facility charges. However, as regards the efficiencies gained, witness Giannella agreed that the number of trunks needed for SS7 would not be "substantially less than what currently" is needed today.

GTEFL witness Bailey argues that significant signaling efficiencies are only gained when SS7 is deployed over the entire network. He states that the actual efficiencies gained depend on the trunk group sizing and type of traffic. The efficiencies gained by a small group of twenty-four trunks alone, for example, are negligible. He further argues that most carriers will make the decision to deploy SS7 based on the market demand for services like Customer Local Area Signaling Services (CLASS), Integrated Services Digital Network (ISDN) services, and Advanced Intelligent Network (AIN) services that cannot be provided without it, not on the efficiencies gained alone.

SBT witness Sims testified that when a cellular carrier like McCaw interconnects with SBT, McCaw's deployment of SS7 does nothing to improve network efficiency on the SBT network. Accordingly, she concludes, SBT derives nothing from the SS7 interconnectivity whereas the mobile carrier does.

While it appears that some efficiencies are gained through the use of CCS7, it is not clear from the record that there is a savings to be passed along to the MSPs. Although the parties seem to agree, with the exception of SBT, that there are network efficiencies, both the LECs and the MSPs acknowledged that the difference is negligible.

In the absence of any meaningful cost differentials between Type 2A and Type 2A-CSS7 interconnection, we believe that the rates, terms and conditions for Type 2A interconnection are appropriate for Type 2A-CCS7 interconnection. Therefore, we find that if the parties do not negotiate a usage rate for Type 2A-CCS7 interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rates at the current levels, and eliminating the link with access charges.

G. APPROPRIATE RATES, TERMS AND CONDITIONS FOR TYPE 2B INTERCONNECTION

Most LECs agree that the usage rate for Type 2B should be lower than that for the other interconnection types. ALLTEL and United/Centel disagree to some extent. ALLTEL states that the usage rates should be the same, but did not sponsor a witness or otherwise explain its position. United/Centel witness Poag qualified his testimony by saying that he did not object to a lower Type 2B rate, but was concerned that if a predominance of local usage converted to Type 2B trunks, that it would cause the local/toll relationship in Type 2A rates to change. On that basis, he proposed that Type 2A rates be "adjusted" to reflect any shift in local/toll usage weightings. He did not conduct any studies or have any idea, however, as to whether or to what degree this might occur.

The remaining parties believe that Type 2B rates should be lower, but for different reasons. The MSPs argue that the cost to provide Type 2B usage is less because there are fewer switching points, and there is a smaller termination range (i.e., end office exchange versus LATA-wide). GTEFL says that no transport or tandem switching is involved, only end office switching. However, the company proposed no change to the rate in this proceeding.

SBT suggested, that the appropriate rate would be in the vicinity of $.01376 cents per access minute, but has not actually proposed it. This rate was constructed by adding $.005 to its projected Local Switching access charge rate to become effective October 1, 1995 ($.00876). The MSPs believe that the Type 2B rate should just be the same as the Local Switching element of switched access charges.

The trend nationwide appears to set Type 2B rates lower than Type 1/2A rates. Type 2B is designed to be a high volume trunking arrangement, with no additional services offered, such as access to Directory Assistance, operator services or 911. That is why most MSPs continue to use Type 1, and may continue to do so even if the Type 2B rate is lower.

Therefore, we find that if the parties do not negotiate a usage rate for Type 2B interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions setting the rate at $.01 per access minute.

H. APPROPRIATE RATES, TERMS AND CONDITIONS FOR TYPE 2D INTERCONNECTION

Type 2D interconnection provides trunking facilities between the MSP switch and a LEC's operator service tandem switch. MSPs subscribing to this type of interconnection can then provide operator services, including Directory Assistance, to their customers. Type 2D is currently offered only by SBT.

GTEFL has a Contract Service Agreement (CSA) offering called Star Information Plus (*SIP), which GTEFL witness Bailey asserts is a Type 2D. *SIP is in fact an end user offering, not the underlying facilities connecting the MSP switch to the operator tandem. GTEFL's current mobile interconnection tariff does not provide for a specific trunking facility to be leased by MSPs for connection between the operator tandem and the MSP switch, but it offers, under CSA authority, the operator services to the MSP's customers.

According to McCaw witness Giannella, Type 2D trunks are more efficient and effective if a carrier has the traffic volumes to support the use of the facility. MSPs must subscribe to the trunks separately from LEC services being provided over them, in this case operator services. Based on witness Bailey's testimony, however, GTEFL does not appear to be charging for the trunking facilities. At least, GTEFL does not have a provision for an operator tandem facility connection. It would be inappropriate, and an unlawful application of their tariff, if GTEFL is offering the underlying tandem (Type 2D) connection free of charge or under its Contract Service Arrangement (CSA) authority, to its cellular customer. GTEFL's CSA authority is limited to the provision of *SIP, and does not extend to the underlying trunking facilities. GTEFL shall at a minimum, clarify its tariff to specify the facilities over which its *SIP offering is provided.

Aside from their general positions that rates should be negotiated, parties taking a position on this issue agree that the usage rates for Types 1, 2A, and 2D should be the same. Currently usage rates for these types of interconnection, where offered, are the same. Based on the absence in the record of a compelling rationale suggesting otherwise, they should continue to be so. Therefore, we find that the usage rate for Type 2D shall be the same as for Types 1 and 2A, where it is offered and where measuring capability exists. If the parties do not develop their own usage rate within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rate at its current

level, and eliminating the link with access charges. Further, GTEFL shall clarify its mobile interconnection tariff to specify the facilities over which its *SIP offering is provided.

I. APPROPRIATE RATES, TERMS AND CONDITIONS FOR NXX ESTABLISHMENT CHARGES

In Docket No. 870675-TL, Order Number 20475, NXX establishment charges were set based on direct costs plus a 15% contribution to the LECs' joint and common costs. The Commission determined that

> [T]here are predictable costs associated with establishing an N[X]X, e.g., assignment, distribution, translation, recording, routing and memory costs. Historically, these costs have been recovered through the separations and settlements processes because only LECs established N[X]Xs. As a result, no mechanism has been developed for recovering these costs from a mobile carrier seeking the establishment of its own N[X]X. We believe that such a mechanism should be developed. (Order No. 20475, p. 23)

Currently, NXX establishment charges vary from LEC to LEC due to differences in direct costs. SBT, United/Centel and GTEFL believe that the current NXX charges should be modified to reflect changes which have occurred in provisioning costs. Generally, the result is a reduction in the NXX establishment charge. However, for Centel the charge would increase, due to averaging of the costs with United. McCaw, GTE Mobilnet and FMCA argue that the NXX establishment charges are inappropriate and should be eliminated.

The current and LEC proposed charges are:

TABLE 2
COST PLUS 15% CONTRIBUTION

COMPANY	CURRENT CHARGES	PROPOSED CHARGES
SBT	$ 4,800.00	$3,915.00
GTEFL	$10,000.00	$5,861.00
United	$ 7,400.00	$3,173.00
Centel	$ 1,800.00	$3,173.00

SBT witness Sims believes the current rates should be adjusted to reflect changes in SBT's provisioning costs. She states that, to the extent that the Company's NXX activation costs have decreased, the Company is prepared to offer a new rate that reflects lower costs.

Witness Sims argues that it is undisputed that LECs incur costs in establishing and maintaining NXX codes, and it is clear that these costs are significant. She explains that, in order to establish and maintain new NXX codes, LECs must request and coordinate code assignments with BellCore, update all related NXX data bases, and advise the National Exchange Carriers Association of the newly opened NXX codes.

GTEFL witness Bailey states his company has developed a more detailed methodology for the analysis of NXX costs. He also states that labor rates contained in the previous cost study have increased and should be updated. However, FMCA witness Biddle pointed out that witness Bailey apparently relied upon a 1987 cost analysis in suggesting that GTEFL's labor costs have increased. At hearing, witness Bailey modified his testimony, stating the "While labor rates contained in the previous cost study have increased and should be updated, this increase is offset by the reduction in time required to perform the task."

United/Centel's witness Poag states that as switching technology has changed, the administrative costs associated with the establishment of NXX codes also have changed. United supports revisiting the costs associated with the establishment of NXX codes and an adjustment in rates as appropriate following the review of such cost studies.

In opposition to the LECs, FMCA witness Biddle states in his direct testimony that LECs in other jurisdictions (e.g., Bell Atlantic, and other regions of United) do not charge wireless carriers for the establishment of NXX codes. Witness Biddle points out that, under recent changes in North American Numbering Plan Administration procedures, mobile carriers, as true local service providers, can now obtain NXX assignments directly from BellCore, eliminating up front administrative costs for the LECs. He explains that network software designed translations can now be loaded into switches from one centralized OSS (Operations Support Systems) point, thus eliminating LEC individual central office work except for call through testing, which is automated. Witness Biddle also states GTEFL should not charge mutual co-carriers an NXX establishment charge. He states that no LECs in Florida charge other LECs for activation of NXXs.

Similarly, GTEFL witness Bailey was asked what charge is assessed by GTEFL to United when United activates a new NXX in the 813 NPA. Witness Bailey responded by saying there is no charge assessed since the NXX is resident in United's switch. He explained that there were minor cost differences associated with implementing a new NXX code for an MSP versus an independent telephone company. The main difference he provided was that a LEC would make its own updates to a database to establish a new NXX, while that service would have to be performed for the MSP.

United/Centel witness Poag was asked if there was any difference when opening up an NXX for a mobile carrier in United's territory than what would be done to open up an NXX in SBT's territory (in Orlando). Witness Poag responded that he did not think there were any significant differences.

The discussion of differences in NXX establishment for MSPs versus other LECs largely centered around the technical aspects, i.e., what must be done differently for an MSP. However, it is not clear from the record how the recovery mechanisms may differ. As discussed above, this aspect was addressed in Docket No. 870675-TL, in which the Commission found it to be appropriate to develop a mechanism to charge the MSPs for NXX establishment. The record is insufficient to warrant total elimination of the NXX establishment charge for MSPs.

However, the record clearly demonstrates that LEC costs for this function have declined since they were initially set. There is no disagreement that the rate should be reduced. Since there are no alternative proposals other than the MSP recommendation to eliminate the charge altogether, we find that the rate shall continue to be based on direct costs plus a 15% contribution, unless the parties negotiate a different rate. Each LEC shall file tariffs which reflect the new NXX rates, as shown in Table 2.

J. APPROPRIATE RATES, TERMS AND CONDITIONS FOR THE LAND-TO-MOBILE OPTION

The Land-to-Mobile option allows intraLATA direct dialed long distance calls and expanded Local Calling Area calls from telephone numbers served by a LEC and terminating in an MSP network to be excluded from the originating customer's bill. The Land-to-Mobile calling plan requires an MSP to dedicate an entire NXX for this option.

As with the usage rates in general, the parties are divided on what the rates for the Land-to-Mobile option should be. The LECs believe that the current rates, terms and conditions for the Land-

to-Mobile option are not appropriate. SBT and United/Centel argue that the parties should be allowed to negotiate. GTEFL proposes that detariffing be allowed, but has not provided sufficient evidence which would support detariffing. McCaw, GTE Mobilnet and BellSouth Mobility believe the current rates, terms and conditions are appropriate. BellSouth Mobility takes a position in line with the LECs, that any changes should be negotiated between the parties.

GTEFL witness Bailey states that GTEFL's first and second choices, respectively, would be detariffing and breaking the linkage with switched access charges. United/Centel's witness Poag stated that the rates are tied to access rates and should be modified.

McCaw witness Maass states that the Commission should continue to ensure that the land-to-mobile rates are updated to reflect decreases in the access charge rate elements that are the basis for land-to-mobile rates.

GTE Mobilnet witness Povelites states in the case of the land-to-mobile option, that the rate should not include any costs or charges associated with termination of the call.

FMCA witness Cabrera states the first aspect of this issue is the basic development of the rate itself. FMCA believes that the current land-to-mobile rate levels, which are based on switched access charges, are reasonable, appropriate and should not be changed. As for the terms and conditions of the land-to-mobile option tariff offerings, FMCA also believes those to be appropriate with one exception - the fact that United Telephone uses a methodology in measuring and calculating the land-to-mobile usage that charges paging carriers not for actual minutes of usage but substantially increases the minutes for a set-up time factor. The set-up time factor is discussed below.

Set up time factor

United/Centel witness Poag argues that United's concept of application of a non-conversation factor is appropriate, as it recovers those non-conversation time network costs that are not recovered if only the conversation time minutes of use are recorded and billed. He points out that the Commission explicitly recognized this in Docket No. 870675-TL. He agrees that United would be willing to review the methodology and its application for paging traffic. However, he believes that, as part of that review, the actual switching rate applicable to paging usage should also be adjusted to reflect that paging traffic has a very short holding

time per call, about fifteen seconds. He states that the switching call set-up function is used significantly more with paging traffic than it is used for long distance calls. Witness Poag explains that the set-up time for long distance calls was the basis for the access charge switching rate element for paging calls, and thus, does not appropriately recognize the higher switching set-up costs associated with the short duration paging calls.

Witness Poag expounds that the average interLATA intrastate long distance call has a duration or connection time of about 4.5 minutes. Thus, Interexchange Carriers are billed for the access charge switching function on average approximately 4.5 times per call, but they only used the switching set-up function once for the average 4.5 minutes intrastate holding time. In other words, to generate sufficient revenues to cover the switching function set-up cost, the calls on average must be 4.5 minutes long (duration). Witness Poag argues that, in contrast, a paging call, assuming an average of 15 seconds per call (as stated by FMCA witness Cabrera, would have used the switch set-up function 4 times per minute or 18 times in 4.5 minutes. Thus, witness Poag deduces, where an IXC uses only one switching set-up function for a 4.5 minute long distance call, paging set-up usage of the switch is approximately 18 timés higher. He opines that this inequity should be corrected by increasing the paging switching rates, or as SBT has proposed, establish a minimum charge per call.

SBT witness Sims states that United or any LEC incurs set-up related costs that require actual call durations to be doubled or tripled on the land-to-mobile calls. She states that SBT cannot address other LECs' specific set-up related costs associated with all calls; however, SBT does have set-up related costs associated with all calls. She argues that the cost to set up a call is a major portion of the total cost of the call. Witness Sims states that the recovery of this set-up cost is recognized in the existing rate structure for toll calling, WATS, and local usage for independent pay phone providers and shared tenant service providers.

SBT witness Sims argues that, because of the call characteristics, and with the drop in usage rates that has occurred, the usage charge per call on these short duration calls does not recover the higher set-up costs. She believes that, rather than imposing a higher first minute charge for set-up as is common for other intraLATA services, a minimum charge per call or a minimum average time requirement (for rating purposes) should be implemented in order to recover set up costs.

We believe that a preponderance of the evidence supports a higher set-up time for MSP calls than for IXCs, upon which charges the current rates are based. It is Commission policy that rates should not be set below incremental costs. We believe that United's non-conversation time calculation charge is an appropriate means to compensate the LECS for non-conversation time on short-duration calls. Any other LEC seeking to add such a factor to its tariff shall be permitted to do so. Any tariff filing to add this factor must be supported with cost and set-up time information.

We believe that sufficient evidence has been provided in the record to justify the inclusion of a non-conversation time factor for short duration calls. Accordingly, we find that LECs may file tariffs, with appropriate cost and set-up time support, to include such a factor in MSP usage rates for the Land-to-Mobile option.

K. APPROPRIATE RATES, TERMS AND CONDITIONS FOR DID NUMBER CHARGES

Direct Inward Dialing (DID) trunks are trunk side connections to an end office that are two wire circuits. Both dial lines and DID trunks are direct connections between the MSP's point of termination and a company end office which allow the MSP to complete and receive calls through other company end offices and other carriers.

Most of the parties, with the exception of GTEFL, agree that the current rates, terms and conditions for DID number charges are inappropriate. FMCA goes even further and proposes that the monthly charges be eliminated from the LEC tariffs altogether. ALLTEL, GTE Mobilnet and BellSouth Mobility have no positions on the matter. The testimony largely addressed the monthly charges for DID. However, McCaw takes the position that non-recurring charges are too high, as they are priced greatly in excess of cost. There is no record support for McCaw's position.

SBT witness Sims states the rate structure should be changed so that there is one rate element for groups of 100 numbers in a shared NXX, and a rate element for groups of 20 numbers in a shared NXX. There would not be a charge for "each additional group of numbers" as currently identified in the tariff. The rates would be essentially unchanged, thus there should be no revenue impact associated with this change. These changes will allow the company to bring the Florida A35 tariff in line with the company's other state tariffs to allow for efficient administration and operations. This structure also provides an additional option for the MSPs.

Witness Sims also states that the nonrecurring charge for groups of shared NXXs should be priced so as not to provide an incentive for MSPs who have the need for a full NXX to subscribe to 100 groups of 100 numbers from a shared NXX instead.

SBT witness Sims states there is a need to have a monthly rate for DID numbers because there is a recurring cost of $.01 per group of 100 numbers associated with administering the numbers residing in Company central offices. Witness Sims argues that even FMCA witness Cabrera acknowledges that the monthly rate for DID numbers is low. Witness Sims opines that the rate is not remotely close to being high enough to preclude interconnection by the MSPs.

Initially, GTEFL witness Bailey stated that if the service is not detariffed, GTEFL proposes removing the DID rate elements and rates from the MSP portion of its tariff and instead referencing section A13.20, page 15 of its General Services Tariff for this service. He argued that this would ensure that the local and wireless DID number offerings have the same rates. However, witness Bailey later struck this statement from his testimony. While he did not give a reason for striking it, staff notes that the DID charges in section A13 are significantly higher than those charged to the MSPs. Presently, the MSPs pay $50 per 100 numbers, or $.50 per number, per month. However, GTEFL has no cost support for this figure.

FMCA witness Cabrera contends that although the DID number rates are relatively low, FMCA continues to believe that those rates are not appropriate as compared to the recurring costs to the LECs. He argues that, once the numbers are assigned, and initial nonrecurring charges paid by the paging carrier, there essentially are no continuing activities required of the LEC, and hence no recurring cost associated with the numbers. He believes those charges, unless clearly justified by the LECs, should be removed from the tariffs.

While some parties have taken the position that there is an incentive for subscribers to use 100 groups of 100 DID numbers instead of a full NXX, the evidence in the record to support this is weak. SBT witness Sims calculated the monthly rate for one hundred groups of one hundred numbers (or 10,000 numbers, which is equal to a full NXX) at $2,400. This is a substantial price differential, as it is approximately half the charge for a dedicated NXX. While she stated that SBT personnel have advised her this is a problem, she was unable to name any instances where a carrier had actually subscribed to 100 groups of 100 numbers, rather than to a full NXX. On the other hand, some parties believe rates should be reduced, without regard for the cost of a full NXX.

They argue that the rates should be more in line with costs. However, no parties have provided a sound basis for a change to the rates. It appears that witness Sims is correct in suggesting that the rate is not high enough to preclude interconnection, particularly in view of the fact that it is less that the charge for a proportional amount of numbers under a full NXX.

Although there is a differential between the recurring rate for DID numbers and the same amount of numbers under a full NXX, DID charges, while low, are substantially above cost. Additionally, there is no firm evidence that this problem is occurring. Indeed, it appears that the carriers generally subscribe to a full NXX. Accordingly, we find that the current DID number charges remain in effect until such time as the parties may propose a reasonable change to the rates. Any rate increase shall be supported by either cost studies or sufficient evidence that the rate differential between DID Number Charges and NXX establishment charges is problematic. Structural changes, such as that proposed by SBT, shall be permitted.

L. OTHER MSP INTERCONNECTION TARIFF STRUCTURE OR RATE CHANGES

SBT witness Sims outlined certain changes to SBT's facilities charges in her direct testimony as follows:

*** Add Multifrequency (MF) and Dual Tone Multifrequency (DTMF) address pulsing options on DID trunks, and 800-DID Service on high capacity facilities.**

SBT already offers these rate elements in other parts of its General Subscriber Services Tariff (GSST). The Company is simply proposing to include them in the MSP interconnection tariff as well to reduce the amount of cross referencing required and to clarify that these service options are available to MSPs.

*** Add an offering for MSP lines and reduce the rate for MSP trunks.**

SBT has proposed to add an MSP line offering for small carriers who need only a line as opposed to a trunk. The estimated cost of an MSP line was $19.34. The proposed (non-rotary) rate of $25.00 reflects a 30% contribution. A rotary option priced 35% above the non-rotary rate was also proposed. This rate relationship is in keeping with other business rotary offerings.

The proposed rate for the MSP trunks of $33.00 ($44.55 for rotary) reflects a 44% contribution over levelized incremental cost. This may be comparatively high for a contribution level but nonetheless reflects a 20% decrease relative to the current rate that has been in effect for the last six years.

* **Reformat and revise Voice Grade Type 1 and Type 2 facilities charges to mirror the Type 2432 local channel rates in the Private Line tariff.**

According to SBT, the Type 1 and Type 2 facilities are equivalent to the Type 2432 private line channel. Thus the Company is proposing to make the rates the same. This would result in a reduction from $55.60 to $31.90, per month per channel. The E&M signaling charge would increase slightly from $8.00 to $9.50, per month. Changes to the interoffice channel charges reflect an increase in the fixed monthly charge, and unbundling and decreasing the mileage charges.

* **Increase the Digital Trunk Termination rate.**

The current rate for the DS-1 digital trunk termination is $86.70. According to the cost support provided in response to staff's data requests in DN 930915-TL, the levelized unit cost is $107.23. SBT proposed a rate of $139.00, which constitutes a contribution rate of about 30% over incremental cost. No party objected to this proposed increase.

* **Add a Control Access Register**

SBT states that it is proposing this rate in order to make MSP facilities charges identical to those of its Megalink offering to end users. No particular service is provided with this element, and SBT admits that there is no cost associated with it. The company argues that "MSPs should receive the same rate structure for local exchange access as any other end user subscribing to Megalink Service." The Megalink Service end user offering is not the same as MSP interconnection, and we do not believe that MSPs should be viewed the same as end users. We believe that SBT's argument is without merit.

FMCA actively opposes adoption of the CAR. The CAR would have the greatest impact on paging carriers. We have, in this order, approved several changes in rates that will result in increases in the paging carriers' rates, including a Minimum Access Time Requirement (MATR) on Land-to-Mobile calls. We do not believe it

is necessary to add extra rate elements solely for the purpose of revenue enhancement in the MSP tariff. We therefore will not approve SBT's request to impose a Control Access Register charge.

GTEFL stated that if detariffing were not approved, then it proposed to modify its facilities charges (the local loop, E&M signaling charges, interoffice channel and channel termination charges) in Section A20.7 of its MSP interconnection tariff to mirror those in Section 7.7.2 of its Intrastate Access tariff. GTEFL stated that this would result in a decrease to GTEFL's facilities charges. It also proposed to replace the DID Trunk Termination charges and Voice Grade Trunk Termination charges with an Analog Trunk Termination charge "equivalent to the existing Voice Grade Service Trunk Termination charge." GTEFL stated that the net effect of both changes was a rate decrease.

Therefore, we find that SBT's proposed tariff changes for their MSP facilities charges are approved, with the exception of the Control Access Register (CAR) charge, which is denied. GTEFL's proposals are approved. As with the usage rates addressed in prior issues, the parties shall be allowed to negotiate preferable rates if they wish. If no agreement is reached within sixty days of this order, these rates shall go into effect.

M. TIMELY NOTIFICATION TO INDEPENDENT PAY TELEPHONE PROVIDERS OF NXX CODES ISSUED BY THE LECS FOR THE LAND-TO-MOBILE OPTION

The land to mobile option (LTM) provides LATA wide local calling from land line customers to mobile service providers (MSP) who request this service when purchasing an NXX code for their use. This local service is provided to residence and business customers including pay telephones. End users calling these NXX codes from pay telephones pay local charges (25¢), and from non pay telephones there is no charge to the landline customer. Calls within the LATA that would normally be intraLATA toll or expanded local calling calls are reverse billed by the LEC to the MSP on a usage basis.

This issue is concerned with how and when a pay telephone provider obtains information on land to mobile (LTM) NXX codes that are provided to mobile service providers (MSP) by a local exchange company (LEC). An independent pay telephone provider (IPP) utilizing a smart telephone set needs information on the LTM NXX code before it is established in order to program the set to properly handle calls to a new LTM NXX.

The LECs maintain that they should not be responsible for providing this information. The four LECs who are parties in this proceeding (SBT, GTEFL, Sprint United\Centel, and ALLTEL) all agree that it should not be the responsibility of the LECs to keep the independent pay telephone providers (IPP) informed. SBT says that the IPPs should subscribe to the local exchange routing guide (LERG) or the NXX assignment guide (NAG) provided by BellCore. United\Centel also suggests that the IPPs subscribe to the LERG. GTEFL maintains that it should not be responsible for furnishing the LTM data to the IPPs; however, it has established a procedure to furnish this data every six months on an after the fact basis. ALLTEL states that it should not have to furnish the LTM data to the IPPs on a no charge basis.

LECs do not normally advise individual companies of NXX activity. They do advise BellCore of new NXXs and rating changes that are required by others. BellCore compiles the LEC data into publications such as the LERG or NAG. These publications cover NXX information on a national basis and are therefore quite large and would be very costly to small IPPs. SBT witness Sims states that the NAG is the least expensive of the two, and can be purchased for $25.00 per month. However, she agreed that for an IPP with only one pay telephone, the cost of the NAG would exceed the cost of basic access line service in Miami, the highest rate group.

We do not agree with the LEC assertions that they should not be responsible for providing LTM NXX data to the IPPs they serve. The LTM option is included in the LEC interconnection tariffs which provide that LTM intraLATA calls that would normally be toll or expanded local calling, will be local calls for the landline customer and will be reverse billed to MSPs on a usage basis. We believe that the LEC who sells the NXX code to the MSP should be responsible for ensuring that the service it provides functions properly. The LEC provides the necessary translations in its end offices so that calls from all of its landline customers except IPPs will be correctly billed when dialing a LTM NXX code. Since IPPs are also customers of the LEC, they should be provided the information they require to provide billing in compliance with the LEC tariff.

We believe that the data should be provided by the LECs at no charge. If it is found that the cost is appreciable, the LEC should file a tariff with cost data for Commission consideration.

GTEFL is the only LEC that currently is providing the LTM NXX data on a regular basis; however, it is furnished after the fact every six months. This could result in the IPP not being able to complete calls to a new LTM NXX for up to six months. We believe

GTEFL's letter approach is appropriate, but believe the letters should be on a quarterly time table covering six months of data activity. The notices should provide actual activity for the previous quarter and projected data for the ensuing quarter. The LECs should have no problems with the three month's projection if they are meeting the 105 days advance notice required by BellCore. The actual LTM NXX data activity will act as confirmation of new codes implemented including those issued on short notice that were not on the projected list in the previous report.

Based on the above, we find that the LECs shall provide reports, containing all LTM NXX activity, to the IPPs that they serve. These reports shall be made quarterly, beginning on January 1, 1996. The first report shall contain a complete list of all LTM NXXs that are in service and the projected activity for the next quarter. Subsequent reports shall detail the previous quarter's actual activity and the projected activity for the next quarter. The data reported shall include the LTM NXX codes, implementation dates, and the LATA that the NXXs serve. New IPPs shall be provided the complete list of all LTM NXX codes when the initial service is provided. If the cost of providing the reports to the IPPs is found to be appreciable, the LEC may submit a tariff filing to recover the costs.

N. COMPENSATION TO MOBILE CARRIERS FROM LECS FOR LAND ORIGINATED CALLS

The question of mutual compensation addresses whether or not mobile carriers should be compensated for terminating traffic originated on the LECs' networks. In Docket No. 870675-TL, Order No. 20475, the Commission found that the LECs should not compensate mobile carriers for terminating traffic originated on the LECs' networks. One of the primary reasons was that if the LECs were required to pay mobile carriers for calls that produce no incremental revenues to the LECs, it could result in payments in excess of LEC receipts from flat-rated services. Additionally, the Commission found no justification for imposing upon the LECs the burden of developing a measurement function to permit them to compensate mobile carriers for the small fraction of traffic that could produce incremental revenue to the LECs, such as from LEC-owned payphones. The Commission concluded that "in our opinion, the mobile carriers are performing a service for their mobile subscribers through terminating land-to-mobile traffic as opposed to furnishing service to LECs. We note that the mobile carriers are paid on a minute-of-use basis by their mobile subscribers for the calls that they place and receive."(Order No. 20475, p. 9)

In the current docket, the issue of mutual compensation has again been raised. The parties' positions run the full spectrum, from support to opposition, on this issue. Both ALLTEL and SBT oppose mutual compensation, citing Order No. 20475, as discussed above. FMCA, GTE Mobilnet and McCaw support mutual compensation. GTEFL and United/Centel would support mutual compensation under certain conditions. The parties' positions are discussed further below.

SBT witness Sims states that the issue of mutual compensation was addressed by the Commission in Docket No. 870675-TL. She points out that the Commission concluded that LECs should not compensate mobile carriers for terminating traffic originated on the LECs' networks for two primary reasons:

> (1) Requiring LECs to pay mobile carriers for calls that produce no incremental revenues to the LECs could result in payments in excess of their receipts from flat-rated local exchange service; and
>
> (2) Mobile carriers are paid on a minute-of-use basis by their mobile subscribers for the calls that their mobile subscribers place and receive.

Witness Sims argues that there have been no changes in Florida since the Commission order in Docket No. 870675-TL that would justify requiring the LECs to begin paying this compensation. She reiterates in her rebuttal testimony that the Commission found that the mobile carriers were actually performing a service for their mobile subscribers through terminating Land-to-Mobile traffic as opposed to furnishing a service to LECs.

GTEFL witness Bailey is less adamant than witness Sims in his opposition of mutual compensation. He states that: "If the right environment exists, GTEFL would not be opposed to mutual compensation for all certified carriers. However, many issues have to be addressed before mutual compensation can be implemented." He adds that these issues include but are not limited to the following:

> Mutual compensation should be addressed as part of a comprehensive examination of local exchange competition.
>
> Only carriers certified as eligible by the Commission should be eligible for payments.

GTEFL must have a customer to bill for the incurred compensation cost and regulatory approval for such billing. Measured services must be available and in effect for end user customers.

The payment of terminating access charges would be a legitimate component of the incremental costs of completing calls.

A comprehensive originating responsibility plan must be established.

Witness Bailey elaborates that, while there are some similarities between LECs and MSPs as carriers, there are also some important differences. He argues that an MSP has no carrier of last resort responsibility, while a LEC does not have a choice as to whether it will provide service to a potential subscriber in its area. Additionally, he explains that the Commission has a universal service goal which entails subsidizing residential rates with revenues from other services. He believes the mutual compensation issue is inextricably linked with the existing social policies and associated LEC responsibilities; therefore, he argues the complex issue of mutual compensation cannot be considered in isolation in this docket.

Although SBT witness Sims took a stronger stand in opposition to mutual compensation, she concurs with witness Bailey, stating that "when the issue of mutual compensation is addressed by the Commission, it should not be addressed on an ad hoc basis for mobile carriers only, but rather should be subject to comprehensive analysis as part of a formal review of local competition." Thus, it appears that witness Sims' greater concern is with timing, rather than with the concept of mutual compensation.

United/Centel witness Poag also does not oppose mutual compensation. He points out that "the FCC in Docket No. 93-252, adopted February 3, 1994, states that 'the principle of mutual compensation shall apply, under which LECs shall compensate CMRS providers for the reasonable costs incurred by such providers in terminating traffic that originates on LEC facilities.'"

All of the MSPs support mutual compensation. McCaw witness Maass opines that local carriers that interconnect and exchange traffic should compensate each other for traffic they deliver to the other for termination. He points out that the interconnection of MSP infrastructure to the landline network expands the local telecommunications network at a cost which he argues has been borne solely by the MSPs. He believes that this benefits users of the

landline network, while the costs are recovered solely from the rates that cellular users pay for cellular telephone service. He also argues that the existence of cellular stimulates use of the landline network as both landline and cellular customers take advantage of the opportunity to place or receive calls that otherwise would not have been feasible. Witness Maass states that, because LECs are paid on a per minute of use basis for each mobile originated call, the LECs are receiving new revenues from cellular providers for this incremental use of the landline network.

FMCA witnesses Cabrera and Biddle also support mutual compensation. Witness Cabrera states that "in a Type 2A interconnection arrangement substantial costs are saved by the LEC." He believes it is fundamentally unfair not to compensate the MSPs for the savings realized by the LECs.

Witness Biddle states that, unlike a cellular carrier whose traffic is primarily originating, a paging carrier's traffic is 100% terminating. He explains that a paging carrier interconnected to the network with a type 2A connection performs functions like a remote switching unit. He argues that all paging carriers terminate traffic that results in direct incremental revenue to the LECs with no compensation being paid to the paging carrier. He states that examples of this are (1) calls from LEC and non-LEC coin phones to pagers, (2) calls from cellular phones to pagers, (3) calls made using coin phones and cellular phones in direct response to a pager, and (4) intraLATA and interLATA toll calls to pagers.

FMCA witness Biddle argues that the LECs should pay compensation to mobile carriers for two reasons:

(1) in recognition of termination of landline originated calls by a mutual carrier,

(2) in recognition of the costs saved by the LEC when wireless carriers, in Type 2A interconnection, terminate the LEC originated calls.

However, SBT witness Sims argues that the LECs do not necessarily experience a cost savings by providing Type 2A interconnection. She states that, while for some calls, such as the ones described in witness Cabrera's testimony, one could identify a cost savings with a type 2A interconnection by showing that the number of switching points on the LEC's network is reduced for other calls, the net impact of a Type 2A interconnection actually increases the average number of switch points when compared with the Type 1 interconnection.

United/Centel witness Poag concurs with witness Sims on that point. He argues that witness Cabrera's testimony does not point out that some calls are actually switched more when tandem switching is implemented. He states that tandems actually introduce more switching in the network but are utilized because they increase trunking efficiencies. He explains that when paging traffic is originated in the paging company's serving wire center and the call is routed through a tandem, this results in the call being switched twice instead of once. He states that, depending on the size of the local calling area, this could be a large proportion of the total traffic.

As regards the appropriate amount for mutual compensation, there was no consensus. McCaw witness Maass states that he would accept the LECs' rates for interconnection as appropriate for cellular carriers' charges to LECs. FMCA witness Biddle argues that compensation should be paid to the paging carrier for calls originating from pay phones to the paging carrier's NXX or trunk group and should be in the amount of 3 cents per call. He states that if the LEC cannot measure the payphone originating usage then a surrogate rate should be developed based on some peg count method or 1% of all revenue generated from LEC and non-LEC payphones. Mr. Biddle provided no justification for the 3 cents per call amount.

It is not clear from the record that there is a savings derived by the LEC when MSPs terminate calls. We believe the LECs were more persuasive in their arguments, explaining the steps required to switch calls.

Additionally, the problem that requiring LECs to pay mobile carriers for calls that produce no incremental revenues to the LECs could result in payments in excess of their receipts from flat-rated local exchange service, remains unresolved. While the MSPs argue that landline network usage is stimulated through interconnection with the MSP networks, they have not demonstrated how such usage results in additional revenue to the LECs, in view of the flat-rated nature of many LEC services.

However, it appears that mutual compensation is a concept whose time has come. Although this docket has raised more questions than answers in staff's mind, mutual compensation should not be discarded. We agree that there are many issues that have to be addressed before mutual compensation can be implemented. These issues must be addressed in the context of broader policy matters than fall within the scope of this docket.

Therefore, we find that no compensation shall be paid to mobile carriers by LECs for land originated calls at this time. This is a broad policy issue that may have implications for local competition and other matters. However, this does not preclude mobile carriers and the LECs from negotiating individual agreements, as discussed previously in this order.

O. IMPLEMENTATION BY ALL LECS OF THE LAND-TO-MOBILE CALLING OPTION

As discussed above, the Land-to-Mobile option allows intraLATA direct dialed long distance calls and expanded Local Calling Area calls from telephone numbers served by a LEC and terminating in an MSP network to be excluded from the originating customer's bill. The MSPs have proposed that all LECs be required to implement this option. Indeed, in Order No. 20475, the Commission ordered the LECs to provide in their tariffs "a usage rate...which mobile carriers may elect to apply on landline-originated toll calls that would normally be billed to the local exchange companies' subscribers."

McCaw and FMCA argue that all LECs should be required to implement the Land-to-Mobile option. There is a consensus among the LECs that it should be offered only on a request basis and negotiated by the individual local exchange company and the mobile service provider.

McCaw witness Giannella states that all LECs should be required to implement the land-to-mobile calling option if there is a bona fide request for service. When asked what was meant by a bona fide request, witness Giannella explained that any time a customer applies for the service it would constitute a bona fide request; however, he could not provide any evidence which would prove that customers have been requesting the land-to-mobile option and not receiving it. Witness Giannella could not name any specific occasions where his company has requested the land-to-mobile option from a LEC that does not have a mobile services tariff. Currently, McCaw subscribes to the land-to-mobile option only from SBT.

FMCA witness Cabrera states that the absence of such tariffs, or the absence of readily available land-to-mobile option service, and the resulting substantial lead time for implementation, has a chilling effect on mobile carriers in planning their system development. However, he could not identify which LECs offered this option and which ones did not, other than for SBT and GTEFL who do offer the service. When asked if he could name any specific occasions where a paging carrier was unable to obtain the Land-to-

Mobile option from a LEC, the only situation he described involved a billing problem, not an inability or unwillingness by the LEC to provide the service. In elaborating on the "substantial lead time" required to implement the option, he discussed the lead time for implementing the required NXX code, rather than for implementation of the Land-to-Mobile option itself. He also stated that FMCA would be unwilling to compensate the small LECs if the option was implemented in their tariffs.

SBT witness Sims argues that the LTM option should be negotiated between the individual LEC and the MSP. She states that, at a minimum, if a LEC is required to implement this calling option, the LEC should be able to price the service at a level to cover cost and provide a reasonable contribution. However, she does not elaborate further on what the prices should be.

GTEFL witness Bailey states that this question would be best answered by each individual LEC. He believes that if all LECs are required to offer this option, and if 1+ intraLATA presubscription is implemented, all providers of intraLATA toll must be required to do so as well.

United/Centel witness Poag argues that the Land-to-Mobile option should not be required unless there is demand and the cost for providing the service can be recovered.

Based on our review of the record, we cannot determine any reason to require the LECs to add the Land-to-Mobile calling option to their tariffs. The parties were unable to provide any instance where a MSP had requested the service and was denied. Additionally, there was a reluctance on the part of the MSPs to compensate the LECs for costs connected with this option. Any MSP that has difficultly in obtaining needed services can come to the Commission to request assistance. However, there is no evidence that this has been a problem in the past. Therefore, we find that the LECs shall not be required to implement the Land-to-Mobile calling option unless there is a request for service.

P. EFFECTIVE DATE OF TARIFFS

To avoid confusion as to what rates apply after January 1, 1996, the tariffs to be filed pursuant to our decisions on the preceding issues shall be filed no later than sixty days after the date of the final order, with an effective date of December 31, 1995. This does not, as a matter of law, prejudge the issue of what rates would be applicable to a local exchange company electing price regulation effective January 1, 1996. If necessary, that

decision will be made when there is an actual case in controversy. Therefore, we find that tariffs shall be filed 60 days from the issuance of the final order, to be effective December 31, 1995.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Late-Filed Exhibit 29 be shall excluded from the record in this docket. It is further

ORDERED that the application of Section 364.385(2), Florida Statutes, to this proceeding mandates that the issues identified for decision in this docket be resolved based on the law as it existed prior to July 1, 1995. It is further

ORDERED that no other provision of the recently enacted changes to Chapter 364, Florida Statutes, would limit, require or prohibit any action proposed by any party to resolve the issues identified for decision in this docket. It is further

ORDERED that the type interconnections that are now or will be available in Florida are those described on page 8 of this order. It is further

ORDERED that the Commission shall continue to establish network interconnection rates, terms and conditions, consistent with the revisions to Chapter 364, Florida Statutes. It is further

ORDERED that if the parties are able to negotiate appropriate elements of interconnection, they are not precluded from doing so. It is further

ORDERED that, except as to type 2B interconnection, usage rates for mobile interconnection shall be frozen at their current levels. As to all mobile interconnection usage rates, the flow through requirement for switched access charges shall be eliminated. It is further

ORDERED that ALLTEL, St. Joe, Gulf, and Quincy shall adjust their MSP usage rates to reflect the access reductions that have occurred since their mobile interconnection tariffs were approved. It is further

ORDERED that if the parties do not negotiate an alternative usage rate for Type 1 interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rate at its current level, and eliminating the link with access charges. It is further

ORDERED that if the parties do not negotiate a usage rate for Type 2A interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rates at the current levels, and eliminating the link with access charges. It is further

ORDERED that if the parties do not negotiate a usage rate for Type 2A-CCS7 interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rates at the current levels, and eliminating the link with access charges. It is further

ORDERED that if the parties do not negotiate a usage rate for Type 2B interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions setting the rate at $.01 per access minute. It is further

ORDERED that the usage rate for Type 2D interconnection shall be the same as for Types 1 and 2A, where it is offered and where measuring capability exists. If the parties do not develop their own usage rate for Type 2D interconnection within 60 days following the final order in this case, the LECs shall file tariff revisions freezing the rate at its current level, and eliminating the link with access charges. It is further

ORDERED that GTE Florida Incorporated shall clarify its mobile interconnection tariff to specify the facilities over which its *SIP offering is provided. It is further

ORDERED that the rates for NXX establishment shall continue to be based on direct costs plus a 15% contribution, unless the parties negotiate a different rate. Each LEC shall file tariffs which reflect the new NXX rates, as shown in Table 2. It is further

ORDERED that LECs may file tariffs, with appropriate cost and set-up time support, to include such a factor in MSP usage rates for the Land-to-Mobile option. It is further

ORDERED that the current DID number charges remain in effect until such time as the parties may propose a reasonable change to the rates. Any rate increase shall be supported by either cost studies or sufficient evidence that the rate differential between DID Number Charges and NXX establishment charges is problematic. Structural changes, such as that proposed by SBT, shall be permitted. It is further

ORDERED that SBT's proposed tariff changes for their MSP facilities charges are approved, with the exception of the Control Access Register (CAR) charge, which is denied. GTEFL's proposals are approved. As with the usage rates addressed in prior issues, the parties shall be allowed to negotiate preferable rates if they wish. It is further

ORDERED that the LECs shall provide reports, containing all LTM NXX activity, to the IPPs that they serve. These reports shall be made quarterly, beginning on January 1, 1996. The first report shall contain a complete list of all LTM NXXs that are in service and the projected activity for the next quarter. Subsequent reports shall detail the previous quarter's actual activity and the projected activity for the next quarter. The data reported shall include the LTM NXX codes, implementation dates, and the LATA that the NXXs serve. New IPPs shall be provided the complete list of all LTM NXX codes when the initial service is provided. It is further

ORDERED that no compensation shall be paid to mobile carriers by LECs for land originated calls at this time. It is further

ORDERED that the LECs shall not be required to implement the Land-to-Mobile calling option unless there is a request for service. It is further

ORDERED that the tariffs to be filed pursuant to our decisions in this docket shall be filed no later than sixty days after the date of this final order, with an effective date of December 31, 1995. It is further

ORDERED that this docket shall be closed after the tariffs required by this order have been filed.

By ORDER of the Florida Public Service Commission, this 11th day of October, 1995.

Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RVE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition and tariff to disassociate certain mobile interconnection charges from access charges by BELLSOUTH TELECOMMUNICATIONS, INC. d/b/a SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY (T-93-532 FILED 9/15/93)	DOCKET NO. 930915-TL ORDER NO. PSC-94-0288-FOF-TL ISSUED: March 14, 1994

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PETITION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

A. BACKGROUND

On September 15, 1993, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (SBT or Company) filed a petition to disassociate certain mobile interconnection charges from switched access charges (Petition). On the same date, the Company filed a tariff which incorporated negotiated rates for Mobile Service Provider (MSP) network usage charges and which restructured the MSP tariff. The tariff filing is addressed in a separate Order.

MSP network usage charges are presently determined through use of a formula which is based on switched access charges.

B. The SBT Petition

SBT contends that this approach has outlived its usefulness and that under the existing formula:

Network usage rates can be affected differently depending on which access rate element is modified.

The line termination charge, one of the full switched access charge elements used in the existing formula, has been eliminated as a discrete element in Southern Bell's current switched access tariff.

SBT has reached an agreement with the MSPs which incorporates a rate that is not based on switched access charges.

Additional switched access tariff modifications, including local transport restructure, will render the formula adopted in 1988 even less suitable for current circumstances.

We address SBT's concerns as follows:

1. Fluctuation due to changes in Switched Access Charges

SBT states that under the existing formula, interconnection usage rates can be affected differently depending on which switched access rate element is modified. For example, if the local switching or local transport rate elements are reduced, then the reduction in the mobile-to-land usage rate is magnified because these rate elements are reflected twice in the composite usage rate formula (in both local and toll pieces). If, however, the carrier common line charge (CCLC) is reduced, the impact on the mobile-to-land usage rate is limited to the 20% weight that the CCLC is given under the formula. The mobile carrier usage rates are, therefore, affected according to which switched access rate elements are targeted for reduction rather than by the unique use of the LEC network by mobile carriers.

We agree, however, the formula has worked this way since its adoption; this is not something new or different. It was recognized in Order 20475 that "[T]he usage rates were determined by using an access charge component that varied from LEC to LEC and fluctuated as LEC switched access charges changed." In its instant filing, SBT has not shown that this variation has become problematic. Indeed, the formula merely appears to be working as originally intended.

2. Consolidation of Line Termination Charge

SBT's line termination charge, one of the switched access charge rate elements used in the existing formula, has been eliminated as a discrete element in Southern Bell's current switched access tariff. This charge is now incorporated into the local switching rate element. The Company asserts that this renders the existing usage rate formula obsolete.

However, the fact that these elements are no longer a part of switched access charges does not render the formula obsolete. The toll component was designed to approximate what an IXC would pay to SBT for comparable toll termination. The consolidation or removal of specific access rate elements does not render that approach obsolete.

3. Agreement with MSPs

Southern Bell states that it has engaged in negotiations with the Florida MSPs for a new Mobile Services Interconnection Tariff. SBT believes these negotiations have resulted in an agreement on a restructure tariff which will provide a contribution from interconnection services and will allow the mobile carrier actually to lower its costs with increased network usage. The agreement reached disassociates the mobile carrier usage rates from access charges. SBT states that the following mobile service providers expressed acceptance of the restructure tariff filing: AGR Paging, FMCA, Metro Mobile Corporation, BellSouth Mobility, ALLTEL Mobile, McCaw Cellular, GTE MobileComm, Pactel Paging, Porta-Phone, InterLink Paging, PageNet, and Dial Page. However, the understanding was verbal. No written agreement exists.

We have reviewed the positions of both McCaw and FMCA, who intervened in this docket. SBT listed both intervenors as accepting the petition and restructure tariff.

McCaw Cellular stated in response to a data request that it agreed to support SBT's proposed restructure tariff that breaks the linkage to access charges for the following reasons:

a. The rate is a product of industry negotiations;

b. Because of SBT's revisions to its access tariff, the mobile rate usage formula no longer directly corresponds to access charges;

c. McCaw has never viewed access charges as an ideal basis for establishing mobile interconnection usage rates;

d. The proposed tariff moves the usage rates closer to where McCaw believes they should be and implements lower rates sooner than reliance upon the existing formula;

e. McCaw views the proposed rates and structure as an interim measure that is subject to further industry negotiations during the first part of 1994.

Although SBT listed FMCA as accepting the Petition and the restructure tariff, FMCA states that it is not appropriate to break the tie between mobile carrier's usage rates and access charges. FMCA believes the rationale of the Commission's decision in Order No. 20475 (establishing the mobile carrier usage rates) remains intact. The access charges are readily identifiable and reflect the services provided to the mobile carriers. FMCA does not accept or endorse the restructure tariff filing.

Thus, it appears that all of the parties are not in agreement regarding the Petition and the restructure tariff.

4. Additional Switched Access Tariff Modifications

SBT asserts that additional switched access tariff modifications, including local transport restructure, will render the formula adopted in 1988 less suitable for current circumstances.

We find this to be the most compelling argument contained in SBT's Petition. We recognize that there are already forces at work which may render the MSP network usage charge formula obsolete. While it may be possible to continue the use of the formula in the short run, we do need to evaluate whether changes in access charges will allow the formula to continue to produce the results that were originally intended.

C. Events Occurring Subsequent to Filing of the Petition

On January 18, 1994, we voted to approve an implementation agreement in Docket No. 920260-TL, Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone & Telegraph (the rate case). One of the provisions of that agreement was a reduction of SBT's intrastate switched access charge rates, totaling a $50 million reduction of gross revenue, to be implemented July 1, 1994. The Company states that, at a maximum, there would be a revenue reduction from MSP usage charges of approximately $9 million, depending on which switched access rate elements were reduced. This reduction would be significantly

greater than the decrease reflected in the Company's restructure tariff filing. SBT contends that if the rate case reduction were flowed through to the MSP usage rates, it would drive those rates below the Company's current cost. Since we have found in other dockets that prices should be above the incremental cost to provide a service, this would be a major problem. Due to uncertainty as to how the rate case reduction will impact individual switched access rate elements, we cannot fully evaluate SBT's statements. However, we find that the impact will be significant enough to warrant reevaluating the usefulness of the MSP usage rate formula.

D. Conclusion

Although we recognize that changes in the industry and in switched access charges do have the potential to impact the validity of the formula, we find that SBT has not fully supported its Petition to disassociate the MSP network usage rates from access charges. The formula is still useful for many of the reasons it was implemented. Additionally, we find that the formula, which was established with input from many parties, should not be discarded on the basis of a Petition from one company. SBT's Petition has major implications for the mobile service provider industry throughout the state because the formula is used by the other LECs. We acknowledge that there are forces which ultimately may render the MSP network usage charge formula obsolete. While it may be possible to continue the use of this formula in the short run, we find that it is appropriate to examine the impact of impending changes on a statewide basis.

Accordingly, we shall deny SBT's Petition and undertake a generic investigation in a separate docket to determine whether the formula for mobile service provider usage charges is still appropriate, or whether it should be abandoned, or replaced with a revised formula.

Therefore, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's Petition is hereby denied. It is further

ORDERED that a generic investigation shall be undertaken in a separate docket to determine whether the formula for mobile service provider usage charges is still appropriate, or whether it should be abandoned, or replaced with a revised formula. It is further

ORDERED that Docket No. 930915-TL shall be closed at the end of the PAA and tariff protest periods if no timely protest is filed in this Docket.

By ORDER of the Florida Public Service Commission, this 14th day of March, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CWM

by: Kay Flynn
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street,

Tallahassee, Florida 32399-0870, by the close of business on April 4, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the Interconnection of Mobile Carriers with Facilities of Local Exchange Companies	) DOCKET NO. 870675-TL) ORDER NO. 20475) ISSUED: 12/20/88

The following Commissioners participated in the disposition of this matter:

GERALD L. GUNTER
JOHN T. HERNDON
MICHAEL McK. WILSON

APPEARANCES: JOHN P. FONS, Esquire, Aurell, Fons, Radey & Hinkle, P. O. Drawer 11307, Suite 1000, 101 N. Monroe Street, Tallahassee, Florida 32301; and ROBERT J. McKEE, JR., 1200 Peachtree Street, N.E., Atlanta, Georgia 30357 on behalf of AT&T Communications of the Southern States, Inc.

PATRICK K. WIGGINS, Esquire, Ranson & Wiggins, Post Office Drawer 1657, Tallahassee, Florida 32302 and FREDERICK W. JOHNSON, Suite 600, 5600 Glenridge Drive, Atlanta, Georgia 30342 on behalf of BellSouth Mobility, Inc.

LEE L. WILLIS, Esquire, and JAMES D. BEASLEY, Esquire, Ausley, McMullen, McGehee, Carothers and Proctor, Post Office Box 391, Tallahassee, Florida 32302 on behalf of Central Telephone Company of Florida.

C. EVERETT BOYD, JR., Esquire, Ervin, Varn, Jacobs, Odom & Kitchen, 305 South Gadsden Street, Tallahassee, Florida 32301 on behalf of Florida Radio Telephone Association, Inc.

THOMAS R. PARKER, Esquire, GTE Florida Incorporated, P. O. Box 110 MC 7, Tampa, Florida 33601-0110 on behalf of GTE Florida Incorporated.

KATHRYN G.W. COWDERY, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308; and WANDA L. McKEE, Esquire, and RICHARD STIMSON, Esquire, 616 FM 1960 West, Suite 400, Houston, Texas 77090 on behalf of GTE Mobilnet, Inc.

BRUCE W. RENARD, Esquire, and FLOYD SELF, Esquire, Messer, Vickers, Caparello, French and Madsen, Suite 701, First Florida Bank Building, Post Office Box 1876, 215 South Monroe Street, Tallahassee, Florida 32302-1876; WILLIAM F. SQUADRON, Esquire, Morrison & Foerster, 2000 Pennsylvania Avenue, Washington, D.C. 20006; and KAREN SHINEVAR, Esquire, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036; on behalf of McCaw Cellular Communications, Inc.

RICHARD D. MELSON, Esquire, Hopping, Boyd, Green and Sams, Suite 420, First Florida Bank Building, Post Office Box 6526, Tallahassee, Florida 32314 on behalf of MCI Telecommunications Corporation.

R. DOUGLAS LACKEY, Esquire, and WILLIAM ELLENBERG, Esquire, Southern Bell Telephone and Telegraph Company, 4300 Southern Bell Center, Atlanta, Georgia 30375, and SID J. WHITE, Esquire, 150 West Flagler Street, Suite 1901, Miami, Florida 33130 on behalf of Southern Bell Telephone and Telegraph Company.

ALAN N. BERG, Esquire, United Telephone Company of Florida, P. O. Box 5000, Altamonte Springs, Florida 32716-5000 on behalf of United Telephone Company of Florida.

CHARLES J. BECK, Esquire, Office of the Public Counsel, c/o The Florida House of Representatives, The Capitol, Tallahassee, Florida 32399-1300 on behalf of the Citizens of the State of Florida.

PRENTICE P. PRUITT, Esquire, and WILLIAM BAKSTRAN, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862 on behalf of the Commissioners.

DONALD L. CROSBY, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863 on behalf of the Commission Staff.

TABLE OF CONTENTS

FINAL ORDER

BY THE COMMISSION:

I. BACKGROUND

The issue of the interconnection of mobile carriers to the facilities of Local Exchange Companies (LECs) was originally raised before the Commission in Docket No. 820537-TP, which concerned intrastate access charges. The Commission held in Order No. 12765, issued December 9, 1983, that this issue warranted exploration and analysis and that, if necessary, an evidentiary proceeding to address it would be initiated. In Order No. 13129, issued March 26, 1984, the Commission concluded that tariffs should be filed by the LECs to cover Radio Common Carrier (RCC) interconnection and expressed its intent to study whether RCCs should be subject to access charges for toll use of local exchange facilities.

On April 3, 1985, Southern Bell Telephone and Telegraph Company (Southern Bell) filed a tariff revision to establish a uniform pricing approach covering the interconnection of local exchange services for both RCCs and cellular mobile carriers (CMCs). A similar proposal, concerning only cellular interconnection, was filed by General Telephone Company of Florida (GTEFL) on May 20, 1985. Dockets Nos. 840216-TL and 850267-TL were opened to examine Southern Bell's and GTEFL's revisions, respectively, and the Commission decided to consider them concurrently. Six CMC and RCC parties intervened in that proceeding. After negotiations, all eight parties entered into a Memorandum of Agreement (MOA) for the purpose of settling the outstanding issues which was filed with the Commission on November 8, 1985. Additionally, Southern Bell and GTEFL filed modifications to their revisions embodying the terms of the negotiated settlement. By Order No. 15508, issued December 30, 1985, the Commission approved the MOA and the modified revisions of Southern Bell and GTEFL.

Subsequent to implementation of those rates, a Specialized Mobile Radio System (SMRS), which is a type of Private Land Mobile Radio System (PLMRS), petitioned to be allowed to take service under the same rates and conditions as RCCs. Docket No. 860457-TL was initiated to consider this petition. PLMRSs did not qualify under LEC tariffs then in effect for interconnection service offered RCCs because PLMRSs are private systems rather than common carriers. By Order No. 17672, issued June 8, 1987, the Commission ruled that SMRSs and other PLMRSs who desired to take Direct Inward Dialing service should be permitted to interconnect under the rates, terms and conditions of the LEC tariffs covering RCC interconnection.

In November of 1986, Southern Bell received a request from a CMC for Type 2 interconnection. In response, Southern Bell filed a tariff revision, proposing to initiate Type 2 as a new interconnection service and to change the rates charged for Type 1 interconnection service. The Commission opened Docket No. 861546-TL to consider this revision which was filed on an expedited basis and lacked the usual support information called for by our rules and policies. The Commission concluded that a need existed for these changes which justified approving the revision; however, because of the lack of requisite support information, the Commission decided to approve the revision only as an experimental offering pending further investigation. Accordingly, in Order No. 17006, issued December 22, 1986, the Commission granted approval of the revision for a six-month period.

Upon further consideration the Commission announced in Order No. 17786, issued June 30, 1987, that Docket No. 870675-TL had been opened to investigate the services to be offered and the rates to be charged by the LECs for cellular interconnection. The Commission directed that all local exchange company offerings concerning cellular interconnection, including Southern Bell's, would be investigated in this docket. Order No. 17786 extended by seven months the effective term of the Southern Bell experimental offering and closed Docket No. 861546-TL. This term was later extended until November 1, 1988, by Order No. 18639, issued January 4, 1988.

United Telephone Company of Florida (United) filed a tariff revision on July 15, 1987, proposing to offer cellular interconnection on an experimental basis. By Order No. 18248, issued October 5, 1987, the Commission approved the revision for the limited term ending January 31, 1988. This period was also extended until November 1, 1988, by Order No. 18639.

On November 5, 1987, GTEFL filed a tariff revision to expand the types of interconnection for CMCs and to restructure existing interconnection arrangements on an experimental basis pending final action here. This filing was suspended by Order No. 18962, issued March 7, 1988. GTEFL was ordered to refile the revision with a modification relating to refunds by Order No. 19178, issued April 19, 1988. GTEFL took this action, and its experimental offering is currently in effect. Order No. 19178 also directed Southern Bell to file a similar revision relating to refunds. Southern Bell has taken this action, and the modified revision is currently in effect. At our Agenda Conference on December 6, 1988, we extended the experimental terms of the mobile interconnection tariffs of Southern Bell, United, and GTE Florida until they are superseded by a permanent tariff.

Central Telephone Company of Florida (Centel) filed a tariff revision on February 22, 1988, to offer cellular interconnection service. A modification to this revision was submitted on May 19, 1988. By Order No. 19883, issued August 26, 1988, Centel's modified tariff revision was approved on an experimental basis for the term beginning on August 8, 1988, and continuing until our final determination of appropriate rates and charges in this proceeding.

A Prehearing Conference was held on June 3, 1988. As a result of this conference, Order No. 19511 was issued on June 20, 1988, setting forth the issues to be addressed in this docket and the parties' positions on these issues.

On June 13, 1988, GTE Mobilnet Incorporated (GTE Mobilnet) filed a Motion for Continuance, arguing that changes in the positions of GTEFL and Southern Bell were announced too late in the proceeding to permit it to prepare a rebuttal. The Prehearing Officer heard arguments on this motion at a hearing held on June 17, 1988. At this hearing, GTE Mobilnet offered an alternative motion, seeking an opportunity to file post-hearing testimony and late-filed exhibits. The other parties asked for an opportunity to respond to any such pleadings. By Order No. 19587, issued June 29, 1988, the Prehearing Officer denied GTE Mobilnet's Motion for Continuance and granted its alternative motion, permitting GTE Mobilnet to file pleadings by August 1, 1988, in order to address the effect of GTEFL's change in position, and the other parties to respond by August 19, 1988.

As a result of discovery undertaken by the parties, several pleadings concerning confidentiality were filed in this docket. The Prehearing Officer held a hearing to consider these requests, and by Order No. 19582, issued June 28, 1988, ruled on the pending requests, specifying that certain portions of six documents are proprietary confidential business information. The balance of the pending requests were rendered moot when the filing parties were permitted to withdraw the relevent documents because no party intended to introduce them at the hearing. The Prehearing Officer issued the following three orders on the dates indicated: Nos. 19785 (August 10, 1988); 19807 (August 16, 1988); and 20029 (September 20, 1988); dealing with requests for confidential specification of documents filed subsequent to the hearings.

Efforts to negotiate a stipulation by the parties in settlement of this proceeding's issues have been unsuccessful. The parties held a negotiating session three days prior to the commencement of the hearings in an attempt to reach a compromise; however, this effort failed to result in an agreement among the parties. On October 21, 1988, a Joint Motion to Accept Stipulation was filed; however, some parties failed to agree to the proposed resolution offered by the moving parties and did not lend their support to this motion.

Hearings were held June 27-30, 1988. Fourteen witnesses gave testimony and presented exhibits in approximately 26 hours of hearing time. Pursuant to the authority granted by Order No. 19587, GTE Mobilnet submitted the Testimony of Ralph Griffin on August 2, 1988, which was accompanied by a Request for Extension of Time, seeking a one-day extension of the Order's filing deadline. No party responded to these pleadings. Post-hearing briefs were filed by the parties subsequent to the hearings. We considered the issues presented in this docket at a Special Agenda Conference on November 16,

Central Telephone Company of Florida (Centel) filed a tariff revision on February 22, 1988, to offer cellular interconnection service. A modification to this revision was submitted on May 19, 1988. By Order No. 19883, issued August 26, 1988, Centel's modified tariff revision was approved on an experimental basis for the term beginning on August 8, 1988, and continuing until our final determination of appropriate rates and charges in this proceeding.

A Prehearing Conference was held on June 3, 1988. As a result of this conference, Order No. 19511 was issued on June 20, 1988, setting forth the issues to be addressed in this docket and the parties' positions on these issues.

On June 13, 1988, GTE Mobilnet Incorporated (GTE Mobilnet) filed a Motion for Continuance, arguing that changes in the positions of GTEFL and Southern Bell were announced too late in the proceeding to permit it to prepare a rebuttal. The Prehearing Officer heard arguments on this motion at a hearing held on June 17, 1988. At this hearing, GTE Mobilnet offered an alternative motion, seeking an opportunity to file post-hearing testimony and late-filed exhibits. The other parties asked for an opportunity to respond to any such pleadings. By Order No. 19587, issued June 29, 1988, the Prehearing Officer denied GTE Mobilnet's Motion for Continuance and granted its alternative motion, permitting GTE Mobilnet to file pleadings by August 1, 1988, in order to address the effect of GTEFL's change in position, and the other parties to respond by August 19, 1988.

As a result of discovery undertaken by the parties, several pleadings concerning confidentiality were filed in this docket. The Prehearing Officer held a hearing to consider these requests, and by Order No. 19582, issued June 28, 1988, ruled on the pending requests, specifying that certain portions of six documents are proprietary confidential business information. The balance of the pending requests were rendered moot when the filing parties were permitted to withdraw the relevent documents because no party intended to introduce them at the hearing. The Prehearing Officer issued the following three orders on the dates indicated: Nos. 19785 (August 10, 1988); 19807 (August 16, 1988); and 20029 (September 20, 1988); dealing with requests for confidential specification of documents filed subsequent to the hearings.

Efforts to negotiate a stipulation by the parties in settlement of this proceeding's issues have been unsuccessful. The parties held a negotiating session three days prior to the commencement of the hearings in an attempt to reach a compromise; however, this effort failed to result in an agreement among the parties. On October 21, 1988, a Joint Motion to Accept Stipulation was filed; however, some parties failed to agree to the proposed resolution offered by the moving parties and did not lend their support to this motion.

Hearings were held June 27-30, 1988. Fourteen witnesses gave testimony and presented exhibits in approximately 26 hours of hearing time. Pursuant to the authority granted by Order No. 19587, GTE Mobilnet submitted the Testimony of Ralph Griffin on August 2, 1988, which was accompanied by a Request for Extension of Time, seeking a one-day extension of the Order's filing deadline. No party responded to these pleadings. Post-hearing briefs were filed by the parties subsequent to the hearings. We considered the issues presented in this docket at a Special Agenda Conference on November 16,

1988. This Order is based upon our study of the extensive record compiled in this proceeding which is our second investigation into mobile interconnection in Florida.

II. LEGAL ISSUES

A. COMMISSION JURISDICTION OVER MOBILE CARRIERS

We elect to defer at this time any decision resolving the issue of whether Florida law grants the Commission jurisdiction to regulate any portion of the operations of mobile carriers. We expressly reserve judgement on this issue, and accordingly, no ruling is made in this Order with regard to the Commission's authority to regulate certain activities of mobile carriers.

B. STATE AND FEDERAL JURISDICTIONAL BOUNDARIES

The FCC is granted exclusive jurisdiction for allocating the radio spectrum under Title III of the Communications Act of 1934, 47 U.S.C. § 301, et seq. (the Act). Exercising this jurisdiction, it has licensed CMCs and RCCs to transmit on radio frequencies. The Commission and the FCC have been granted concurrent jurisdiction by the Congress and the Legislature over the regulation of the statewide telephone network. Chapter 364, Florida Statutes, grants jurisdiction to the Commission over the intrastate operations of telephone companies. This jurisdiction extends to the services furnished and the rates charged by LECs in interconnecting intrastate traffic, both local and toll, between their landline subscribers and the mobile carriers' radio customers. It is this jurisdiction over LEC operations involving intrastate traffic that forms the basis of the Commission's jurisdiction over the issues considered in this docket.

In this docket, we exercise our authority to set intrastate mobile interconnection rates and charges for LECs. We conclude that our jurisdiction to take such action is completely unaffected by all existing FCC rulings. The FCC acknowledged in its Declaratory Ruling, 2 FCC Rcd 2910 (1987), that these matters fell within dual intrastate and interstate regulation and made no attempt to establish a jurisdictional separation process. We are aware that the FCC stated in this decision that preemption of "some aspects of particular intrastate charges" may be appropriate if interconnection were effectively precluded through setting them too high. However, we find that the rates and charges established herein are not so high as to preclude interconnection.

The parties acknowledge that federal preemption of various aspects of cellular interconnection is not germane to this proceeding and that the jurisdiction and policies of the FCC are largely irrelevant to this proceeding. The FCC has not preempted determination of the appropriate intrastate rates for cellular interconnection, in the parties' view, and has no authority to regulate such service when it is separable from interstate service. They recognize that regulatory authority over rates for intrastate cellular interconnection service rests with the Commission, pointing out that the Declaratory Ruling recognizes that the states have authority to regulate interconnection as to the vast majority of cellular traffic, which is local in nature. Only interconnection rates governing interstate cellular traffic -- a small percentage of overall cellular usage -- come under FCC jurisdiction.

GTE Florida states that the FCC held, in Indianapolis Telephone Co. v. Indiana Bell Telephone Co., Inc., 2 FCC Rcd 2893 (1987), that it has no jurisdiction over the particular aspects of carrier-to-carrier financial arrangements between CMCs and LECs where the arrangements relate solely to intrastate communications. Accordingly, GTE Florida believes that, to the extent the FCC has stated that CMCs resemble independent telephone companies, that conclusion is not binding on the Commission for any purpose in setting intrastate LEC interconnection rates.

Centel urges the Commission to address on a case-by-case basis any FCC preemption arguments, and the facts upon which they are predicated, if any, when they arise in the future. We have determined that we should proceed to set mobile interconnection rates based on the record developed in this proceeding, deferring any decision on the action that we may take in the event that any aggrieved party exercises its right to seek FCC relief. Should the FCC attempt to preempt our decision in setting intrastate mobile interconnection rates for LECs, arguments could be made that the FCC would be exceeding its jurisdiction. However, since we do not believe that any party can show the FCC that the rates approved in this docket are so high as to preclude interconnection, we do not expect such action to be attempted.

While the mobile carriers all contend that the interconnection rates proposed by the other parties are too high, no party alleges that any of the proposed rates is so high that its physical interconnection would thereby be precluded. Because of the competition between mobile carriers, these parties were sensitive about furnishing evidence of their earnings and financial postures in this proceeding. From the information we were able to gather, we conclude that the rates approved herein should have no cataclysmic effect on the mobile carriers' earnings. For this reason, we further conclude that no preclusion of physical interconnection will occur under mobile interconnection rates adopted here. As a result, we believe that the only potential federal impediment to our action in setting intrastate mobile interconnection rates for LECs is removed. However, we make no decision here on the question of whether the FCC retains the requisite jurisdiction to take the preemption action it has announced as a contingency.

We have considered whether a holding by the FCC that CMCs should be treated as independent telephone companies can define a CMC's status under state law. Our conclusion is that the FCC lacks the authority to make a determination under state law which would be binding on the Commission. We believe that only the intent of the Legislature as to the rights and obligations of an entity will be considered by a court when interpreting state law.

Further, we do not interpret the FCC's ruling on this matter as an attempt to interfere with the jurisdiction of the states. In holding that interconnection charges should be cost-based, that mutual compensation should be afforded for Type 2 interconnection and that the Type 2 rate should be lower than the Type 1 rate, the FCC recognized that its jurisdiction only extended to the interstate traffic. Declaratory Ruling at ¶¶ 34, 35, 44 and 47. Therefore, while these holdings are binding on the LECs in determining their interstate interconnection rates, we do not view them as having any effect on intrastate ratemaking.

III. RELATIONSHIP OF MOBILE CARRIERS AND LECS

A. RIGHTS AND RESPONSIBILITIES

The interconnection relationship between LECs and mobile carriers will be defined by the LEC tariffs under which services are furnished to mobile carriers. The parties agree that the LECs have the responsibility of providing reliable interconnection service to mobile carriers at reasonable rates. They recognize that Bellcore Technical Reference TR-NPL-000145, issued in April of 1986, entitled "Compatability Information for Interconnection of a Cellular Mobile Carrier and a Local Exchange Carrier Network," establishes technical requirements and protocols for mobile interconnection. We accept this document as containing the technical guidelines to be used by LECs and mobile carriers in accomplishing the interconnection of their networks.

The parties' positions differed over the mobile carriers' demand to be treated as "co-carriers" by the LECs. We find no reference in Florida law to "co-carriers"; however, we recognize that mobile carriers provide telephone services, and we believe they should be treated in the same manner as other providers of such services. Currently effective tariffs, including the experimental cellular interconnection tariffs, cover these relationships through addressing basic liability, service installation and termination, notification of LEC activities affecting service, network contingency planning and other factors concerning business relationships. Such provisions should be cross-referenced in the mobile interconnection tariffs.

Additionally, we believe that certain provisions should be included in the mobile interconnection tariffs. Mobile carriers must be restricted from transporting traffic that originates from a landline subscriber and is terminated to a landline subscriber. Mobile interconnection may not be employed to avoid toll access charges through arrangements between mobile carriers and IXCs. LECs will be required to protect the confidentiality of data furnished by mobile carriers. LECs shall respond to trouble reports from mobile carriers on a high priority basis. LECs shall exert efforts to participate with mobile carriers in planning network interconnection and facility requirements. Along with the current tariff provisions, these additional tariff provisions are deemed sufficient to define the mutual rights and responsibilities in the relationship of LECs and mobile carriers.

B. MUTUAL COMPENSATION

The question of whether mobile carriers should be compensated by LECs for terminating land-to-mobile traffic that LECs would otherwise have to accomplish arises only from Type 2 interconnection. Through Type 1 interconnection, mobile carriers resemble PBX subscribers and STS providers, and the LECs must perform all terminating functions in completing land-to-mobile calls. However, LECs avoid the terminating step, which includes switching, on such calls sent to mobile carriers though Type 2 interconnection. The costs that would have been borne by the LECs in terminating these calls if they had been to their landline subscribers are instead incurred by mobile carriers. Because of this expenditure by the mobile carriers, which results in a savings to the LECs, several parties advocated that the mobile carriers be compensated for

terminating this traffic. Some of these parties advocated compensation on all land-to-mobile calls, while others sought compensation only for those calls which produce incremental revenue to LECs, e.g., MTS, WATS and measured service.

We believe that the LECs should not compensate mobile carriers for terminating traffic originated on the LECs' networks. Requiring LECs to pay mobile carriers for calls that produce no incremental revenues to the LECs could result in payments in excess of their receipts from flat-rated services. In view of the prevalence of flat-rated local service in Florida, only a small proportion of land-to-mobile traffic could produce incremental revenue to the LECs. We find no justification for imposing upon the LECs the burden of developing a measurement function to permit them to compensate mobile carriers for a fraction of this traffic. In our opinion, the mobile carriers are performing a service for their mobile subscribers through terminating land-to-mobile traffic as opposed to furnishing service to LECs. We note that the mobile carriers are paid on a minute-of-use basis by their mobile subscribers for the calls that they place and receive.

IV. RATE STRUCTURE AND LEVELS

A. UNBUNDLED SERVICES AND UNIFORM RATES

We believe that all mobile carriers should take interconnection services on an unbundled basis from LECs under single tariffs. There was general agreement among the parties that mobile carriers should be permitted to order only those LEC services they need and required to pay only for those services they order. Their disagreements arose over whether the unbundled rates should reflect cost savings to the LECs and how far dissaggregation of services should extend.

Additionally, most parties argued that the same unbundled interconnection services should be made available to all mobile carriers, including both public and private mobile service providers. FRTA contended that common carriers, i.e., CMCs and RCCs who must offer their services to the general public, should be served by LECs under a separate tariff. FRTA urged that private carriers, e.g., PLMRSs, who are restricted by the FCC from furnishing telephone service to the general public, should receive interconnection service under current end-user tariffs.

We believe the distinction between common carriers and private providers is irrelevant in determining the terms and conditions under which LECs will offer mobile interconnection. To accomplish this objective, we must view mobile interconnection from the LEC perspective. We find that, to the LECs, private providers appear the same as common carriers in that they use LEC facilities in the same manner. For this reason, we disagree with FRTA and will not order the LECs to offer interconnection service to common carriers and private providers under separate tariffs. Southern Bell, GTE Florida and Centel currently serve radio common carriers and private carriers under the same mobile interconnection tariffs, pursuant to the policy approved in Docket No. 860457-TL. See Order No. 17672, issued June 8, 1987. CMCs however are currently being served under separate experimental tariffs.

We will order all LECs to file single mobile interconnection tariffs offering services to mobile carriers without regard to the type of license issued to them by the FCC. These tariffs should have rate elements offering services that are sufficiently unbundled to permit mobile carriers to order only those services they need. The terms, conditions and rates in these tariffs should be applied uniformly for identical or substantially similar uses.

B. UNIFORM DIALING RATE

The mobile carriers have proposed that the LECs charge them a uniform dialing rate for calls originating in one local calling area and terminating in another. The LECs have agreed to the concept of a uniform dialing rate for such calls at a level less than toll rates.

The parties differed over which geographical area would be most appropriate for defining the calls that qualify for the uniform dialing rate. The CMCs are licensed by the FCC to operate in Cellular Geographic Serving Areas (CGSAs) that are bounded by Metropolitan Statistical Areas (MSAs). CGSAs are generally much larger geographic areas than LEC local calling areas. The CMCs believe the appropriate area for the uniform dialing rate is the CGSA. The areas in which RCCs are licensed to operate by the FCC are larger than the MSAs, and thus these carriers seek a LATA-wide uniform dialing rate area. The LECs support the MSA as the area in which to implement a uniform dialing rate.

We find that a uniform dialing rate should be made available by the LECs to the mobile carriers for calls originated on the mobile networks. We further find that landline-originated toll calls, which would normally be billed to the LEC's landline subscribers, may be paid by the mobile carriers, at their option, at rates set forth below. The LATA is the appropriate area, in our view, because the LECs have, or soon will install, recording capabilities in place there to handle the billing of a uniform dialing rate. We believe that the cost of developing additional recording capabilities for mobile traffic is not justified; therefore, we will adopt the LATA as the area for implementing the uniform dialing rate.

C. INTRALATA AND INTEREAEA CALLS

In order to establish interconnection rates that cover all mobile traffic, we must address the question of the proper rate to apply to calls that would otherwise produce incremental revenues, either toll or access, to the LECs. Two types of mobile traffic fall into this category: (1) intraLATA traffic that now produces toll revenues for the LECs; and (2) interEAEA traffic carried by mobile carriers that would have produced access revenues to the LECs if handled by IXCs.

Our mandate is to avoid undue discrimination in rates, and we achieve this by setting similar rates for similar uses of the telephone network. A pricing mechanism employing access charges is currently in place for interexchange traffic that is originated or terminated by a LEC and transported by an IXC. We believe that LECs should bill access charges for mobile traffic originated in one local calling area and terminated in another, irrespective of whether LEC networks or mobile carriers' facilities are employed for transport.

For the reasons discussed below, we have concluded that a composite rate for mobile interconnection is proper. Having decided that access charges should be assessed for mobile traffic that would otherwise produce toll or access revenues to the LECs, we will adopt full access charges as the interexchange traffic component of this composite rate. Through developing a composite rate, we intend to achieve similar treatment of all calls that extend beyond the LECs' local calling areas.

D. FRAMEWORK OF MOBILE INTERCONNECTION RATES

Our initial step in establishing mobile interconnection rates is to determine those considerations upon which these rates will be based. Our first determination must be that these rates cover the LECs' costs of providing mobile interconnection services. The mobile carriers strongly advocated that rates be based on cost, differing only in the types of costs which we should consider in rate setting. This cost-based approach is recommended because it encourages efficient interconnection arrangements and enhances the development of mobile telephone service. We recognize the importance of LEC costs in assuring that the rates we set do not allow the operations of mobile carriers to be subsidized by other users of the telephone network. However, we disagree with the argument that mobile interconnection rates should be based on mobile-specific costs. We prefer instead the use of average embedded costs in setting rates for mobile interconnection. The cost data submitted in this docket have been used by us for guidance in setting proper rates, but we did not rely solely upon them for rate setting because we deem other factors to be important.

The IXC parties argue for equal treatment of mobile traffic that is carried beyond the LECs' local calling areas. For such traffic, they propose that we adopt the same charges that they pay to the LECs for interconnecting their traffic. We believe this is accomplished through our adoption of a composite rate with a toll component representing interexchange mobile traffic. Consequently, as an additional basis for setting rates, we have considered the rates charged to other providers of interconnecting service for their similar use of the LEC networks. This was also a consideration when we determined that there should be no discrimination in rates between types of mobile interconnection.

The LEC parties urged various factors for our consideration in rate setting. Centel argued that mobile carriers employing Type 2 interconnection should be treated as LECs, paying for access to each others' networks. Mobile carriers using Type 1 interconnection, according to Centel, should be treated as end users. Southern Bell put forward a multi-tiered structure designed to distinguish between various types of interexchange mobile traffic. Its plan proposed different rates for mobile calls extending beyond its local calling area. Separate rates would apply for calls that are intra- and interMSA and also for those employing Southern Bell's network rather than the mobile carriers' facilities for transport. United proposed that mobile carriers be treated as end users, continuing to pay the rates found in its current experimental mobile interconnection tariff.

GTE Florida sought to have mobile carriers treated as IXCs by charging them full access charges on all mobile traffic. It expressed concern with preventing arbitrage which could occur if mobile carriers are charged lower rates than IXCs. This would permit mobile carriers to accept IXC traffic and interconnect it with LEC facilities at a rate which would be lower than the full access charges that the IXCs would have to pay for direct interconnection with the LECs. We note that no evidence was introduced in this proceeding indicating that mobile carriers were handling land-to-land traffic. We believe that arbitrage can be prevented through LEC tariff prohibitions against a mobile carrier employing interconnection for the purpose of handling land-to-land traffic. All four LEC parties have such prohibitions in their current experimental tariffs. Accordingly, we do not believe that the full access charges proposed by GTE Florida for both local and toll mobile traffic are necessary to prevent arbitrage.

Two other considerations which are deemed important to us in setting mobile interconnection rates are encouraging efficient use of the LEC network and discouraging its bypass. We intend to achieve these objectives by establishing a single rate per minute of use for all types of interconnection. Evidence gathered in this proceeding demonstrates that mobile carriers have established connections with multiple LEC end offices for the purpose of avoiding toll charges assessed under the current mobile interconnections tariffs. Through the employment of these connections and their own facilities, mobile carriers have arranged to pay little, if any, toll revenues to the LECs. In setting access charges for IXCs, we set an average, non-distance sensitive local transport rate to discourage them from establishing multiple points of presence. We find this approach justified in setting mobile interconnection rates. As a result, the rate structure which we approve herein is intended to discourage inefficient use of the LEC network by means of duplicative facilities and service bypass.

E. COMPANY-SPECIFIC AND STATEWIDE RATES

We must determine whether rates, terms and conditions for mobile interconnection should be statewide or company-specific. In Phase II of the proceeding considering non-traffic sensitive access charges, Docket No. 860984-TP, we decided that company-specific rate levels -- with a limitation on disparities -- were appropriate. Similarily, we conclude that rate levels for mobile interconnection should be company-specific; therefore, the rate levels that we approve herein will recognize costs and conditions that vary between LECs. By this means, we will avoid the hazard of setting an average rate level which is influenced by the lower-cost LEC that might result in the other LECs' recovery of less revenues than their costs of providing the service. We note that company-specific mobile interconnection rate levels are consistent with the bill-and-keep policy which we have instituted for access charge and LEC toll revenues. In keeping with this concept, we will approve a composite rate with an access charge component for interexchange traffic that will vary from LEC to LEC. Further, this component will fluctuate with LEC access charge changes, causing the mobile interconnection rates to vary accordingly.

However, we believe that the methodology for determining each LEC's company-specific rate levels should have statewide applicability. We have determined that the LECs should offer mobile interconnection under identical terms and conditions throughout the state as well. We will adopt a statewide rate structure and statewide terms and conditions of service in order to obtain consistency in mobile interconnection offerings and to achieve equal treatment among LEC customers. Also, a rate structure and terms and conditions of service that are the same across the state will promote understanding by the mobile carriers of the services offered. An added benefit is the ease of administration for all parties that will result from statewide application of these tariff provisions.

F. RATE ELEMENTS AND LEVELS

1. PARTIES' POSITIONS

The four LEC parties recommended widely-varying mobile interconnection rates. Centel proposed a composite usage rate of 2.68¢ per on-peak minute and 1.34¢ per off-peak minute composed of local and toll components. The local component is based on a local revenue requirement calculated in accordance with the FCC's jurisdictional separations procedures, and the toll component is the sum of current intrastate access charges, excluding the BHMOC. This usage rate would be charged in addition to separate trunk charges for Types 1 and 2 interconnection. United proposed to retain the rates in its current experimental mobile interconnection tariff and to add access charges as the uniform dialing rate for toll calls.

Southern Bell supported a multi-tiered plan for usage rates. Within its local calling area, Southern Bell proposed to charge 6¢ for the first minute and 2¢ for each additional of on-peak traffic. Beyond its local calling area but within the MSA, Southern Bell proposed rates of 15¢ for the first minute and 8¢ for each additional minute of on-peak traffic. Beyond the MSA but within the LATA, a charge of 21¢ per on-peak minute would apply for mobile calls transported over its facilities. For such calls transported over the mobile carriers' facilities, MTS rates would be charged. On mobile calls carried beyond the LATA boundaries, Southern Bell would apply access charges.

GTE Florida proposed to charge current intrastate originating and terminating access charges on all mobile traffic. It suggested however that two elements of these access charges, Carrier Common Line (CCL) and Busy Hour Minute of Capacity (BHMOC), be phased-in over a three-year period. Further, GTE Florida is the only party to this proceeding who advocated charging mobile carriers for calls originated on the LECs' networks.

In McCaw's opinion, usage rates should compensate the LECs for their incremental costs of providing service and furnish a contribution of approximately 15% toward overhead cost. McCaw calculated its recommended rates by using incremental cost data contained in the 1986 Long-Run Incremental Unit Cost Study performed by Southern Bell and in a tariff proposal filed with the FCC by GTE Florida. The usage rates proposed by McCaw for Type 2A interconnection are between 1.17¢ and 1.22¢ per minute, and for Type 2B interconnection, they are between .74¢ and .77¢ per minute. These rates would apply to mobile-to-land calls terminated by the LEC within the

MSA. For such calls terminated outside the MSA boundaries, McCaw proposed a 7.19¢ per minute rate. McCaw advocated an optional plan under which mobile carriers could elect to pay the LECs these rates on land-to-mobile calls and thus relieve LEC subscribers from paying toll rates on calls that cross LEC local calling area boundaries. McCaw also proposed separate, flat-rated monthly charges for trunking facilities containing a 15% contribution to overhead cost and lower rates for digital facilities.

GTE Mobilnet advocated no specific rate levels but argued that rates should be cost-based and include a return on capital investment. The only recurring rate elements identified by GTE Mobilnet as being appropriate for interconnection are line termination, local switching, local transport and intercept.

AT&T Communications of the Southern States, Inc. (ATT-C), recommended that mobile carriers compensate the LECs by paying access charges and lost toll revenues for mobile calls that are transported beyond the EAEA boundary but only if they are outside the CGSA. These proposed rates are the same charges assessed to IXCs for like services furnished by the LECs, according to ATT-C. ATT-C took no position in this proceeding on mobile interconnection rates for calls that stay within CGSA boundaries.

The Florida Radio Telephone Association, Inc. (FRTA), principally advanced the position that the LECs should make available to RCCs all mobile interconnection services offered to CMCs at the same rates. With regard to the rate elements, FRTA maintained that they should be those found in the LECs' current tariffs, including those provisions for RCC service offerings and for experimental cellular service offerings.

FRTA proposed that the rates, terms and conditions contained within an agreement in which Southern Bell and the Southeastern Radio Common Carriers Association (SRCCA) are parties be adopted by us for application to mobile carriers who order Type 1 interconnection. The agreement related only to Type 1 interconnection, covering paging and two-way mobile service. Its trunk charge levels were identical to those in Southern Bell's current RCC interconnection tariff. However, while this tariff currently charges $4 per block of 20 Direct-Inward-Dial (DID) numbers, the agreement calls for this rate to be reduced to 50¢ per block of 100 DID numbers. Additionally, FRTA argued that RCCs should be furnished Type 2 interconnection on a one-way basis. Under both Type 1 and Type 2 interconnection, FRTA maintained that RCCs would like an expanded uniform dialing rate area and a land-to-mobile billing option. This party also sought cost-based rates, claiming that interconnection rates contained in current tariffs far exceed the LEC costs of providing this service and that the cost information of Southern Bell and GTE Florida overstate these costs. FRTA advocated our establishing a cost study methodology for determining proper interconnection rates for RCCs.

2. DECISION

The rates and charges in the experimental mobile interconnection tariffs currently in effect for Southern Bell, GTE Florida, United and Centel will be approved on a permanent

basis after they are modified in accordance with the directions set out below.

a. FACILITIES CHARGES

Mobile carriers must use LEC trunking facilities to transport their traffic between their MTSOs and a LEC end-office, local tandem or access tandem. We believe that discreet rate elements are appropriate for these trunks and the requisite trunk terminations. Both analog and digital facilities as well as both one-way and two-way trunks should be made available to all mobile carriers at separate rates. Such trunk charges should be identical for Type 1 and Type 2 interconnection. In our view, LECs should offer trunk facilities that are both single channel, e.g., analog, PBX or "voice-grade" facilities, and multi-channel, e.g., digital DS-1, in order to permit mobile carriers to select the type of facility best suited to their requirements. Under this approach, mobile carriers with analog equipment can order single-channel analog trunks that would be compatible with its equipment, while a mobile carrier with heavier traffic volume can order DS-1 facilities to accomodate its requirements.

We will approve, on a permanent basis for all mobile carriers, the rates for trunks and trunk terminations in the LECs' current CMC experimental tariffs. The DS-1 facilities charge that we will adopt for mobile interconnection is found in each LEC's current tariff offering private line services. We note that in Southern Bell's case, we have recently approved a reduction in DS-1 rates. This lower DS-1 rate plus Southern Bell's digital trunk termination rate will be approved for mobile interconnection. Additionally, rates and charges for one-way trunks and trunk terminations should be included in the mobile interconnection tariffs.

b. DID NUMBERS

Recurring charges for DID numbers are applicable only to Type 1 interconnection because mobile carriers obtain an entire NNX under Type 2 interconnection and must administer the individual numbers themselves. Except for Centel's, we will approve on a permanent basis the rates per block of 100 numbers contained in the current experimental tariffs, as follows: (1) Southern Bell, 50¢; (2) GTE Florida, 50¢ ; and (3) United, 40¢. These recurring rates should be applicable to all mobile carriers and to all DID numbers, including those assigned to a Type 1 interconnector with a dedicated NNX.

The tariffs of Southern Bell, GTE Florida and United restrict the application of these rates to orders of at least 1000 DID numbers and apply a higher rate for fewer numbers ordered at one time. However, the record fails to show any justification for this differentiation in the rates based on quantity. Southern Bell and United furnished cost support indicating costs of $3.47 and $2.62, respectively, incurred per 1000 DID numbers administered, but neither LEC demonstrated that its costs were higher for orders of less that 1000 DID numbers. Moreover, no such quantity restriction is provided in the agreement covering RCC interconnection entered into by Southern Bell and the SRRCA. We are not persuaded that these current restrictions serve any purpose, and for this reason, we will order that these restrictions be eliminated.

Centel's tariff currently charges $4 monthly per block of 100 DID numbers, but the company has presented no evidence that its costs of administering DID numbers exceed those of the other LECs. In fact, neither Centel nor GTE Florida provided any cost data for this service. Given the comparative cost advantages of Centel's network that is almost entirely digital, we conclude that its costs should be in line with those of Southern Bell and United. Accordingly, we will order Centel to revise its tariff for the purpose of applying a recurring rate for a block of 100 DID numbers ordered in connection with Type 1 interconnection. The revised rate should be based upon Centel's costs of furnishing this service, and Centel shall provide cost support with its tariff revision.

c. USAGE

The proposals for the usage rate elements and levels varied widely. Proposed rates for local usage ranged from a low of .74¢ to a high of 10.95¢ a minute, and for toll usage, they started at 7.19¢ and increased to approximately 22¢ per minute. Moreover, the parties' approaches to applying these rates were highly diverse.

We cannot approve Southern Bell's multi-tiered approach to usage rates for several reasons. Initially, we believe that this plan's complexity would likely make it very difficult to administer. Also, it relies extensively upon "self-reporting" by the mobile carriers that we believe would lead to disputes, based on the information we have gathered about past dealings between the LECs and the mobile carriers. While contending that a LEC should be able to record and bill for the mobile interconnection services that it offers, Southern Bell lacks the measuring and recording capabilities to bill its proposed usage rate plan without relying on traffic data furnished by the mobile carriers.

In addition, we do not agree with Southern Bell's argument concerning lost toll revenues. We believe that the LECs can be properly compensated for mobile interconnection service without our being compelled to adopt a complex and confusing multi-tiered usage rate approach. We do not interpret our decision in Docket No. 820537-TP, the proceeding in which we adopted toll monopoly areas (TMAs), as requiring us to set a usage rate for interconnecting mobile traffic that will provide the LECs with the same revenues they would have received had an IXC handled it. In that proceeding, we established the EAEAs as TMAs for the LECs and permitted intraLATA facilities-based competition only in the handling of interEAEA traffic. In the event that an IXC could not block intraEAEA traffic, we established a mechanism by which it would compensate the LECs for toll revenue lost on traffic that we intended the LECs to handle exclusively.

Our establishment of TMAs was intended to define the future relationship that was to exist between LECs and IXCs. We find no reason to believe that this action is binding on our determination of the proper relationship between LECs and mobile carriers. When we created the TMAs, we set out to determine the relative services to be offered and rates to be charged by LECs and IXCs after the Court-ordered divestiture by AT&T of the Bell Operating Companies. We determined that the revenues then flowing to the combined entity, AT&T, would have to be divided between its components that were to be separated into independent entities. In order to achieve the objectives of promoting future intraLATA competition between IXCs and

assuring the future financial stability of the LECs, we saw a need to protect the revenues that we intended to go to the LECs. Consequently, we ordered all IXCs to compensate the LECs when they are unable to block intraEAEA calls.

We find no link between the action we took in protecting the lost toll revenues of the LECs on intraEAEA calls and our rate setting in this docket. Unlike when we created TMAs, there are no revenues currently flowing to the LECs or the mobile carriers which may be diverted from the intended recipient. We are not persuaded by the argument that the LECs need the protection offered by a multi-tiered rate plan designed to recover revenues that are not being lost by the LECs.

We believe also that the usage plan proposed by Southern Bell will encourage bypass. We find the same defect in United's usage proposal. Where a mobile carrier is offered an interconnection arrangement with a lower rate than another, then the prudent mobile carrier will order the lower-rated alternative. The record shows that mobile carriers are making such choices through establishing multiple LEC connections to take advantage of current local rates and avoid toll rates. As a result, the LECs receive very little toll revenue from mobile carriers. Centel and GTE Florida recognize this in proposing the same usage rates under either access charges or a composite rate for all forms of interconnection. We conclude that our adoption of a single usage rate per minute for all mobile traffic within the LATA will eliminate the incentive to avoid toll charges.

GTE Florida's usage plan would not create incentives to bypass and would accomplish several favorable objectives, including offering a single usage rate per minute. However, as discussed above, we do not believe that assessing full access charges on all aspects of mobile interconnection, as GTE Florida recommends, is appropriate. We cannot accept GTE Florida's proposal to charge mobile carriers originating access charges on land-to-mobile traffic because we recognize that they perform the switching and transport functions in terminating these calls instead of the LECs. Additionally, we disagree with GTE Florida that mobile carriers should be treated exactly as IXCs because we find that a substantial portion of mobile traffic is local in that the calls do not extend beyond LEC local calling areas. Thus, we hold that it would be inappropriate to assess full originating and terminating access charges on mobile traffic. For the reasons given above, we do not believe such treatment is necessary as an arbitrage preventative. Moreover, our acceptance of GTE Florida's usage proposal would create a dissimilarity of treatment between mobile carriers and other providers of both local and interexchange service, e.g., STS and PATS providers.

We have explained above our reasons for rejecting the mobile carriers' proposal that usage rates be based strictly on incremental, mobile-specific LEC costs. The evidence indicates that LEC costs differ insignificantly between the types of mobile interconnection furnished, primarily based on the amount of switching required. The evidence indicates that rate differentials would not be appropriate if rates were based on costs exclusively. We have determined that mobile carriers constitute a single class of ratepayers in employing LEC interconnection services, and as a result, we will set a usage

rate to be paid by all such carriers within a LEC's territory for Types 1, 2A and 2B interconnection.

We find the concept advanced by Centel, combining local and toll rate components to produce a single composite rate per minute of use, to be most appropriate for mobile interconnection rate setting. We reject, however, Centel's reliance on the FCC's jurisdictional separations procedures for calculating the local rate component. In our opinion, access charges should be used as the basis for setting the single composite rate for mobile usage because they are currently in place and thus should be administered easily and efficiently. Additionally, a composite usage rate obviates the need for determining the origination point of a mobile call. Further, the fact that the local calling areas of the LECs and the CGSAs of the mobile carriers do not have identical boundaries is made irrelevant under the composite usage rate concept.

For the toll component, we will adopt full access charges, including a per minute equivalent of the BHMOC. We will order the LECs to file mobile interconnection traffic revisions that include, as part of the toll component of the composite usage rate, a per-minute BHMOC equivalent based on BHMOC revenue per access minute of use for the twelve-month period ending July 31, 1988. For Southern Bell, however, the BHMOC revenues for that period should reflect our recent approval of a reduced BHMOC rate. GTE Florida has requested a reduction in its BHMOC rate; therefore, if a change is approved, GTE Florida must reduce the BHMOC rate in the toll component of its composite usage rate.

For illustrative purposes, we have computed the per-minute BHMOC equivalent for GTE Florida, Centel and United to be 3.3¢ and for Southern Bell to be .68¢. The LECs will add these equivalents to 7.19¢, the sum of current intrastate switched access charges, to arrive at the toll component of the composite rates for these tariff revisions. In further illustration, we calculate that the toll components would total 7.87¢ per minute for Southern Bell and 10.49¢ for GTE Florida, United and Centel. These toll components equate to the terminating access charges now being paid by IXCs for traffic comparable to that of the mobile carriers and thus should serve to prevent arbitrage.

With regard to the local component, we have set rates for the providers of local service that recover non-traffic sensitive costs on a flat-rated basis and traffic sensitive costs on a usage basis. Accordingly, we will adopt the traffic sensitive components of intrastate access charges -- Local Switching and Local Transport -- to derive the local component of 2.58¢ per minute. These rates and rate structure are roughly equivalent to those we have approved for other interconnectors to the local network, i.e., PATS and STS providers.

The next required step is to assign weights to the local and toll components. The record reflects that mobile traffic is split at present between around 90% local and 10% toll under the current rates in the experimental tariffs that price local and toll differently. However, we do not expect this ratio to reflect the proper future weighting that mobile traffic can be expected to experience under the single rate that we approve here for all forms of interconnection. In our judgment, mobile toll traffic will grow since the single rate for

interconnection will eliminate the mobile carriers' current incentives to avoid toll.

While mobile carriers might not remove the duplicative facilities they presently employ, we expect them to be encouraged by the single rate to use the statewide switched network when ordering facilities to accommodate new growth rather than to continue deploying dedicated and private facilities. In order to accommodate this predicted growth, we will adopt a weighting ratio of 80% local and 20% toll for the purpose of calculating the composite usage rate. Moreover, we do not contemplate readdressing this ratio in the immediate future to determine the LECs' experience with mobile traffic under the usage rate that we approve here; however, the parties may exercise their right to seek our review of this rate in accordance with established procedures.

For illustrative purposes, we have calculated the following on-peak composite usage rates per minute for each LEC party:

Southern Bell	3.64¢
GTE Florida	4.16
United	4.16
Centel	4.16

Concerning off-peak discounts, we will approve discounts for application to the local component but not to the toll component. This corresponds to our different treatment of local interconnection rates which typically incorporate an off-peak discount and of terminating access charges for toll traffic which do not. We find that the present 50% discount should be continued on a permanent basis because we seek to influence end users to shift their calling patterns in order to remove traffic from peak periods and to stimulate usage during off-peak discount periods. The discount periods that we approve are as follows:

All days	8:00 P.M. - 9:00 A.M.; and
Saturdays & Sundays	9:00 A.M. - 8:00 P.M.

The record indicates that the discount periods adopted above experience decreased volume, both for Southern Bell's total local calling and for the cellular-specific calling of Centel, United and McCaw. The discount periods approved above differ from those proposed in this docket principally by eliminating Southern Bell's mid-day discount period of Noon to 2 P.M. This action is appropriate because the studies presented by these parties show that mobile calling does not diminish during that period. Also, the beginning and ending times of the current discount periods in the four LEC experimental tariffs vary slightly, and we believe that all LECs should adopt the same discount periods, as identified in the time-of-day distribution studies.

The off-peak local component shall be one-half of the weighted on-peak local component, and the off-peak composite rate is the sum of this off-peak local component and the weighted on-peak toll component. For illustrative purposes, the off-peak composite usage rates per minute for each LEC party would be:

Southern Bell	2.60¢
GTE Florida	3.13
United	3.13
Centel	3.13

The composite usage rate is intended to promote efficient utilization of the LECs' networks by mobile carriers. It is designed to encourage mobile carriers to establish single points of presence within the LATAs. A similar principle was adopted in our access proceedings in which we set the current 1.60¢ rate for local transport. Our goal there was to encourage IXCs to establish single points of presence within the EAEAs, and we accomplished this by blending the interstate distance sensitive rates to obtain an average rate per minute for local transport that is non-distance sensitive. We find the same principle applicable in this proceeding.

Each LEC party submitted cost data showing total intrastate and local revenue requirements computed under the FCC's jurisdictional separations procedures. While we do not endorse the use of these procedures for setting intrastate rates, we believe this cost information provides evidence that the rates we approve here will recover the LECs' costs of providing mobile interconnection. In our opinion, the rates approved here will recover the LECs' average costs of furnishing mobile interconnection and provide a contribution to joint and common costs.

Additionally, we will approve a usage rate to be charged to mobile carriers, at their option, on landline-originated toll calls that would normally be billed to the LECs' subscribers. This rate is equal to the toll component of each LEC's composite usage rate. For illustrative purposes, these rates are 7.87¢ for Southern Bell and 10.49¢ for GTE Florida, United and Centel.

We will order the LECs to file reports accompanying their mobile interconnection tariff revisions to show the revenue impact of our decisions explained in this Order. These reports must show the units, e.g., nonrecurring and recurring facilities and DID number charges and local and toll minutes, as well as the current rates and revenues and the newly-approved rates and revenues.

G. SURROGATE BILLING PROCEDURES

The record shows that two LEC parties cannot measure and record usage at every location throughout their territories. While United and Centel have ubiquitous measuring and recording capability, Southern Bell is unable to measure and record Type 2 interconnection usage in either its access or local tandem, and GTE Florida cannot measure traffic flowing through its access tandem to an IXC. As a result, it is necessary for us to adopt a billing procedure for use by the LECs in the absence of their own usage data.

We have decided to adopt a surrogate for LEC use in billing mobile traffic handled at locations with measuring and recording limitations. In order for the surrogate procedure to operate, the LECs require a count of the number of mobile calls. For LECs that cannot peg count messages, we will order them to obtain such peg counts from the mobile carriers to permit billing under the surrogate procedure.

We reject the proposed alternatives to our adoption of this billing surrogate procedure. The mobile carriers could submit their detailed usage records to the LECs, allowing the LECs to bill actual usage as if they had created these records. However, we cannot accept this alternative because it

compels reliance upon the transfer to the LECs of information that is sensitive to the mobile carriers until measuring and recording capabilities can be obtained by the LECs. We believe that the transfer of only peg counts protects this sensitive data. Another suggestion involves periodic adjustments of the surrogate based on up-dated traffic studies. We decline at this time to order periodic traffic studies for the purpose of fine-tuning a surrogate procedure designed to have diminishing applicability.

The primary elements of a surrogate billing procedure are assumptions regarding the duration of the average mobile call and the time-of-day distributions of such calls. The surrogate currently provided in the experimental mobile interconnection tariffs assumes a two-minute average holding time per call and a call distribution of 67% on-peak and 33% off-peak. Evidence in the record supports the two-minute assumption because it shows a range from 1.83 to 2.33 minutes in the average holding times of cellular calls as reported by three of the parties.

We will approve a permanent time-of-day distribution assumption that differs from that currently in effect. In our view, a 70% on-peak and 30% off-peak ratio reflects a slight increase in on-peak calling that we expect to occur as a result of eliminating Southern Bell's mid-day discount period from Noon to 2 P.M.

The usage rate levels used in the surrogate will be company-specific but the methodology for calculating the rate to be applied by each LEC will be statewide. We will direct the LECs to include the following provision in revising their mobile interconnection tariffs:

> Usage Rate Service will be offered in all cases where facilities permit; otherwise, in company offices that are not equipped for measurement capabilities, an assumed average holding time of two minutes per message will be used when applying usage charges. For purposes of calculating discounted charges, the assumption will be made that 70% of all messages will be placed in the full rate period and 30% will be placed in the discounted rate period. The discounted rate period is as follows:
>
> All Days, 8:00 P.M. - 9:00 A.M.
> Saturdays & Sundays, 9:00 A.M. - 8:00 P.M.

H. NONRECURRING CONNECTION CHARGES

The parties to this docket stipulated that nonrecurring connection charges should be assessed by each LEC to each mobile carrier that switches to either Type 1 or Type 2 interconnection as a result of the rates set in this Order.

I. OTHER NONRECURRING CHARGES

The parties are in general agreement that the LECs should assess nonrecurring charges for mobile interconnection. Moreover, there appears to be general agreement among them as

to the appropriateness of the nonrecurring charges contained in the experimental tariffs. The record indicates no complaint that these charges are unreasonable. Accordingly, we will approve the nonrecurring charges for the various types of interconnection services shown on Attachment A for each LEC party.

J. OPERATOR SERVICES

Operator services, e.g., billed number screening, 911 Service and directory assistance, cannot currently be made available to mobile carriers by all LECs through Type 2 interconnection at both the local and access tandems. This limitation requires mobile carriers to order, at a minimum, Type 1 connection in Southern Bell's case and Type 2 connections to the local tandem in GTE Florida's, to obtain such services for use by their end users. Neither company designed its access tandem to function as an end office, which is the only location from which all LECs offer these services.

McCaw suggested that trunking efficiencies would be increased if all LECs would arrange for these services to be offered at the access tandem through Type 2 interconnection. We agree that it is inefficient and costly for the mobile carriers to be required to order Type 1 interconnection as a means of obtaining operator services; however, we do not believe that forcing the LECs to bear the expense of modifying their access tandems is warranted by the small amount of current mobile traffic. For this reason, we will approve on a permanent basis the manner in which such services are currently being offered to mobile carriers, obligating them to obtain either Type 1 interconnection or Type 2 connections to the local tandem.

We conclude that each LEC's currently-tariffed rates for 911 Service, operator-assisted and credit card calls, verification, interruption, directory assistance and billed number screening should be assessed to mobile carriers on a permanent basis with one modification. The modification that we will order concerns directory assistance. We find that mobile carriers should pay the same tariff charges for local and intraLATA directory assistance that landline customers do. This conclusion is based in part upon our view that mobile service is business-oriented in nature as opposed to being a public service offering similar to paystation service for which no directory assistance charges are assessed. We find that the following provisions should be included in the LECs' forthcoming tariff revisions:

Rates and Charges

A. A charge as follows is applicable for each call to directory assistance except as noted below. (Maximum of two requested telephone numbers per call.)

1. Directory Assistance Service

(a) Each Call Rate: $.25

B. In order to make allowance for a reasonable need for Directory Assistance Service, including numbers not in the directory, directory inaccessibility and other similar conditions, no charge

> applies for the first three calls per month per individual line, PBX trunk line, dormitory communication station line or for the first call per month per Centrex/ESSX station line.
>
> The allowance is cumulatative for all group billed services furnished to the same subscriber.

The above language is to be interpreted as granting a mobile carrier a three-call allowance for each trunk subscribed to by it each month.

We reject at this time the proposal to permit mobile carriers to enter into contracts with LECs for operator services at rates other than those approved in current tariffs. Instead, we will approve the LECs' continuing to offer mobile carriers these services under rates, terms and conditions found in the LECs' current tariffs governing such services.

K. NNX ESTABLISHMENT CHARGES

We find that there are predictable costs associated with establishing an NNX, e.g., assignment, distribution, translation, recording, routing and memory costs. Historically, these costs have been recovered through the separations and settlements processes because only LECs established NNXs. As a result, no mechanism has been developed for recovering these costs from a mobile carrier seeking the establishment of its own NNX. We believe that such a mechanism should be developed.

The costs of establishing NNXs differ among the LECs because of the different switching costs that each experiences, e.g., digital switches are less costly to reprogram than crossbar switches. We believe that the mobile carriers and not the general body of LEC ratepayers should bear the costs of mobile-related NNX establishment. Because of cost variations, we will adopt company-specific charges for this service. We do not intend to create any disincentive to the ordering of a dedicated NNX by a mobile carrier, and we will set rates for this function that recover its direct costs and provide a reasonable contribution to LEC overhead costs.

The LEC parties have proposed charges to recover their costs of reprogramming their tandem switches to recognize a new NNX and have furnished data relating to these costs. The NNX establishment charges that we approve for each LEC party are as follows:

Centel	$ 1,800
GTE Florida	10,000
Southern Bell	4,800
United	7,400

The above charges are designed to recover those direct costs estimated by each LEC and to provide a 15% contribution to the LECs' joint and common costs.

L. RECORDING AND FORMAT REQUIREMENTS

We believe that each LEC should be responsible for measuring, recording and billing mobile usage. This flows from our belief that the company offering the service should be responsible for measuring the quantity of services furnished and sending a correct bill based on that data. By achieving that objective, the requirement for instituting format specifications, i.e., to assure that one party's recording system is compatible with another's billing system, can be completely averted. LECs may then adopt any recording format required by their billing systems. For use during the interim until all LECs can perform measuring and recording functions at every location throughout their territories, a surrogate billing procedure has been approved in this Order.

M. USAGE RECORDING INCREMENTS

This issue was addressed for the purpose of determining the proper increments to be used for mobile calls in the LECs' recording and billing systems. As a general principle, we believe the LECs should measure and bill mobile carriers for the time that mobile-originated traffic uses the LEC networks on as near an actual time basis as practicable. Consequently, we will order that the duration of individual mobile calls should be recorded in the smallest time increment within the measuring device's capability. These recorded times per call shall be accumulated for a month and then rounded to full minutes only at the end of that period when the mobile carrier's bills are prepared.

The method approved here is at variance with the current experimental tariffs that allow each call to be rounded to a full minute. The record shows that the LEC parties have the measuring and recording capabilities for implementing the practice approved here. We are aware that certain LEC parties' billing systems would have to be modified had we approved the practice of charging for individual calls on a less-than-full-minute basis; however, such modification is unnecessary under the approved procedure where individual call times are summed at the end of the month and then this sum is rounded to the nearest full minute for billing. We prefer these practices because they are identical to those now used in calculating access charges billed to IXCs. Moreover, the adopted method will assure that usage charges are based on the actual usage of the LECs' networks by the mobile carriers.

N. TARIFF REVISIONS' EFFECTIVE DATES

Under this issue, we must balance the time requirements of the LECs in implementing our decisions explained in this Order against the urgency associated with achieving our objectives for the changes ordered here and with flowing their benefits through to the parties. We intend to grant adequate preparation time so that changes in facilities and billing procedures can be carried out properly. We note that extensive changes are ordered herein and that some delay in making them effective is justified. On the other hand, we believe the mobile carriers should be able to structure their business activities through ordering the types of interconnection that they prefer under the new rates, terms and conditions. Further, we believe that a speedy effective date will encourage the LECs to take all necessary steps to complete the requisite rearrangements of their facilities and procedures. Although we

have adopted a surrogate billing method here, we prefer that billing be based on actual usage where appropriate. We believe the LECs agree with this proposition and will act quickly to deploy measuring and recording capability for usage.

GTE Mobilnet argued that it will be competitively disadvantaged if the LECs are permitted to offer a uniform dialing rate for land-to-mobile calls throughout the LATA under Type 2 interconnection. GTE Mobilnet claims that it primarily has Type 1 connections at present and that its conversion to Type 2 interconnection will be lengthy and expensive. This conversion will also be disruptive to its customers, according to GTE Mobilnet, because their telephone numbers will have to be changed. Therefore, unless the LECs are ordered to provide an equal uniform dialing rate for land-to-mobile calls under Type 1 interconnection, GTE Mobilnet urges that the implementation of Type 2 interconnection be delayed for three years.

We will deny GTE Mobilnet's request for a three-year delay by the LECs in implementing the changes prescribed here. In our view, the benefits resulting from the implementation of identical rates for all types of interconnection outweigh the disruption of modifying the mobile carriers' facilities and their present customers' equipment. New customers of GTE Mobilnet and its competitors will be offered service on the same terms and conditions, thus enhancing competition.

For the reasons set out above, we will order the LECs to file tariff revisions no later than 30 days from the issuance of this Order to become effective 60 days from the Order's issuance date. Because we do not believe that mobile interconnection is a service that should be offered under the basic local service sections of the LECs' tariffs, we will order that these tariff revisions create a separate section intended to contain all provisions concerning mobile interconnection.

V. PROPOSED RESOLUTION

The Joint Motion to Accept Stipulation (Joint Motion) filed on October 21, 1988, sought to have us approve a proposed resolution of the primary issues in this docket. The proposal was agreed to by McCaw, Southern Bell, Centel, BMI and Brantley/Southern Pines. The Joint Motion stated that while ATT-C would not agree to the proposed resolution, it would not oppose our approval of this resolution. MCI expressed the position that, although it viewed the proposed resolution as violating the principle that customers who use functionally-equivalent services should be charged the same rates, it would not oppose our approval of this resolution.

On November 4, 1988, GTE Florida filed an Opposition to the Joint Motion to Accept Stipulation and Motion to Strike. GTE Florida argued that the proposed resolution should be rejected because it was filed after the hearings, was nonunanimous and was not in the public interest. Additionally, neither United, FRTA, Public Counsel nor GTE Mobilnet agreed to the proposed resolution. McCaw responded to GTE Florida's pleading, maintaining that the proposed resolution was not an attempt to bind nonagreeing parties and did not run afoul of any requirement that interconnection rates be the same for all LECs.

The proposed resolution seeks our approval of Centel's usage rate proposal in this docket as well as Southern Bell's multi-tiered rate structure proposing different rates for each tier. The complicated nature of Southern Bell's rate structure is a chief reason for our disapproval of it. It attempts to address several Commission policies without creating a precedent for future decision-making. Yet, we have considered these same policies and adopted herein a far simpler rate structure that addresses them.

Another reason for our opposing the proposed resolution is the lack of unanimity in parties' support. We note that several parties have not agreed, and thus we would have to decide how Southern Bell would apply the proposed rates to those mobile carriers operating in its territory who do not agree to the proposed resolution. Two LECs are among the nonagreeing parties, and we would be faced with creating two or more rate structures if we accepted the proposed resolution. As explained above, we prefer a statewide rate structure.

A third reason for rejecting the proposed resolution is its reliance upon the customer to furnish its own usage data to the LEC for billing purposes. Its proposed rate structure requires mobile carriers to provide extensive call detail in order for the LECs to implement these proposed billing procedures, particularly with regard to the two tiers covering traffic transported by the mobile carrier. We note that this reliance on customer data is antithetical to Southern Bell's position in this docket regarding the LECs' responsibilities for gathering usage data to be used for billing. Moreover, we are mindful of the continuing difficulty being encountered with Percent Interstate Usage reporting that is required of IXCs for access billing. We conclude that customer-reporting mechanisms are inferior to direct data collection by the billing party.

For the above reasons, we will deny the Joint Motion and reject the proposed resolution of the central issues in this docket that were supported by several of the parties. As a result, GTE Florida's opposition to the Joint Motion and its motion to strike will be dismissed as moot.

VI. ORDERING CLAUSES

It is therefore,

ORDERED by the Florida Public Service Commission that each and all of the specific findings herein are approved in every respect. It is further

ORDERED that the relationship between mobile carriers and local exchange companies relating to the interconnection of traffic between their respective networks shall be governed by the rights and responsibilities adopted herein. It is further

ORDERED that local exchange companies shall not pay compensation to mobile carriers for terminating calls that originate on the local exchange companies' networks. It is further

ORDERED that the local exchange companies shall revise their tariffs under which interconnection service is offered to mobile carriers for the purpose of collecting all mobile interconnection services into a single tariff section entitled "Interconnection of Mobile Services" with all mobile carriers

being furnished services at the same rates, terms and conditions within each local exchange company's territory. It is further

ORDERED that the tariff revisions ordered here shall contain interconnection rates that are unbundled into the separate charges adopted herein. It is further

ORDERED that a uniform dialing rate, at the level approved herein, shall be made available by the local exchange companies to mobile carriers for application to mobile calls that originate or terminate beyond the local exchange companies' local calling areas. It is further

ORDERED that the rate structures adopted herein for statewide application shall be incorporated by all local exchange companies into their forthcoming tariff revisions. It is further

ORDERED that the forthcoming tariff revisions shall contain the recurring rates, charges and elements adopted herein for facilities and Direct-Inward-Dialing numbers furnished to mobile carriers and the nonrecurring charges, including the establishment of NNX codes, adopted herein for each type of interconnection. It is further

ORDERED that the methodology adopted herein for determining usage rate levels shall be used by each local exchange company in computing the levels of its usage rate for inclusion in its forthcoming tariff revision. It is further

ORDERED that the forthcoming tariff revisions shall contain the discount periods adopted herein which shall be used for computing the local component of each local exchange company's off-peak composite usage rate. It is further

ORDERED that the forthcoming tariff revisions shall contain the usage rate approved herein which mobile carriers may elect to pay on landline-originated toll calls that would normally be billed to the local exchange companies' subscribers. It is further

ORDERED that the forthcoming tariff revisions shall contain the surrogate billing procedure adopted herein for use until actual billing data can be measured and recorded by the local exchange companies for billing purposes. It is further

ORDERED that each local exchange company shall assess the nonrecurring connection charges adopted herein to all mobile carriers who switch from one type of interconnection to another as a result of the rates adopted herein. It is further

ORDERED that the local exchange companies shall continue to make billed number screening, operator and 911 services and directory assistance available to mobile carriers in the same technical manner as currently employed and at the rates contained in current tariffs offering these services. It is further

ORDERED that all local exchange companies except Southern Bell Telephone and Telegraph Company shall revise their tariffs offering directory assistance to include the language adopted herein. It is further

ORDERED that the local exchange companies shall be responsible for measuring, recording and billing functions for the usage of interconnection services furnished to mobile carriers as adopted herein. It is further

ORDERED that measurement of mobile call duration shall be performed by the local exchange companies in the increments and with the rounding procedure adopted herein. It is further

ORDERED that the tariff revisions and reports ordered to be filed herein shall be filed no later than 30 days from the issuance date of this Order, with the tariff revisions to become effective no later than 60 days from the issuance date of this Order. It is further

ORDERED that any local exchange company not being able to implement our directions herein within 60 days of the issuance date of this Order shall use the surrogate billing procedures in the interim. It is further

ORDERED that the Joint Motion to Accept Stipulation filed on October 21, 1988, is hereby denied and the proposed resolution of the central issues in this docket supported by the moving parties is hereby rejected. It is further

ORDERED that the Opposition to the Joint Motion and Motion to Strike filed by GTE Florida Incorporated on November 4, 1988, is hereby dismissed as moot.

By ORDER of the Florida Public Service Commission, this _____ day of _____, _____.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DLC

by Kay Flynn
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the

decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

CURRENT NONRECURRING CHARGES
EXPERIMENTAL TYPE 1

FACILITIES CHARGES	SOUTHERN BELL	GTE FLORIDA	UNITED	CENTEL
Installation Charge				$2040.00
Analog (Single trunk)				
Local Loop	$275.63	$295.00		
E&M Signaling	41.10	55.00	Not Offered	
Interoffice Channel, per mile				
Channel Terminal	72.95	72.95		90.00(2Wire)
Trunk Termination	65.00	50.00		90.00(4Wire)
Digital (Equivalent to 24 trunks)				
Local Channel, first 1/2 mile	772.00	772.00	775.00	Not Offered
DID NOS. CHARGES:				
With Non-dedicated NNX	15.00/20	15.00/20	200 (1st 100) 150 (add'l 100)	15.00/100

EXPERIMENTAL TYPES 2A & 2B

Installation Charge				2040.00
Analog (Single trunk)				
Local Loop	$275.63	$295.00		
E&M Signaling	41.10	55.00	Not Offered	Not Offered
Interoffice Channel, per mile				
Channel Terminal	72.95	72.95		
Trunk Termination	65.00	50.00		
Digital (Equivalent to 24 trunks)				
Local Channel, first 1/2 mile	772.00	772.00	775.00	

RCC AND PLMRS

FACILITIES CHARGES	SOUTHERN BELL	GTE FLORIDA	UNITED	CENTEL
Trunk	$915.00	$915.00	$41.00	$915.00
Trunk Termination	90.00	90.00		90.00
DID NOS. CHARGES				
With non-dedicated NNX	15.00/20	15.00/20	200.00 (1st 100) 150.00 (add'l 100)	15.00/20

INDEX