

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

Petition of Ballard Rural Telephone Cooperative)
Corporation, Inc. for Arbitration of Certain Terms)
and Conditions of Proposed Interconnection)
Agreement With American Cellular f/k/a ACC)
Kentucky License LLC, Pursuant to the)
Communications Act of 1934, as Amended by the)
Telecommunications Act of 1996)

Case No. 2006-00215

Petition of Duo County Telephone Cooperative)
Corporation, Inc. for Arbitration of Certain Terms)
and Conditions of Proposed Interconnection)
Agreement With Cellco Partnership d/b/a Verizon)
Wireless, GTE Wireless of the Midwest)
Incorporated d/b/a Verizon Wireless, and Kentucky)
RSA No. 1 Partnership d/b/a Verizon Wireless,)
Pursuant to the Communications Act of 1934, as)
Amended by the Telecommunications Act of 1996)

Case No. 2006-00217

Petition of Logan Telephone Cooperative)
Corporation, Inc. for Arbitration of Certain Terms)
and Conditions of Proposed Interconnection)
Agreement With American Cellular f/k/a ACC)
Kentucky License LLC, Pursuant to the)
Communications Act of 1934, as Amended by the)
Telecommunications Act of 1996)

Case No. 2006-00218

Petition of West Kentucky Rural Telephone)
Cooperative Corporation, Inc. for Arbitration of)
Certain Terms and Conditions of Proposed)
Interconnection Agreement With American)
Cellular f/k/a ACC Kentucky License LLC,)
Pursuant to the Communications Act of 1934, as)
Amended by the Telecommunications Act of 1996)

Case No. 2006-00220

Petition of North Central Telephone Cooperative)
Corporation for Arbitration of Certain Terms and)
Conditions of Proposed Interconnection Agreement)
With American Cellular f/k/a ACC Kentucky)
License LLC, Pursuant to the Communications Act)
of 1934, as Amended by the Telecommunications)
Act of 1996)

Case No. 2006-00252

Petition of South Central Rural Telephone)
Cooperative Corporation, Inc. for Arbitration of)
Certain Terms and Conditions of Proposed)
Interconnection Agreement With Cellco)
Partnership d/b/a Verizon Wireless, GTE Wireless)
of the Midwest Incorporated d/b/a Verizon)
Wireless, and Kentucky RSA No. 1 Partnership)
d/b/a Verizon Wireless, Pursuant to the)
Communications Act of 1934, as Amended by the)
Telecommunications Act of 1996)

Case No. 2006-00255

Petition of Brandenburg Telephone Company for)
Arbitration of Certain Terms and Conditions of)
Proposed Interconnection Agreement With Cellco)
Partnership d/b/a Verizon Wireless, GTE Wireless)
of the Midwest Incorporated d/b/a Verizon)
Wireless, and Kentucky RSA No. 1 Partnership)
d/b/a Verizon Wireless, Pursuant to the)
Communications Act of 1934, as Amended by the)
Telecommunications Act of 1996)

Case No. 2006-00288

Petition of Foothills Rural Telephone Cooperative)
Corporation, Inc. for Arbitration of Certain Terms)
and Conditions of Proposed Interconnection)
Agreement With Cellco Partnership d/b/a Verizon)
Wireless, GTE Wireless of the Midwest)
Incorporated d/b/a Verizon Wireless, and Kentucky)
RSA No. 1 Partnership d/b/a Verizon Wireless,)
Pursuant to the Communications Act of 1934, as)
Amended by the Telecommunications Act of 1996)

Case No. 2006-00292

Petition of Gearheart Communications, Inc. d/b/a Coalfields Telephone Company for Arbitration of Certain Terms and Conditions of Proposed Interconnection Agreement With Cellco Partnership d/b/a Verizon Wireless, GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, and Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless, Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996)

Case No. 2006-00294

Petition of Mountain Rural Telephone Cooperative Corporation, Inc. for Arbitration of Certain Terms and Conditions of Proposed Interconnection Agreement With Cellco Partnership d/b/a Verizon Wireless, GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, and Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless, Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996)

Case No. 2006-00296

Petition of Peoples Rural Telephone Cooperative Corporation, Inc. for Arbitration of Certain Terms and Conditions of Proposed Interconnection Agreement With Cellco Partnership d/b/a Verizon Wireless, GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, and Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless, Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996)

Case No. 2006-00298

Petition of Thacker-Grigsby Telephone Company, Inc. for Arbitration of Certain Terms and Conditions of Proposed Interconnection Agreement With Cellco Partnership d/b/a Verizon Wireless, GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, and Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless, Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996)

Case No. 2006-00300

*Direct Testimony of Don J. Wood on behalf of the CMRS Providers
Before the Kentucky Public Service Commission*

September 29, 2006

**DIRECT TESTIMONY OF DON J. WOOD
ON BEHALF OF VERIZON WIRELESS AND THE CMRS PROVIDERS**

September 29, 2006

TABLE OF CONTENTS

BACKGROUND AND PURPOSE OF TESTIMONY..... 1

ISSUE 2: SHOULD THE INTERCONNECTION AGREEMENT APPLY TO TRAFFIC EXCHANGED DIRECTLY, AS WELL AS THROUGH TRAFFIC EXCHANGED INDIRECTLY THROUGH BELLSOUTH OR ANY OTHER INTERMEDIARY CARRIER?..... 5

ISSUE 5: IS EACH PARTY OBLIGATED TO PAY FOR TRANSIT COSTS ASSOCIATED WITH THE DELIVERY OF TRAFFIC ORIGINATED ON ITS NETWORK TO THE TERMINATING PARTY’S NETWORK? 12

ISSUE 4: SHOULD THE INTERCONNECTION AGREEMENT APPLY TO FIXED WIRELESS SERVICES?..... 18

ISSUE 6: CAN THE RLECS USE INDUSTRY STANDARD RECORDS (E.G., EMI 11-01-01 RECORDS PROVIDED BY TRANSITING CARRIERS) TO MEASURE AND BILL CMRS PROVIDERS FOR TERMINATING MOBILE-ORIGINATED TELECOMMUNICATIONS TRAFFIC? 20

ISSUE 10: IS EACH RLEC REQUIRED TO DEVELOP A COMPANY-SPECIFIC, TELRIC-BASED RATE FOR TRANSPORT AND TERMINATION, WHAT SHOULD THAT RATE BE FOR EACH RLEC, AND WHAT ARE THE PROPER RATE ELEMENTS AND INPUTS TO DERIVE THAT RATE?..... 21

 Watkins Claim No. 1: The RLECs shouldn’t be required to produce the required cost studies because they haven’t yet done the required cost studies 27

 Watkins Claim No. 2: The RLECs shouldn’t be required to produce the required cost studies because, at least in Mr. Watkins’ view, Congress and the FCC erred by requiring them to do so 30

 Watkins Claim No. 3: The RLECs shouldn’t be required to produce the required cost studies because conducting these studies would be too difficult or too expensive 31

 Watkins Claim No. 4: The RLECs shouldn’t be required to produce the required cost studies because the FCC now doubts its previous orders regarding the use of TELRIC 34

 Watkins Claim No. 5: The RLECs shouldn’t be required to produce the required cost studies because TELRIC-based rates would likely be higher than the proposed rate..... 36

 Watkins Claim No. 6: The RLECs shouldn’t be required to produce the required cost studies because the proposed reciprocal compensation rate is approximately equal to their interstate switched access charges 42

Watkins Claim No. 7: The RLECs shouldn't be required to produce the required cost studies because the proposed Missoula Plan would permit the RLECs to impose their proposed rate on CMRS providers	46
ISSUE 11: IF THE RLECS FAIL TO DEMONSTRATE RATES THAT MEET THE REQUIREMENTS OF 47 USC §252(D)(2)(A) AND THE FCC'S REGULATIONS, WHAT RATE SHOULD THE COMMISSION ESTABLISH FOR EACH RLEC?	50
ISSUE 18: SHOULD RLEC TARIFF PROVISIONS BE INCORPORATED INTO THE CONTRACT?	58

1 **Background and Purpose of Testimony**

2 **Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A: My name is Don J. Wood. I am a principal in the firm of Wood & Wood, an economic
4 and financial consulting firm. My business address is 30000 Mill Creek Avenue, Suite
5 395, Alpharetta, Georgia 30022. I provide economic and regulatory analysis of the
6 telecommunications, cable, and related convergence industries with an emphasis on
7 economic policy, competitive market development, and cost-of-service issues.

8 **Q: PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE.**

9 A: I received a BBA in Finance with distinction from Emory University and an MBA with
10 concentrations in Finance and Microeconomics from the College of William and Mary.
11 My telecommunications experience includes employment at both a Regional Bell
12 Operating Company ("RBOC") and an Interexchange Carrier ("IXC").

13 Specifically, I was employed in the local exchange industry by BellSouth
14 Services, Inc. in its Pricing and Economics, Service Cost Division. My responsibilities
15 included performing cost analyses of new and existing services, preparing documentation
16 for filings with state regulatory commissions and the Federal Communications
17 Commission ("FCC"), developing methodology and computer models for use by other
18 analysts, and performing special assembly cost studies.

19 I was employed in the interexchange industry by MCI Telecommunications
20 Corporation, as Manager of Regulatory Analysis for the Southern Division. In this
21 capacity I was responsible for the development and implementation of regulatory policy
22 for operations in the southern U. S. I then served as a Manager in MCI's Economic

1 Analysis and Regulatory Affairs Organization, where I participated in the development of
2 regulatory policy for national issues.

3 **Q: HAVE YOU PREVIOUSLY PRESENTED TESTIMONY BEFORE STATE**
4 **REGULATORS?**

5 A: Yes. I have testified on telecommunications issues before the regulatory commissions of
6 forty-one states, Puerto Rico, and the District of Columbia. I have also presented
7 testimony regarding telecommunications issues in state, federal, and overseas courts,
8 before alternative dispute resolution tribunals, and at the FCC. A listing of my previous
9 testimony is attached as Exhibit DJW-1.

10 **Q: ARE YOU FAMILIAR WITH THE INTERCONNECTION AND INTERCARRIER**
11 **COMPENSATION OBLIGATIONS SET FORTH IN THE**
12 **TELECOMMUNICATIONS ACT OF 1996?**

13 A: Yes. I have participated in investigations into the rates for Unbundled Network Elements
14 (“UNEs”), the underlying cost support for those rates, and the application of element
15 rates to the development of intercarrier compensation levels in Alabama, California,
16 Colorado, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland,
17 Mississippi, Montana, North Carolina, Oregon, South Carolina, Tennessee, Texas,
18 Washington, Wyoming, the District of Columbia, and Puerto Rico.

19 While I am not an attorney and do not intend to provide legal argument or
20 conclusions in my testimony, I am familiar with the interconnection requirements set
21 forth in §251 of the Act and with the details of the FCC’s rules for calculating the rates
22 for UNEs (and the intercarrier compensation rates, including reciprocal compensation for
23 local calls, that are based on those cost elements) pursuant to §252 of the Act.

1 **Q: ARE YOU FAMILIAR WITH THE COST MODELS THAT HAVE BEEN USED**
2 **TO CALCULATE THE COST OF NETWORK ELEMENTS PURSUANT TO**
3 **BOTH §252 OF THE ACT AND THE FCC'S RULES AS SET FORTH IN 47 CFR**
4 **§51?**

5 A: Yes. I have experience working with each of the primary models used to make these
6 calculations (and in most cases with their predecessors). While employed in the
7 BellSouth Services Cost Division, I had the opportunity to work with a number of cost
8 models, including models developed internally and those developed by Bellcore (now
9 Telcordia) and to analyze and review the manner in which these models were used in the
10 cost development process. Since that time, I have reviewed cost studies performed by
11 each of the seven (now four, though the number will soon be three) RBOCs and a number
12 of other incumbent local exchange carriers ("ILECs"), including both Tier 1 companies
13 and smaller carriers. I have also reviewed the cost models developed and advocated by
14 CLECs. My review of these ILEC and CLEC models has included studies undertaken for
15 the development of UNE costs and studies undertaken to establish intercarrier
16 compensation rates that are based on these costs, including reciprocal compensation for
17 local calls. In each case, my review of these cost studies has included an extensive
18 evaluation of the methodologies, computer models and spreadsheets, and
19 inputs/assumptions employed by the study's sponsor.

20 I have also been asked by regulators to develop detailed rules for the calculation
21 of forward-looking economic costs. Although this work was performed in the role of a
22 consultant to these regulators, the development of these detailed rules has been a
23 collaborative process that has involved industry representatives and consumer advocates.

1 My proposed costing rules have been adopted and implemented in both Delaware and
2 Wyoming.

3 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

4 A: I have been asked by Alltel Communications, Inc. (“Alltel”); American Cellular
5 Corporation (“ACC”); New Cingular Wireless PCS, LLC, successor to BellSouth
6 Mobility LLC, BellSouth Personal Communications LLC and Cincinnati SMSA Limited
7 Partnership d/b/a Cingular Wireless (“Cingular”); Sprint Spectrum L.P., on behalf of
8 itself and SprintCom, Inc., d/b/a Sprint PCS (“Sprint PCS”); T-Mobile USA, Inc.,
9 Powertel/Memphis, Inc., and T-Mobile Central LLC (“T-Mobile”); and Cellco
10 Partnership d/b/a Verizon Wireless, GTE Wireless of the Midwest Incorporated, and
11 Kentucky RSA No. 1 Partnership (“Verizon Wireless”) (collectively, the “CMRS
12 Providers”) to (1) address Issues 2, 3, 4, 6, 10, 11, and 18 as set forth in the “Joint Issues
13 Matrix” filed with the Commission on September 22, 2006 and (2) to respond to the
14 prefiled testimony of Mr. Steven E. Watkins filed on behalf of Ballard Rural Telephone
15 Cooperative Corporation, Inc., (“Ballard”), Duo County Telephone Cooperative
16 Corporation, Inc., (“Duo County”), Logan Telephone Cooperative Inc., (Logan”), West
17 Kentucky Rural Telephone Cooperative Corporation (“West Kentucky”), North Central
18 Telephone Cooperative Corporation (“North Central”), South Central Rural Telephone
19 Cooperative Corporation, Inc., (“South Central”), Brandenburg Telephone Company
20 (“Brandenburg”), Foothills Rural Telephone Cooperative Corporation, Inc., (“Foothills”),
21 Gearheart Communications, Inc., (“Gearheart”), Mountain Rural Telephone Cooperative
22 Corporation (“Mountain Rural”), Peoples Rural Telephone Cooperative Corporation,

1 Inc., (“Peoples”), and Thacker-Grigsby Telephone Company (“Thacker-Grigsby”)
2 (collectively, the rural local exchange companies or “RLECs”).

3 While some issues are inherently interrelated, I have organized my testimony on
4 an issue-by-issue basis. Some issues are addressed out of numerical order in an attempt
5 to discuss related topics sequentially.

6 **Issue 2: Should the Interconnection Agreement apply to traffic exchanged directly, as well**
7 **as through traffic exchanged indirectly through BellSouth or any other intermediary**
8 **carrier?**

9 **Q: WHAT OBLIGATIONS DO CARRIERS HAVE WITH REGARD TO THE**
10 **INTERCONNECTION OF NETWORKS FOR THE PURPOSE OF**
11 **EXCHANGING TRAFFIC?**

12 A: §251(a)(1) requires all telecommunications carriers “to interconnect *directly or indirectly*
13 with the facilities and equipment of other telecommunications carriers” (emphasis
14 added). Similarly, the FCC has concluded that carriers “should be permitted to provide
15 interconnection pursuant to section 251(a) either directly or indirectly, based upon their
16 most efficient technical and economic choices.”¹

17 **Q: WOULD IT BE EFFICIENT OR DESIRABLE TO REQUIRE ALL CARRIERS TO**
18 **DIRECTLY CONNECT THEIR NETWORKS?**

19 A: No. An arrangement in which every carrier uses dedicated facilities to directly connect
20 its network with the networks of all other carriers is probably not technically possible and
21 would certainly not be possible without substantial additional investment by all carriers.

¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC 15499, FCC 96-325, ¶1997 (“*First Report & Order*”).

1 Even if it could be accomplished technically, such an arrangement would be extremely
2 inefficient and costly.

3 By explicitly permitting indirect interconnection, §251 of the Act permits carriers
4 to make reasoned technical and economic choices regarding the means of
5 interconnection. At the end of the day, the relevant question is: Can the customers of a
6 given carrier make a call that will be completed to a customer served by another carrier?
7 It is this universal connectivity – from the customers’ point of view – that drives the
8 requirements for interconnection. If the originating carrier determines that its customers’
9 calls can be completed more efficiently through the use of indirect interconnection, then
10 such an arrangement should be used (and just such an arrangement is explicitly permitted
11 by §251(a)).

12 Because local calls may be completed via direct or indirect interconnection, an
13 interconnection agreement between carriers *must* address both contingencies.
14 Interconnection agreements between the CMRS Providers and the RLECs are no
15 exception.

16 It is important to note that reciprocal compensation rates are unaffected by the
17 form of interconnection. Reciprocal compensation for local calls² compensates the
18 terminating carrier for the use of its network. It is the responsibility of the originating

² In my testimony I am using the term “local call” to mean calls that are subject to reciprocal compensation pursuant to the pricing requirements of §252(d)(2) of the Act. For calls between an RLEC and a CMRS provider, this includes all calls within the CMRS provider’s calling area, defined by the FCC as the MTA.

1 carrier to deliver the call, using either a direct or an indirect form of interconnection, to
2 the terminating carrier. The terminating carrier incurs the cost of delivering the call from
3 the Point of Interconnection (“POI”) on its network to the end user customer, and
4 receives compensation from the originating carrier so that it can recover this cost. The
5 originating carrier, as the cost causer, incurs the cost to originate the call and to transport
6 it to the terminating carrier,³ and compensates the terminating carrier, through the
7 payment of reciprocal compensation, for its cost to complete the call. Because the
8 originating carrier incurs the cost, it has the ability to choose the most efficient means of
9 delivering the call to the terminating carrier. The terminating carrier should be
10 indifferent to the method used by the originating carrier to deliver the call, because the
11 cost it incurs – and the payment that it receives – are unaffected by the method of
12 delivery (i.e. whether the call is transported directly from one carrier to another or
13 indirectly via the facilities of another carrier).

14 **Q: WHEN THE CUSTOMER OF A CMRS PROVIDER ORIGINATES A CALL TO A**
15 **CUSTOMER OF AN RLEC, DOES THE CMRS PROVIDER HAVE THE**
16 **RESPONSIBILITY TO DELIVER THE CALL TO THE RLEC’S NETWORK?**

17 **A:** Yes. The CMRS provider must originate the call on its network and, depending on traffic
18 volumes and other factors, must then decide whether to use dedicated facilities to deliver
19 the call directly to a POI on the RLEC’s network or to use an indirect interconnection

³ The originating carrier might meet its responsibility to deliver the call by using its own (or leased) dedicated facilities to establish a direct interconnection arrangement, or it might meet this responsibility through indirect interconnection by delivering the call to a transit provider that then takes on the responsibility of routing and transporting the call to the POI of the terminating carrier.

1 arrangement to have the call delivered to the RLEC POI. This use of a third-party carrier
2 to provide intermediate call routing and transport functions is referred to as “transit;” the
3 traffic transits, but does not terminate on, the network of this intermediate carrier.
4 However the call is delivered to a particular POI, the functions that must be performed by
5 the terminating carrier, and the costs that it incurs, remain the same. Since the reciprocal
6 compensation rate at issue in this case is intended to permit the terminating carrier to
7 recover these costs, any reciprocal compensation rate adopted *must* apply whether the call
8 is delivered via direct or indirect interconnection.

9 **Q: WHEN AN RLEC CUSTOMER ORIGINATES A CALL TO A CUSTOMER OF A**
10 **CMRS PROVIDER, DOES THE RLEC HAVE THE RESPONSIBILITY TO**
11 **DELIVER THE CALL TO THE CMRS PROVIDER’S NETWORK?**

12 A: Yes. RLECs are in no way exempt from this responsibility; it is one that is shared by all
13 telecommunications carriers. For such a call, the RLEC would incur the cost of
14 originating the call on its network and of ensuring that the call is delivered (using either
15 direct or indirect interconnection) to a POI on the CMRS provider’s network.

16 **Q: IN SIMILAR PROCEEDINGS IN OTHER STATES, HAVE THE SMALL ILECS**
17 **ARGUED THAT THEY ARE EXEMPT FROM SOME OF THE REQUIREMENTS**
18 **OF §251?**

19 A: Yes. Through the testimony of Mr. Watkins, small ILECs have sometimes taken the
20 position that for calls that are made by one of their own customers to a customer of
21 another carrier, that they (the ILECs) somehow do not have these originating carrier
22 responsibilities. In other states, Mr. Watkins has argued that a rural ILEC need only
23 transport the call to a point of its choosing on its own network, rather than having the
24 responsibility to deliver the call to the terminating carrier.

1 **Q: ARE YOU AWARE OF ANY REGULATORY AGENCY OR COURT THAT HAS**
2 **AGREED WITH MR. WATKINS' ASSERTION?**

3 A: No. I am aware, though, of several who have rejected it. For example, the Tennessee
4 Regulatory Authority recently concluded that “each carrier is responsible for transporting
5 a call originated on its network to the interconnect point with the network of the
6 terminating carrier” and rejected a claim by small ILECs that they had no such
7 responsibility.⁴ The Florida Public Service Commission also recently rejected such a
8 claim by a group of small ILECs, finding that “read in conjunction with Rule
9 51.701(b)(2), Rule 51.703(b) requires LECs to deliver traffic, without charge, to a CMRS
10 provider’s switch anywhere within the Major Trading Area (MTA) in which the call
11 originated.” The Florida Commission found that the “rules of intercarrier compensation
12 require that the Small LEC be responsible for transporting its originating traffic” to the
13 terminating carrier, including instances in which the terminating carrier is a CMRS
14 provider.⁵

15 The United States Court of Appeals for the Eighth Circuit has also recently ruled
16 on this issue. In response to a claim by a rural ILEC (in that case Great Plains
17 Communications, Inc, or “Great Plains”) that it does not have, under federal law, a
18 responsibility to deliver a call originated by one of its customers to the terminating carrier

⁴ *Order of Arbitration Award*, Tennessee Regulatory Authority Docket No. 03-00585, January 12, 2006, pp. 29-31.

⁵ Order No. PSC-06-0776-FOF-TP, Florida Public Service Commission Docket Nos. 05-0119-TP and 05-0125-TP, September 18, 2006, pp. 20-24.

1 (or to provide dialing parity for calls made to a location not on its network). The Court
2 found that

3 Turning to the merits, Great Plains emphasizes that § 251(b)(3)
4 and the relevant regulation, 47 C.F.R. § 51.207, do not expressly
5 state that a local exchange carrier must deliver locally dialed calls
6 to a point outside the local exchange carrier's network. Great
7 Plains infers from this silence that the duty to provide local dialing
8 parity does not extend beyond the physical bounds of the local
9 exchange network and is therefore dependent upon the existence of
10 a competitor's direct point of interconnection within the local
11 exchange. We believe that this inference is unwarranted. The
12 relevant statutory and regulatory sections are not written in such
13 narrow terms. Rather, the Act and the regulation state a broad duty
14 without listing exceptions and without expressly defining a
15 geographic limitation.⁶

16 The obligations of the RLECs here in Kentucky are no different.

17 **Q: HAVE THE ILECS IDENTIFIED ANY TECHNICAL PROBLEMS ASSOCIATED**
18 **WITH THE USE OF INDIRECT CONNECTION ARRANGEMENTS?**

19 A: No. When asked in discovery to identify any technical limitations to their ability to
20 receive traffic from the CMRS Providers via an indirect interconnection arrangement
21 (and specifically using the BellSouth facilities in use for this purpose today), the RLECs
22 simply responded that "traffic delivery depends upon adequate capacity and appropriate
23 network routing."⁷ I suspect that there is little dispute among the parties to this case that
24 "traffic delivery depends upon adequate capacity and appropriate network routing," but
25 that is not the issue (nor was it the question put forth in the CMRS Providers' Information
26 Request). I can only assume that since the RLECs provided no examples of technical

⁶ *WWC License, L.L.C. v. Boyle*, 459 F.3d 880 (8th Cir. 2006)

⁷ Response to Information Request No. 1-14.

1 problems associated with the use of the existing indirect interconnection arrangement,
2 that they have identified no such problems.

3 **Q: IN THEIR STATED POSITION ON THIS JOINT ISSUES MATRIX, THE RLECS**
4 **APPEAR TO BE TRYING TO DISTINGUISH “DIRECT” FROM “INDIRECT”**
5 **INTERCONNECTION BASED ON THE OWNERSHIP OF THE UNDERLYING**
6 **FACILITIES. DOES THE OWNERSHIP OF THE UNDERLYING FACILITY**
7 **DETERMINE WHETHER INTERCONNECTION IS CONSIDERED DIRECT OR**
8 **INDIRECT?**

9 A: No. While their position is somewhat unclear, at one point in their statement of position
10 the RLECs argue that “the CMRS providers may connect with dedicated trunks indirectly
11 through another carrier or directly with the RLECs.” This use of the terms “direct” and
12 “indirect” is incorrect. An originating carrier can establish a direct interconnection
13 arrangement by using dedicated facilities to deliver traffic to a POI on the network of the
14 terminating carrier. Those dedicated facilities may be self-provisioned by the originating
15 carrier or, as they are in most cases, leased from a third-party carrier. The fact that the
16 originating carrier leases these facilities from another carrier does not change this direct
17 interconnection arrangement into an indirect arrangement,⁸ as the RLECs’ language
18 appears to suggest.

19 In contrast, an originating carrier may establish an indirect interconnection
20 arrangement by handing off traffic to a transit provider that then takes responsibility for
21 delivering the traffic to a POI established with the terminating carrier. Such traffic is not

⁸ Leased facilities are treated as the originating carrier’s facilities, just as the use of UNES or other leased facilities are treated as a CLEC’s facilities under the Act; the use of facilities provided by another carrier does not mean that a CLEC is no longer treated as a “facilities-based” carrier.

1 carrier over “dedicated trunks” but instead may be mixed with other traffic for transport
2 and in most cases is tandem switched before being delivered to the terminating carrier. In
3 an indirect interconnection arrangement, there is no dedicated facility in use to connect
4 the originating and terminating carriers. Instead, both are connected to an intermediate
5 transit provider that takes on call-routing responsibility and delivers the call, using
6 facilities that it determines are most efficient, to the terminating carrier.

7 As explained in the next section of my testimony (addressing Issue 5), the FCC
8 has defined indirect interconnection in this way and has explicitly recognized the
9 importance of such interconnection.

10 **Issue 5: Is each Party obligated to pay for transit costs associated with the delivery of**
11 **traffic originated on its network to the terminating Party’s network?**

12 **Q: HOW ARE TRANSIT COSTS INCURRED IN THE COMPLETION OF A LOCAL**
13 **CALL?**

14 **A:** Transit costs are incurred when the originating carrier hands off a call to an intermediate
15 carrier that takes on the responsibility to route and transport the call to the network of the
16 terminating carrier. Depending on traffic volumes and other factors, the originating
17 carrier may find it economical to utilize dedicated facilities (its own or those leased from
18 another carrier) to deliver traffic directly to a POI on the terminating carrier’s network, or
19 it may find it more efficient to use transit services provided by another carrier. If another
20 carrier is used as such a “transit” provider, it is the originating carrier’s responsibility to
21 compensate the transit provider for the use of its network, just as the originating carrier
22 would have incurred the cost of it had delivered the call using dedicated facilities.

1 **Q: IS THE USE OF SUCH A TRANSIT PROVIDER A COMMON METHOD THAT**
2 **AN ORIGINATING CARRIER MIGHT USE TO EFFICIENTLY DELIVER**
3 **TRAFFIC TO A TERMINATING CARRIER?**

4 A: Yes. The important role of transit providers was recently recognized by the FCC:

5 [t]he availability of transit service is increasingly critical to
6 establishing indirect interconnection – a form of interconnection
7 explicitly recognized and supported by the Act (*See* 47 U.S.C
8 § 251(a)(1)). It is evident that competitive LECs, CMRS carriers,
9 and rural LECs often rely upon transit service from the incumbent
10 LECs to facilitate indirect interconnection with each other.
11 Without the continued availability of transit service, carriers that
12 are indirectly interconnected may have no efficient means by
13 which to route traffic between their respective networks ...
14 Moreover, it appears that indirect interconnection via a transit
15 service provider is an efficient way to interconnect when carriers
16 do not exchange significant amounts of traffic.⁹

17 **Q: IS THERE ANY LEGITIMATE DISPUTE ABOUT WHETHER IT IS THE**
18 **ORIGINATING OR THE TERMINATING CARRIER THAT HAS THE**
19 **OBLIGATION TO COMPENSATE THE TRANSIT PROVIDER FOR THE USE**
20 **OF ITS FACILITIES?**

21 A: No. While some ILECs (through the testimony of Mr. Watkins) have argued in other
22 states that small ILECs should be absolved of their originating carrier responsibilities, I
23 am not aware of any regulatory agency or court that has agreed with this position.

24 At least three state regulators in the Southeast have recently rejected such an
25 argument by the ILECs, however. When presented with this argument, the Tennessee
26 Regulatory Authority concluded that “if a call originates in a switch on one party’s
27 network then that party is responsible for the transiting costs ... calls that originate on an

⁹ *Further Notice of Proposed Rulemaking*, FCC 05-33, released March 3, 2005, (“2005 FNPRM”), ¶¶ 125-126.

1 ICO member's network which traverse the BellSouth trunk group obligates that ICO
2 member to pay the appropriate transport and termination charges associated with getting
3 that call to the POI of the CMRS provider."¹⁰

4 The Florida Public Service Commission has also recently addressed this issue.
5 After noting that "transit service has been expressly recognized by the FCC as a means to
6 establish indirect interconnection," and citing to the FCC's conclusion that "CLECs,
7 CMRS providers, and small LECs often rely on transit service to facilitate indirect
8 interconnection with each other and without its availability, these carriers may have no
9 efficient means to route traffic between their respective networks," the Florida
10 Commission responded to the claims of the small ILECs as follows:

11 The record evidence is persuasive that the originating carrier
12 utilizing BellSouth's transit service is responsible to compensate
13 BellSouth for that service. Any decision to the contrary would
14 appear to conflict with 47 CFR 51.703(b), which prohibits a LEC
15 from assessing charges on any other carrier for traffic originating
16 on its network. Furthermore, *the Small LECs have provided no*
17 *valid reason to deviate from the "originating carrier pays" policy.*
18 The Small LECs' claims that CLECs and CMRS providers, as the
19 terminating carriers of transit traffic, are direct beneficiaries of
20 transit connections and thus, should be responsible for
21 compensating BellSouth for the transit function, are *unsupported*
22 *and have no basis in law, policy, or principles of equity* (emphasis
23 added).¹¹

¹⁰ *Order of Arbitration Award*, Tennessee Regulatory Authority Docket No. 03-00585, January 12, 2006, p. 30. As explained on p. 1 of the TRA's Order, the term "ICO members" was used in that proceeding to refer to members of the Rural Coalition of Small Local Exchange Carriers and Cooperatives.

¹¹ Florida Public Service Commission Order No. PSC-06-0776-FOF-TP in Docket Nos. 05-0119-TP and 05-0125-TP, Issued September 18, 2006, pp. 21-24.

1 The Florida Commission went to conclude that
2 [t]he “calling party’s network pays” (CPNP) concept is well-
3 established policy based on principles of cost causation. FCC Rule
4 51.703(b) states that “A LEC may not assess charges on any other
5 telecommunications carrier for telecommunications traffic that
6 originates on the LEC’s network.” (47 CFR 51.703(b)) Read in
7 conjunction with Rule 51.701(b)(2), Rule 51.703(b) requires LECs
8 to deliver traffic, without charge, to a CMRS provider’s switch
9 anywhere within the Major Trading Area (MTA) in which the call
10 originated. Thus, *the Small LECs’ claim that there should be no*
11 *compensation impact on them when they originate traffic is*
12 *nonsensical.* If customers of the Small LEC place a call that
13 transits BellSouth’s network, it is because the Small LEC and the
14 terminating carrier have not established a direct interconnection.
15 *The Small LEC’s customer is the cost causer; the Small LEC*
16 *should pay the transit costs as a cost of doing business* (emphasis
17 added).¹²

18 The Georgia Commission has also recently been presented with the arguments
19 that small ILECs should not have to compensate a transit provider for calls originated on
20 the ILEC’s network or that the ILEC has no responsibility to deliver a call that it
21 originates to any point beyond its own network. The Georgia Commission twice rejected
22 both arguments:

23 GTA [Georgia Telephone Association] has not cited to any
24 authority that would alter the principle that calling party pays ...
25 Since the Commission initially voted on this matter, the tenth
26 Circuit has addressed this issue. In Atlas¹³ the Tenth Circuit
27 concluded that commercial mobile radio service providers should
28 not have to bear the costs of transporting calls that originated on
29 the networks of rural telephone companies ... The Commission
30 finds the reasoning in Atlas compelling. It is consistent with and

¹² *Id.*

¹³ *Atlas Telephone Company v. Oklahoma Corporation Commission*, 400 F.3d 1256 (10th
Cir. 2005).

1 confirms the principle that the originating party must bear the costs
2 of transiting the call.¹⁴

3 The Georgia Commission went on to reject a claim by the small ILECs that
4 requiring them to pay transit costs for calls originated on their own network, by their own
5 customers, would somehow be discriminatory: “the Commission also disagrees with
6 GTA’s contention that the March 25 Order is unreasonably discriminatory against ICOs.
7 To the contrary, the Commission Order holds both ICOs and CLECs responsible for the
8 transit costs of calls originating on their network.”¹⁵

9 **Q: ARE YOU AWARE OF ANY DECISION BY A REGULATORY AGENCY OR**
10 **COURT THAT IS INCONSISTENT WITH THE “CALLING PARTY’S**
11 **NETWORK PAYS” CONCEPT?**

12 A: No.

13 **Q: IF A CMRS PROVIDER UTILIZES THE FACILITIES OF A TRANSIT**
14 **PROVIDER IN ORDER TO DELIVER A CALL TO AN RLEC FOR**
15 **COMPLETION, IS THE CMRS PROVIDER, AS THE ORIGINATING CARRIER,**
16 **RESPONSIBLE FOR COMPENSATING THE TRANSIT PROVIDER?**

17 A: Yes.

18 **Q: IF AN RLEC UTILIZES THE FACILITIES OF A TRANSIT PROVIDER IN**
19 **ORDER TO DELIVER A CALL TO A CMRS PROVIDER FOR COMPLETION, IS**
20 **THE RLEC, AS THE ORIGINATING CARRIER, RESPONSIBLE FOR**
21 **COMPENSATING THE TRANSIT PROVIDER?**

22 A: Yes. Any suggestion that an RLEC does not have this originating carrier responsibility
23 simply because it is an RLEC would be, in the words of the Florida Commission,

¹⁴ *Order on Clarification and reconsideration, Georgia Public Service Commission Docket No. 16772-U, released May 2, 2005, pp. 3-4.*

¹⁵ *Id.*, p. 4.

1 “nonsensical,” “unsupported,” and would have “no basis in law, policy, or principles of
2 equity.” As the Florida Commission went on to conclude,

3 The Small LEC’s customer is the cost causer; the Small LEC
4 should pay the transit costs as a cost of doing business. Even if a
5 Small LEC directly interconnects with a CLEC thereby not using
6 BellSouth’s transit function, rules of intercarrier compensation
7 require that the Small LEC be responsible for transporting its
8 originating traffic; the Small LECs’ use of a transit provider does
9 not change this obligation ... It is only equitable and competitively
10 fair that the Small LEC, when using BellSouth’s transit service to
11 deliver traffic to providers who are also connected to BellSouth’s
12 tandem, be treated the same as any other carrier that uses the
13 transiting function.

14 **Q: DOES A DECISION BY AN ORIGINATING CARRIER TO UTILIZE A TRANSIT**
15 **PROVIDER CHANGE THE OBLIGATION OF THE TERMINATING CARRIER**
16 **TO COMPLETE CALLS DELIVERED TO IT?**

17 A: No. It is unclear from their statement of position on the Joint Issues List whether the
18 RLECs actually intend to make such an argument, but any such argument would conflict
19 with the clear requirements of §251(a). Such an argument by the RLECs would
20 presumably not be based on technical issues; when asked to do so in discovery, the
21 RLECs were unable to identify any technical problems created by the CMRS Providers’
22 the use of a transit provider. I am not aware of any regulatory agency or court that has
23 reached a conclusion that the terminating carrier can refuse traffic simply because it does
24 not like the fact that the originating carrier utilized a transit provider to deliver the traffic.

25 The terminating carrier would, of course, be entitled to reciprocal compensation
26 to recover the traffic-sensitive costs of completing the call on its network, but the costs
27 incurred and the compensation due would not change based on whether a call is delivered
28 via a direct or indirect form of interconnection.

1 **Issue 4: Should the Interconnection Agreement apply to fixed wireless services?**

2 **Q: SHOULD THE TERMS OF AN INTERCONNECTION AGREEMENT BE**
3 **LIMITED BY THE TECHNOLOGY USED BY A CARRIER TO ORIGINATE OR**
4 **TERMINATE A CALL?**

5 A: No. While different kinds of carriers have different obligations under the Act and FCC
6 rules (§251 creates different duties for the Telecommunications Carrier, Local Exchange
7 Company, and Incumbent Local Exchange Company categories, for example, and the
8 RLECs and CMRS Providers are subject to different regulatory treatment), the type of
9 facility used by each category of carrier to originate, transport, or terminate a call does
10 not determine whether such a call is subject to the terms of an interconnection agreement
11 (or specifically subject to reciprocal compensation).

12 **Q: HAS THE FCC PREVIOUSLY ADDRESSED THIS ISSUE?**

13 A: Yes. In their statement of position, the RLECs assert that “the FCC has concluded that
14 the regulatory treatment of fixed wireless services will be examined and determined on a
15 case-by-case basis.” This statement is not quite correct. In a recent order, the FCC
16 concluded that a wireless offering being provided by Western Wireless “*is properly*
17 *classified as CMRS service for two independently sufficient reasons: (1) it meets the*
18 *definition of ‘mobile’ service under the statute and the Commission’s rules; and (2) it is*
19 *ancillary, auxiliary, or incidental of Western Wireless’ provision of traditional cellular*
20 *service” (emphasis added).*¹⁶

¹⁶ *Memorandum Opinion and Order*, FCC 02-164, released August 2, 2002, ¶15.

1 Any service provided by the CMRS Providers that is “ancillary, auxiliary, or
2 incidental” to their provisioning of traditional cellular service is designated as CMRS
3 service by the §22.323 of the FCC’s rules. Intra-MTA calls made using a CMRS service
4 are subject to reciprocal compensation and cannot properly be excluded from an
5 interconnection agreement. It is not necessary to determine, on a “case-by-case” basis or
6 otherwise, whether such as service is “fixed” or “mobile” because the FCC’s conclusion
7 was based on two independently sufficient reasons.¹⁷

8 **Q: SETTING ASIDE THE ISSUE OF THE REQUIREMENTS OF THE ACT AND**
9 **FCC RULES, ARE THERE ANY PRACTICAL PROBLEMS WITH AN**
10 **INTERCONNECTION AGREEMENT PROVISION THAT SEEKS TO EXEMPT**
11 **“FIXED WIRELESS” CALLS FROM RECIPROCAL COMPENSATION?**

12 A: Yes. The term “fixed wireless” is not a term of art and does not have a standard industry
13 definition. The classification of a given device as “fixed” or “mobile” would in many
14 cases be difficult and would in almost all cases be arbitrary. Some devices with a “fixed”
15 external antenna nevertheless have a handset that is mobile and that can be used at quite a
16 distance from its base. At other times “mobile” handsets can only be used if attached to a
17 booster antenna or to a fixed power supply. A mobile handset that can only be used in a
18 given area if it is connected to a car-mounted antenna would be “fixed” in relation to the
19 car, but the car would be “mobile” with respect to the rest of the world. Clearly, a black-

¹⁷ It is worthy of note that while not necessary to reach its conclusion, the FCC did find that the wireless offering being offered by Western Wireless, argued by the independent LECs to be “fixed,” was in fact properly treated as “mobile” and therefore CMRS.

1 and-white “fixed or mobile” dichotomy would not be workable. Fortunately, there is no
2 reason that an interconnection agreement should have such a provision.

3 **Issue 6: Can the RLECs use industry standard records (e.g., EMI 11-01-01 records**
4 **provided by transiting carriers) to measure and bill CMRS Providers for terminating**
5 **mobile-originated Telecommunications Traffic?**

6 **Q: HAS ANY EVIDENCE BEEN PRESENTED THAT THE RECORDS PROVIDED**
7 **BY BELLSOUTH EITHER FAIL TO MEET INDUSTRY STANDARDS OR**
8 **OTHERWISE CANNOT BE USED BY THE RLECS TO BILL CMRS CARRIERS?**

9 A: No. The RLECs do not claim that industry-standard records cannot be used, and do not
10 appear to be claiming that the records currently being provided by BellSouth fail to meet
11 industry standards. Instead, in their statement of position in the Joint Issues Matrix the
12 RLECs assert that “in a competitive environment, the RLECs cannot be required to rely
13 on the transit provider (e.g. BellSouth), a potential competitor, to identify, measure, and
14 quantify traffic for the RLECs.”

15 The RLECs may not like being the position of relying on BellSouth, “a potential
16 competitor,” to provide billing records (CLECs have been in this position since 1996),
17 but the fact remains that carriers – including potential competitors – exchange records for
18 billing purposes as a matter of course.

19 **Q: HAVE OTHER STATE REGULATORS IN THE SOUTHEAST RECENTLY**
20 **RULED ON THIS ISSUE?**

21 A: Yes. A group of small ILECs recently made a similar argument (through testimony
22 presented by Mr. Watkins) to the Florida Commission. After considering the evidence,
23 the Florida Commission concluded that the information being provided by BellSouth was
24 sufficient for the small ILECs to use in order to bill for reciprocal compensation and that
25 the small ILECs had ample opportunity to verify the BellSouth records:

Vita of Don J. Wood

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CURRENT EMPLOYMENT

Don J. Wood is a principal in the firm of Wood & Wood. He provides economic, financial, and regulatory analysis services in telecommunications and related convergence industries, specializing in economic policy related to the development of competitive markets, inter-carrier compensation, and cost of service issues. In addition, Mr. Wood advises industry associations on regulatory and economic policy and assists investors in their evaluation of investment opportunities in the telecommunications industry. The scope of his work has included wireline and wireless communications, data services, and emerging technologies.

As a consultant, Mr. Wood has assisted his clients in responding to the challenges and business opportunities of the industry both before and subsequent to the Telecommunications Act of 1996. Prior to his work as a consultant, Mr. Wood was employed in a management capacity at a major Local Exchange Company and an Interexchange Carrier. He has been directly involved in both the development and implementation of regulatory policy and business strategy.

In the area of administrative law, Mr. Wood has presented testimony before the regulatory bodies of forty-one states, the District of Columbia, and Puerto Rico, and has prepared comments and testimony for filing with the Federal Communications Commission. The subject matter of his testimony has ranged from broad policy issues to detailed cost and rate analysis.

Mr. Wood has also presented testimony in state, federal, and overseas courts regarding business plans and strategies, competition policy, inter-carrier compensation, and cost of service issues. He has presented studies of the damages incurred by plaintiffs and has provided rebuttal testimony to damage calculations performed by others. Mr. Wood has also testified in alternative dispute resolution proceedings conducted pursuant to both AAA and CPR rules.

Mr. Wood is an experienced commercial mediator and is registered as a neutral with the Georgia Office of Dispute Resolution.

PREVIOUS INDUSTRY EMPLOYMENT

Klick, Kent & Allen/FTI Consulting, Inc.

Regional Director.

GDS Associates, Inc.

Senior Project Manager.

MCI Telecommunications Corporation

Manager of Regulatory Analysis, Southeast Division.

Manager, Corporate Economic Analysis and Regulatory Affairs.

BellSouth Services, Inc.

Staff Manager.

EDUCATION

Emory University, Atlanta, Ga.

BBA in Finance, with Distinction.

College of William and Mary, Williamsburg, Va.

MBA, with concentrations in Finance and Microeconomics.

TESTIMONY - STATE REGULATORY COMMISSIONS:

Alabama Public Service Commission

Docket No. 19356, Phase III: Alabama Public Service Commission vs. All Telephone Companies Operating in Alabama, and Docket 21455: AT&T Communications of the South Central States, Inc., Applicant, Application for a Certificate of Public Convenience and Necessity to Provide Limited IntraLATA Telecommunications Service in the State of Alabama.

Docket No. 20895: In Re: Petition for Approval to Introduce Business Line Termination for MCI's 800 Service.

Docket No. 21071: In Re: Petition by South Central Bell for Introduction of Bidirectional Measured Service.

Docket No. 21067: In Re: Petition by South Central Bell to Offer Dial Back-Up Service and 2400 BPS Central Office Data Set for Use with PulseLink Public Packet Switching Network Service.

Docket No. 21378: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. 21865: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Introduce Network Services to be Offered as a Part of Open Network Architecture.

Docket No. 25703: In Re: In the Matter of the Interconnection Agreement Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 25704: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated and CONTEL of the South, Inc. Concerning Interconnection and Resale under the Telecommunications Act of 1996.

Docket No. 25835: In Re: Petition for Approval of a Statement of Generally Available Terms and Conditions Pursuant to §252(f) of the Telecommunications Act of 1996 and Notification of Intention to File a §271 Petition for In-Region InterLATA Authority with the Federal Communications Commission Pursuant to the Telecommunications Act of 1996.

Docket No. 26029: In Re: Generic Proceeding - Consideration of TELRIC Studies.

Docket No. 25980: Implementation of the Universal Support Requirements of Section 254 of the Telecommunications Act of 1996.

Docket No. 27091: Petition for Arbitration by ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 27821: Generic Proceeding to Establish Prices for Interconnection Services and Unbundled Network Elements.

Docket Nos. 27989 and 15957: BellSouth "Full Circle" Promotion and Generic Proceeding Considering the Promulgation of Telephone Rules Governing Promotions.

Docket No. 28841: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 29075: Petition of CenturyTel to Establish Wholesale Avoidable Cost Discount Rates for Resale of Local Exchange Service.

Docket No. 29054: IN RE: Implementation of the Federal Communications Commission's Triennial Review Order (Phase II – Local Switching for Mass Market Customers).

Docket No. 29172: Southern Public Communication Association, Complainant, and BellSouth Telecommunications, Inc., Defendant.

The Regulatory Commission of Alaska

Case No. U-02-039: In the Matter of Request by Alaska Digitel, LLC for Designation as a Carrier Eligible To Receive Federal Universal Service Support Under the Telecommunications Act of 1996.

Case No. U-04-62: In the Matter of the Request by Alaska Wireless Communications, LLC For Designation as a Carrier Eligible to Receive Federal Universal Service Support Under the Telecommunications Act of 1996.

Arkansas Public Service Commission

Docket No. 92-337-R: In the Matter of the Application for a Rule Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Public Utilities Commission of the State of California

Rulemaking 00-02-005: Order Instituting Rulemaking on the Commission's Own Motion into Reciprocal Compensation for Telephone Traffic Transmitted to Internet Service Provider Modems.

Application Nos. 01-02-024, 01-02-035, 02-02-031, 02-02-032, 02-02-034, 02-03-002: Applications for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application No. 05-02-027: In the Matter of the Joint Application of SBC Communications Inc. ("SBC") and AT&T Corp. ("AT&T") for Authorization to Transfer Control of AT&T Communications of California (U-5002), TCG Los Angeles, Inc. (U-5462), TCG San Diego (U-5389), and TCG San Francisco (U-5454) to SBC, Which Will Occur Indirectly as a Result of AT&T's Merger With a Wholly-Owned Subsidiary of SBC, Tau Merger Sub Corporation.

Application No. 05-04-020: In the Matter of the Joint Application of Verizon Communications Inc. ("Verizon") and MCI, Inc. ("MCI") to Transfer Control of MCI's California Utility Subsidiaries to Verizon, Which Will Occur Indirectly as a Result of Verizon's Acquisition of MCI.

Public Utilities Commission of the State of Colorado

Docket No. 96A-345T: In the Matter of the Interconnection Contract Negotiations Between AT&T Communications of the Mountain States, Inc., and US West Communications, Inc., Pursuant to 47 U.S.C. Section 252. Docket No. 96A-366T: In the Matter of the Petition of MCI Metro Access Transmission Services, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with US West Communications, Inc. (consolidated).

Exhibit DJW-1

Docket No. 96S-257T: In Re: The Investigation and Suspension of Tariff Sheets Filed by US West Communications, Inc., with Advice Letter No. 2608 Regarding Proposed Rate Changes.

Docket No. 98F-146T: Colorado Payphone Association, Complainant, v. US West Communications, Inc., Respondent.

Docket No. 02A-276T: In the Matter of the Application of Wiggins Telephone Association for Approval of its Disaggregation Plan

Docket No. 02A-444T: In the Matter of NECC's Application to Redefine the Service Area of Eastern Slope Rural Telephone Association, Inc., Great Plains Communications, Inc., Plains Coop Telephone Association, Inc., and Sunflower Telephone Co., Inc.

State of Connecticut, Department of Utility Control

Docket 91-12-19: DPUC Review of Intrastate Telecommunications Services Open to Competition (Comments).

Docket No. 94-07-02: Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the Eight Criteria Set Forth in Section 6 of Public Act 94-83 (Comments).

Docket No. 03-11-16: Petition of Tel Comm Technologies, et. al., for Review and Amendment of Southern New England Telephone Company's Charges for Pay Telephone Access Services.

Delaware Public Service Commission

Docket No. 93-31T: In the Matter of the Application of The Diamond State Telephone Company for Establishment of Rules and Rates for the Provision of IntelliLinQ-PRI and IntelliLinQ-BRI.

Docket No. 41: In the Matter of the Development of Regulations for the Implementation of the Telecommunications Technology Investment Act.

Docket No. 96-324: In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of its Statement of Terms and Conditions Under Section 252(f) of the Telecommunications Act of 1996 (Phase II).

Docket No. 02-001: In the Matter of the Inquiry into Verizon Delaware Inc.'s Compliance with the Conditions Set Forth in 47 U.S.C. § 271(c).

Florida Public Service Commission

Docket No. 881257-TL: In Re: Proposed Tariff by Southern Bell to Introduce New Features for Digital ESSX Service, and to Provide Structural Changes for both ESSX Service and Digital ESSX Service.

Docket No. 880812-TP: In Re: Investigation into Equal Access Exchange Areas (EAEAs), Toll Monopoly Areas (TMAs), 1+ Restriction to the Local Exchange Companies (LECs), and Elimination of the Access Discount.

Docket No. 890183-TL: In Re: Generic Investigation into the Operations of Alternate Access Vendors.

Exhibit DJW-1

Docket No. 870347-TI: In Re: Petition of AT&T Communications of the Southern States for Commission Forbearance from Earnings Regulation and Waiver of Rule 25-4.495(1) and 25-24.480 (1) (b), F.A.C., for a trial period.

Docket No. 900708-TL: In Re: Investigation of Methodology to Account for Access Charges in Local Exchange Company (LEC) Toll Pricing.

Docket No. 900633-TL: In Re: Development of Local Exchange Company Cost of Service Study Methodology.

Docket No. 910757-TP: In Re: Investigation into the Regulatory Safeguards Required to Prevent Cross-Subsidization by Telephone Companies.

Docket No. 920260-TL: In Re: Petition of Southern Bell Telephone and Telegraph Company for Rate Stabilization, Implementation Orders, and Other Relief.

Docket No. 950985-TP: In Re: Resolution of Petitions to establish 1995 rates, terms, and conditions for interconnection involving local exchange companies and alternative local exchange companies pursuant to Section 364.162, Florida Statutes.

Docket No. 960846-TP: In Re: Petition by MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. for Arbitration of Certain Terms and Conditions of a proposed agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 and Docket No. 960833-TP: In Re: Petition by AT&T Communications of the Southern States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 960847-TP and 960980-TP: In Re: Petition by AT&T Communications of the Southern States, Inc., MCI Telecommunications Corporation, MCI Metro Access Transmission Service, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE Florida Incorporated Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 961230-TP: In Re: Petition by MCI Telecommunications Corporation for Arbitration with United Telephone Company of Florida and Central Telephone Company of Florida Concerning Interconnection Rates, Terms, and Conditions, Pursuant to the Federal Telecommunications Act of 1996.

Docket No. 960786-TL: In Re: Consideration of BellSouth Telecommunications, Inc.'s Entry Into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996.

Docket Nos. 960833-TP, 960846-TP, 960757-TP, and 971140-TP: Investigation to develop permanent rates for certain unbundled network elements.

Docket No. 980696-TP: In Re: Determination of the cost of basic local telecommunications service, pursuant to Section 364.025 Florida Statutes.

Docket No. 990750-TP: Petition by ITC^DeltaCom Communications, Inc., d/b/a/ ITC^DeltaCom, for arbitration of certain unresolved issues in interconnection negotiations between ITC^DeltaCom and BellSouth Telecommunications, Inc.

Docket No. 991605-TP: Petition of BellSouth Telecommunications, Inc. for Arbitration of the Interconnection Agreement Between Time Warner Telecom of Florida, L.P., pursuant to Section 252 (b) of the Telecommunications Act of 1996.

Exhibit DJW-1

Docket No. 030137-TP: In re: Petition for Arbitration of Unresolved Issues in Negotiation of Interconnection Agreement with BellSouth Telecommunications, Inc. by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom.

Docket No. 030300-TP: In re: Petition for expedited review of BellSouth Telecommunications, Inc.'s intrastate tariffs for pay telephone access services (PTAS) rate with respect to rates for payphone line access, usage, and features, by Florida Public Telecommunications Association.

Docket No. 030851-TP: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Docket No. 040353-TP: In Re: Petition of Supra Telecommunications and Information Systems, Inc. to Review and Cancel BellSouth's Promotional Offering Tariffs Offered In Conjunction with its New Flat Rate Service Known as PreferredPack.

Docket No. 040604-TL: In Re: Adoption of the National School Lunch Program and an Income-based Criterion at or Below 135% of the Federal Poverty Guidelines as Eligibility Criteria for the Lifeline and Linkup Programs.

Docket No. 050119-TP: Joint Petition of TDS Telecom d/b/a TDS Telecom/Quincy Telephone, ALLTEL Florida, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, GTC, Inc. d/b/a GT Com, Smart City Telecommunications, LLC d/b/a Smart City Telecom, ITS Telecommunications Systems, Inc., and Frontier Communications of the South, LLC ("Joint Petitioners") objecting to and requesting suspension of Proposed Transit Traffic Service Tariff filed by BellSouth Telecommunications, Inc. and Docket No. 050125-TP: Petition and complaint for suspension and cancellation of Transit Tariff Service No. FL 2004-284 filed by BellSouth Telecommunications, Inc. by AT&T Communications of the Southern States, LLC (consolidated).

Georgia Public Service Commission

Docket No. 3882-U: In Re: Investigation into Incentive Telephone Regulation in Georgia.

Docket No. 3883-U: In Re: Investigation into the Level and Structure of Intrastate Access Charges.

Docket No. 3921-U: In Re: Compliance and Implementation of Senate Bill 524.

Docket No. 3905-U: In Re: Southern Bell Rule Nisi.

Docket No. 3995-U: In Re: IntraLATA Toll Competition.

Docket No. 4018-U: In Re: Review of Open Network Architecture (ONA) (Comments).

Docket No. 5258-U: In Re: Petition of BellSouth Telecommunications for Consideration and Approval of its "Georgians FIRST" (Price Caps) Proposal.

Docket No. 5825-U: In Re: The Creation of a Universal Access Fund as Required by the Telecommunications Competition and Development Act of 1995.

Docket No. 6801-U: In Re: Interconnection Negotiations Between BellSouth Telecommunications, Inc. and AT&T Communications of the Southern States, Inc., Pursuant to Sections 251-252 and 271 of the Telecommunications Act of 1996.

Exhibit DJW-1

Docket No. 6865-U: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Docket No. 7253-U: In Re: BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions Under Section 252 (f) of the Telecommunications Act of 1996.

Docket No. 7061-U: In Re: Review of Cost Studies and Methodologies for Interconnection and Unbundling of BellSouth Telecommunications Services.

Docket No. 10692-U: In Re: Generic Proceeding to Establish Long-Term Pricing Policies for Unbundled Network Elements.

Docket No. 10854-U: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 16583-U: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 17749-U: In Re: FCC's Triennial Review Order Regarding the Impairment of Local Switching for Mass Market Customers.

Docket No. 22682-U: In Re: Notice of Merger of AT&T, Inc. and BellSouth Corporation together with its Certificated Georgia Subsidiaries.

Public Utilities Commission of Hawaii

Docket No. 7702: In the Matter of Instituting a Proceeding on Communications, Including an Investigation of the Communications Infrastructure of the State of Hawaii.

Idaho Public Utilities Commission

Case No. GNR-T-03-08: In the Matter of the Petition of IAT Communications, Inc., d/b/a NTCDIdaho, Inc., or ClearTalk, for Designation as an Eligible Telecommunications Carrier, and Case No. GNR-T-03-16: In the Matter of the Application of NCPR, Inc., d/b/a Nextel Partners, seeking designation as an Eligible Telecommunications Carrier.

Illinois Commerce Commission

Docket No. 04-0653: USCOC of Illinois RSA #1, LLC., USCOC of Illinois RSA #4 LLC., USCOC of Illinois Rockford, LLC., and USCOC of Central Illinois, LLC. Petition for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. Section 214(e)(2).

Docket Nos. 05-0644, 05-0649, and 05-0657: Petition of Hamilton County Telephone Co-Op et. al. for Arbitration under the Telecommunications Act to Establish Terms and Conditions for Reciprocal Compensation with Verizon Wireless and its Constituent Companies.

Indiana Utility Regulatory Commission

Cause No. 42303: In the Matter of the Complaint of the Indiana Payphone Association for a Commission

Exhibit DJW-1

Determination of Just and Reasonable Rates and Charges and Compliance with Federal Regulations.

Cause No. 41052-ETC-43: In the Matter of the Designation of Eligible Telecommunications Carriers by the Indiana Utility Regulatory Commission Pursuant to the Telecommunications Act of 1996 and Related FCC Orders. In Particular, the Application of NPCR, Inc. d/b/a Nextel Partners to be Designated.

Cause No. 42530: In the Matter of the Indiana Utility Regulatory Commission's Investigation of Matters Related to Competition in the State of Indiana Pursuant to Ind. Code 8-1-2 *et seq.*

Iowa Utilities Board

Docket No. RPU-95-10.

Docket No. RPU-95-11.

State Corporation Commission of the State of Kansas

Docket No. 00-GIMT-1054-GIT: In the Matter of a General Investigation to Determine Whether Reciprocal Compensation Should Be Paid for Traffic to an Internet Service Provider.

Docket No. 04-RCCT-338-ETC: In the Matter of Petition of RCC Minnesota, Inc. for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2).

Kentucky Public Service Commission

Administrative Case No. 10321: In the Matter of the Tariff Filing of South Central Bell Telephone Company to Establish and Offer Pulselink Service.

Administrative Case No. 323: In the Matter of An Inquiry into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

- Phase IA: Determination of whether intraLATA toll competition is in the public interest.
- Phase IB: Determination of a method of implementing intraLATA competition.
- Rehearing on issue of Imputation.

Administrative Case No. 90-256, Phase II: In the Matter of A Review of the Rates and Charges and Incentive Regulation Plan of South Central Bell Telephone Company.

Administrative Case No. 336: In the Matter of an Investigation into the Elimination of Switched Access Service Discounts and Adoption of Time of Day Switch Access Service Rates.

Administrative Case No. 91-250: In the Matter of South Central Bell Telephone Company's Proposed Area Calling Service Tariff.

Administrative Case No. 96-431: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Exhibit DJW-1

Administrative Case No. 96-478: In Re: The Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Administrative Case No. 96-482: In Re: The Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Administrative Case No. 360: In the Matter of: An Inquiry into Universal Service and Funding Issues.

Administrative Case No. 96-608: In the Matter of: Investigation Concerning the Provision of InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Administrative Case No. 382: An Inquiry into the Development of Deaveraged Rates for Unbundled Network Elements.

Case No. 2003-00143: In the matter of: Petition of NCPR, Inc., d/b/a Nextel Partners for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky.

Case No. 2003-00397: Review of Federal Communications Commission's Triennial Review Order Regarding Unbundling Requirements for Individual Network Elements.

Louisiana Public Service Commission

Docket No. 17970: In Re: Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of AT&T Communications of the South Central States, Inc., in its Louisiana Operations.

Docket No. U-17949: In the Matter of an Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of South Central Bell Telephone Company, Its Louisiana Intrastate Operations, The Appropriate Level of Access Charges, and All Matters Relevant to the Rates and Service Rendered by the Company.

- Subdocket A (SCB Earnings Phase)
- Subdocket B (Generic Competition Phase)

Docket No. 18913-U: In Re: South Central Bell's Request for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. U-18851: In Re: Petition for Elimination of Disparity in Access Tariff Rates.

Docket No. U-22022: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s TSLRIC and LRIC Cost Studies Submitted Pursuant to Sections 901(C) and 1001(E) of the Regulations for Competition in the Local Telecommunications Market as Adopted by General Order Dated March 15, 1996 in Order to Determine the Cost of Interconnection Services and Unbundled Network Components to Establish Reasonable, Non-Discriminatory, Cost Based Tariffed Rates and Docket No. U-22093: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s Tariff Filing of April 1, 1996, Filed Pursuant to Section 901 and 1001 of the Regulations for Competition in the Local Telecommunications Market Which Tariff Introduces Interconnection and Unbundled Services and Establishes the Rates, Terms and Conditions for Such Service Offerings (consolidated).

Exhibit DJW-1

Docket No. U-22145: In the Matter of Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. U-22252: In Re: Consideration and Review of BST's Preapplication Compliance with Section 271 of the Telecommunications Act of 1996, including but not limited to the fourteen requirements set forth in Section 271 (c) (2) (b) in order to verify compliance with section 271 and provide a recommendation to the FCC regarding BST's application to provide interLATA services originating in-region.

Docket No. U-20883 Subdocket A: In Re: Submission of the Louisiana Public Service Commission's Forward Looking Cost Study to the FCC for Purposes of Calculating Federal Universal Service Support.

Docket No. U-24206: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. U-22632: In Re: BellSouth Telecommunications, Inc. Filing of New Cost Studies for Providing Access Line Service for Customer Provided Public Telephones and Smartline Service for Public Telephone Access.

Docket No. Docket No. U-24714-A: In Re: Final Deaveraging of BellSouth Telecommunications, Inc. UNE Rates Pursuant to FCC 96-45 Ninth Report and Order and Order on Eighteenth Order on Reconsideration Released November 2, 1999.

Docket No. U-27571: In Re: Louisiana Public Service Commission Implementation of the Requirements Arising from The Federal Communications Commission's Triennial Review Order, Order 03-36: Unbundled Local Circuit Switching for Mass Market Customers and Establishment of a Batch Cut Migration Process.

Public Service Commission of Maryland

Case 8584, Phase II: In the Matter of the Application of MFS Intelenet of Maryland, Inc. for Authority to Provide and Resell Local Exchange and Intrastate Telecommunications Services in Areas Served by C&P Telephone Company of Maryland.

Case 8715: In the Matter of the Inquiry into Alternative Forms of Regulating Telephone Companies.

Case 8731: In the Matter of the Petitions for Approval of Agreements and Arbitration of Unresolved Issues Arising Under Section 252 of the Telecommunications Act of 1996.

Massachusetts Department of Telecommunications and Energy

D.P.U./D.T.E. 97088/97-18 (Phase II): Investigation by the Department of Telecommunications & Energy on its own motion regarding (1) implementation of section 276 of the Telecommunications Act of 1996 relative to public interest payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Company d/b/a NYNEX's Public Access Smart-Pay Service, and (4) the rate policy for operator service providers.

Minnesota Public Utilities Commission

PUC Docket No. PT6153/AM-02-686, OAH Docket No. 3-2500-14980-2: In the Matter of Petition of Midwest Wireless Communications, LLC for Designation as an Eligible Communications carrier under 47

U.S.C. § 214(e)(2).

PUC Docket No. PT-6182, 6181/M-02-1503: In the Matter of RCC Minnesota, Inc. and Wireless Alliance, LLC for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2).

Mississippi Public Service Commission

Docket No. U-5086: In Re: MCI Telecommunications Corporation's Metered Use Service Option D (Prism I) and Option E (Prism II).

Docket No. U-5112: In Re: MCI Telecommunications Corporation's Metered Use Option H (800 Service).

Docket No. U-5318: In Re: Petition of MCI for Approval of MCI's Provision of Service to a Specific Commercial Banking Customers for Intrastate Interexchange Telecommunications Service.

Docket 89-UN-5453: In Re: Notice and Application of South Central Bell Telephone Company for Adoption and Implementation of a Rate Stabilization Plan for its Mississippi Operations.

Docket No. 90-UA-0280: In Re: Order of the Mississippi Public Service Commission Initiating Hearings Concerning (1) IntraLATA Competition in the Telecommunications Industry and (2) Payment of Compensation by Interexchange Carriers and Resellers to Local Exchange Companies in Addition to Access Charges.

Docket No. 92-UA-0227: In Re: Order Implementing IntraLATA Competition.

Docket No. 96-AD-0559: In Re: In the Matter of the Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 98-AD-035: Universal Service.

Docket No. 97-AD-544: In Re: Generic Proceeding to Establish Permanent Prices for BellSouth Interconnection and Unbundled Network Elements.

Docket No. 2003-AD-714: Generic Proceeding to Review the Federal Communications Commission's Triennial Review Order.

Public Service Commission of the State of Missouri

Case No. TO-2004-0527: In the Matter of the Application of WWC License, LLC, d/b/a CellularOne, for Designation as an Eligible Telecommunications Carrier, and Petition for Redefinition of Rural Telephone Company Areas.

Case No. to-2005-0384: Application of USCOC of Greater Missouri, LLC For Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Public Service Commission of the State of Montana

Docket No. D2000.8.124: In the Matter of Touch America, Inc.'s Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 of the Terms and Conditions of Interconnection with Qwest Corporation, f/k/a US West Communications, Inc.

Docket No. D2000.6.89: In the Matter of Qwest Corporation's Application to Establish Rates for Interconnection, Unbundled Network Elements, Transport and Termination, and Resale Services.

Docket No. D2003.1.14: In the Matter of WWC Holding Co. Application for Designation as an Eligible Telecommunications Carrier in Montana Areas Served by Qwest Corporation.

Nebraska Public Service Commission

Docket No. C-1385: In the Matter of a Petition for Arbitration of an Interconnection Agreement Between AT&T Communications of the Midwest, Inc., and US West Communications, Inc.

Public Utilities Commission of Nevada

Docket No. 04-3030: In re: Application of WWD License LLC, d/b/a CellularOne, for redefinition of its service area as a designated Eligible Telecommunications Carrier.

New Jersey Board of Public Utilities

Docket No. TM0530189: In the Matter of the Joint Petition of Verizon Communications Inc., and MCI, Inc. for Approval of Merger.

New York Public Service Commission

Case No. 28425: Proceeding on Motion of the Commission as to the Impact of the Modification of Final Judgement and the Federal Communications Commission's Docket 78-72 on the Provision of Toll Service in New York State.

North Carolina Public Utilities Commission

Docket No. P-100, Sub 72: In the Matter of the Petition of AT&T to Amend Commission Rules Governing Regulation of Interexchange Carriers (Comments).

Docket No. P-141, Sub 19: In the Matter of the Application of MCI Telecommunications Corporation to Provide InterLATA Facilities-Based Telecommunications Services (Comments).

Docket No. P-55, Sub 1013: In the Matter of Application of BellSouth Telecommunications, Inc. for, and Election of, Price Regulation.

Docket Nos. P-7, Sub 825 and P-10, Sub 479: In the Matter of Petition of Carolina Telephone and Telegraph and Central Telephone Company for Approval of a Price Regulation Plan Pursuant to G.S. 62-133.5.

Docket No. P-19, Sub 277: In the Matter of Application of GTE South Incorporated for and Election of, Price Regulation.

Docket No. P-141, Sub 29: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with BellSouth Telecommunications, Inc. (consolidated).

Exhibit DJW-1

Docket No. P-141, Sub 30: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc. (consolidated).

Docket No. P-100, Sub 133b: Re: In the Matter of Establishment of Universal Support Mechanisms Pursuant to Section 254 of the Telecommunications Act of 1996.

Docket No. P-100, Sub 133d: Re: Proceeding to Determine Permanent Pricing for Unbundled Network Elements.

Docket No. P-100, Sub 84b: Re: In the Matter of Petition of North Carolina Payphone Association for Review of Local Exchange Company Tariffs for Basic Payphone Services (Comments).

Docket No. P-561, Sub 10: BellSouth Telecommunications, Inc., Complainant, v. US LEC of North Carolina, LLC, and Metacomm, LLC, Respondents.

Docket No. P-472, Sub 15: In the Matter of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Time Warner Telecom of North Carolina, L.P. Pursuant to Section 252(b) of the Telecommunications Act of 1996.

Docket Nos. P-7, Sub 995; P-10, Sub 633: ALEC., Inc. v. Carolina Telephone and Telegraph Company and Central Telephone Company.

Docket No. P-500, Sub 18: In the Matter of: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. P-118, Sub 30: In the matter of: Petition of Cellco Partnership d/b/a Verizon Wireless for Arbitration Pursuant to Section 252 of the Telecommunications Act of 1996.

Docket No. P-100, Sub 133q: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Public Utilities Commission of Ohio

Case No. 93-487-TP-ALT: In the Matter of the Application of The Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation.

Case No. 05-0269-TP-ACO: In the matter of the Joint Application of SBC Communications, Inc. and AT&T Corp. for Consent and Approval of a Change of Control.

Oklahoma Corporation Commission

Cause No. PUD 01448: In the Matter of the Application for an Order Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Cause No. PUD 200300195: Application of United States Cellular Corporation for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Cause No. PUD 200300239: Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Cause No. PUD 200500122: In the matter of Dobson Cellular Systems, Inc., and American Cellular Corporation application for designation as a competitive eligible telecommunications carrier and redefinition of the service area requirement pursuant to Section 214(e) of the Telecommunications Act of 1996.

Public Utility Commission of Oregon

Docket No. UT 119: In the Matter of an Investigation into Tariffs Filed by US West Communications, Inc., United Telephone of the Northwest, Pacific Telecom, Inc., and GTE Northwest, Inc. in Accordance with ORS 759.185(4).

Docket No. ARB 3: In the Matter of the Petition of AT&T Communications of the Pacific Northwest, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996. Docket No. ARB 6: In the Matter of the Petition of MCIMetro Access Transmission Services, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 (consolidated).

Docket No. ARB 9: In the Matter of the Petition of an Interconnection Agreement Between MCIMetro Access Transportation Services, Inc. and GTE Northwest Incorporated, Pursuant to 47 U.S.C. Section 252.

Docket No. UT-125: In the Matter of the Application of US West Communications, Inc. for an Increase in Revenues.

Docket No. UM 1083: RCC Minnesota, Inc. Application for Designation as an Eligible Telecommunications Carrier, Pursuant to the Telecommunications Act of 1996.

Docket No. UM 1084: United States Cellular Corporation Application for Designation as an Eligible Telecommunications Carrier, Pursuant to the Telecommunications Act of 1996.

Docket No. UM 1217: Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support.

Pennsylvania Public Utilities Commission

Docket No. I-00910010: In Re: Generic Investigation into the Current Provision of InterLATA Toll Service.

Docket No. P-00930715: In Re: The Bell Telephone Company of Pennsylvania's Petition and Plan for Alternative Form of Regulation under Chapter 30.

Docket No. R-00943008: In Re: Pennsylvania Public Utility Commission v. Bell Atlantic-Pennsylvania, Inc. (Investigation of Proposed Promotional Offerings Tariff).

Docket No. M-00940587: In Re: Investigation pursuant to Section 3005 of the Public Utility Code, 66 Pa. C. S. §3005, and the Commission's Opinion and Order at Docket No. P-930715, to establish standards and safeguards for competitive services, with particular emphasis in the areas of cost allocations, cost studies, unbundling, and imputation, and to consider generic issues for future rulemaking.

Docket No. A-310489F7004: Petition of Cellco Partnership d/b/a Verizon Wireless for Arbitration Pursuant to Section 252 of the telecommunications Act of 1996.

Exhibit DJW-1

Docket Nos. A-310580F9, A-310401F6, A-310407F3, A-312025F5, A-310752F6, A-310364F3: Joint Application of Verizon Communications Inc. and MCI, Inc. For Approval of Agreement and Plan of Merger.

South Carolina Public Service Commission

Docket No. 90-626-C: In Re: Generic Proceeding to Consider Intrastate Incentive Regulation.

Docket No. 90-321-C: In Re: Petition of Southern Bell Telephone and Telegraph Company for Revisions to its Access Service Tariff Nos. E2 and E16.

Docket No. 88-472-C: In Re: Petition of AT&T of the Southern States, Inc., Requesting the Commission to Initiate an Investigation Concerning the Level and Structure of Intrastate Carrier Common Line (CCL) Access Charges.

Docket No. 92-163-C: In Re: Position of Certain Participating South Carolina Local Exchange Companies for Approval of an Expanded Area Calling (EAC) Plan.

Docket No. 92-182-C: In Re: Application of MCI Telecommunications Corporation, AT&T Communications of the Southern States, Inc., and Sprint Communications Company, L.P., to Provide IntraLATA Telecommunications Services.

Docket No. 95-720-C: In Re: Application of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company for Approval of an Alternative Regulation Plan.

Docket No. 96-358-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 96-375-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and GTE South Incorporated Pursuant to 47 U.S.C. § 252.

Docket No. 97-101-C: In Re: Entry of BellSouth Telecommunications, Inc. into the InterLATA Toll Market.

Docket No. 97-374-C: In Re: Proceeding to Review BellSouth Telecommunications, Inc. Cost for Unbundled Network Elements.

Docket No. 97-239-C: Intrastate Universal Service Fund.

Docket No. 97-124-C: BellSouth Telecommunications, Inc. Revisions to its General Subscriber Services Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.

Docket No. 1999-268-C: Petition of Myrtle Beach Telephone, LLC, for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Horry Telephone Cooperative, Inc.

Docket No. 1999-259-C: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 2001-65-C: Generic Proceeding to Establish Prices for BellSouth's Interconnection Services, Unbundled Network Elements and Other Related Elements and Services.

Docket No. 2003-326-C: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

South Dakota Public Utilities Commission

Docket No. TC03-191: In the Matter of the Filing by WWC License, LLC d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Other Rural Areas.

Docket No. TC03-193: In the Matter of the Petition of RCC Minnesota, Inc., and Wireless Alliance, L.L.C., for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. §214(e)(2).

Tennessee Public Service Commission

Docket No. 90-05953: In Re: Earnings Investigation of South Central Bell Telephone Company.

Docket Nos. 89-11065, 89-11735, 89-12677: AT&T Communications of the South Central States, MCI Telecommunications Corporation, US Sprint Communications Company -- Application for Limited IntraLATA Telecommunications Certificate of Public Convenience and Necessity.

Docket No. 91-07501: South Central Bell Telephone Company's Application to Reflect Changes in its Switched Access Service Tariff to Limit Use of the 700 Access Code.

Tennessee Regulatory Authority

Docket No. 96-01152: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration under the Telecommunications Act of 1996 and Docket No. 96-01271: In Re: Petition by MCI Telecommunications Corporation for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 96-01262: In Re: Interconnection Agreement Negotiations Between AT&T of the South Central States, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. § 252.

Docket No. 97-01262: Proceeding to Establish Permanent Prices for Interconnection and Unbundled Network Elements.

Docket No. 97-00888: Universal Service Generic Contested Case.

Docket No. 99-00430: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996.

Docket No. 97-00409: In Re: All Telephone Companies Tariff Filings Regarding Reclassification of Pay Telephone Service as Required by Federal Communications Commission Docket No. 96-128.

Docket No. 03-00119: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc.

Docket No. 03-00491: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Docket No. 06-00093: In Re: Joint Filing of AT&T, Inc., BellSouth Corporation, and BellSouth's Certified

Tennessee Subsidiaries Regarding Change of Control.

Public Utility Commission of Texas

Docket No. 12879: Application of Southwestern Bell Telephone Company for Expanded Interconnection for Special Access Services and Switched Transport Services and Unbundling of Special Access DS1 and DS3 Services Pursuant to P. U. C. Subst. R. 23.26.

Docket No. 18082: Complaint of Time Warner Communications against Southwestern Bell Telephone Company.

Docket No. 21982: Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996.

Docket No. 23396: Joint Petition of CoServ, LLC d/b/a CoServ Communications and Multitechnology Services, LP d/b/a CoServ Broadband Services for Arbitration of Interconnection Rates, Terms, Conditions, and Related Arrangements with Southwestern Bell Telephone Company.

Docket No. 24015: Consolidated Complaints and Requests of Post-Interconnection Dispute Resolution Regarding Inter-Carrier Compensation for FX-Type Traffic Against Southwestern Bell Telephone Company.

PUC Docket No. 27709: Application of NPCR, Inc., dba Nextel Partners for Eligible Telecommunications Carrier Designation (ETC).

PUC Docket No. 28744: Impairment Analysis for Dedicated Transport.

PUC Docket No. 28745: Impairment Analysis for Enterprise Loops.

PUC Docket No. 29144: Application of Dobson Cellular Systems, Inc., for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to 47 U.S.C. 241 (e) and P.U. C. Subst. Rule 26.418.

State of Vermont Public Service Board

Docket No. 6533: Application of Verizon New England Inc. d/b/a Verizon Vermont for a Favorable Recommendation to Offer InterLATA Services Under 47 U.S.C. 271.

Docket No. 6882: Investigation into Public Access Line Rates of Verizon New England, Inc., d/b/a Verizon Vermont.

Docket No. 6934: Petition of RCC Atlantic Inc. for designation as an Eligible Telecommunications Carrier in areas served by rural telephone companies under the Telecommunications Act of 1996.

Virginia State Corporation Commission

Case No. PUC920043: Application of Virginia Metrotel, Inc. for a Certificate of Public Convenience and Necessity to Provide InterLATA Interexchange Telecommunications Services.

Case No. PUC920029: Ex Parte: In the Matter of Evaluating the Experimental Plan for Alternative Regulation of Virginia Telephone Companies.

Exhibit DJW-1

Case No. PUC930035: Application of Contel of Virginia, Inc. d/b/a GTE Virginia to implement community calling plans in various GTE Virginia exchanges within the Richmond and Lynchburg LATAs.

Case No. PUC930036: Ex Parte: In the Matter of Investigating Telephone Regulatory Methods Pursuant to Virginia Code § 56-235.5, & Etc.

Case No. PUC-200540051: Application of Verizon Communications Inc. and MCI, Inc. for approval of Agreement and Plan of Merger resulting in the indirect transfer of control of MCI metro Access Transmission Services of Virginia, Inc., to Verizon Communications Inc.

Washington Utilities and Transportation Commission

Docket Nos. UT-941464, UT-941465, UT-950146, and UT-950265 (Consolidated): Washington Utilities and Transportation Commission, Complainant, vs. US West Communications, Inc., Respondent; TCG Seattle and Digital Direct of Seattle, Inc., Complainant, vs. US West Communications, Inc., Respondent; TCG Seattle, Complainant, vs. GTE Northwest Inc., Respondent; Electric Lightwave, Inc., vs. GTE Northwest, Inc., Respondent.

Docket No. UT-950200: In the Matter of the Request of US West Communications, Inc. for an Increase in its Rates and Charges.

Docket No. UT-000883: In the Matter of the Petition of U S West Communications, Inc. for Competitive Classification.

Docket No. UT-050814: In the Matter of the Joint Petition of Verizon Communications Inc., and MCI, Inc. for a Declaratory Order Disclaiming Jurisdiction Over or, in the Alternative a Joint Application for Approval of, Agreement and Plan of Merger.

Public Service Commission of West Virginia

Case No. 02-1453-T-PC: Highland Cellular, Inc. Petition for consent and approval to be designated as an eligible telecommunications carrier in the areas served by Citizens Telecommunications Company of West Virginia.

Case No. 03-0935-T-PC: Easterbrooke Cellular Corporation Petition for consent and approval to be designated as an eligible telecommunications carrier in the area served by Citizens Telecommunications Company of West Virginia d/b/a Frontier Communications of West Virginia.

Public Service Commission of Wyoming

Docket No. 70000-TR-95-238: In the Matter of the General Rate/Price Case Application of US West Communications, Inc. (Phase I).

Docket No. PSC-96-32: In the Matter of Proposed Rule Regarding Total Service Long Run Incremental Cost (TSLRIC) Studies.

Docket No. 70000-TR-98-420: In the Matter of the Application of US West Communications, Inc. for authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase III).

Docket No. 70000-TR-99-480: In the Matter of the Application of US West Communications, Inc. for

Exhibit DJW-1

authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase IV).

Docket No. 70000-TR-00-556: In the Matter of the Filing by US West Communications, Inc. for Authority to File its TSLRIC 2000 Annual Input Filing and Docket No. 70000-TR-00-570: In the Matter of the Application of US West Communications, Inc. for Authority to File its 2000 Annual TSLRIC Study Filing.

Docket No. 70042-AT-04-4: In the Matter of the Petition of WWC Holding Co., Inc., d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Areas Served by Qwest Corporation, and Docket No. 70042-AT-04-5: In the Matter of the Petition of WWC Holding Co., Inc., d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Clark, Basin, Frannie, Greybull, Lovell, Meeteetse, Burlington, Hyattville, and Tensleep (consolidated).

Public Service Commission of the District of Columbia

Formal Case No. 814, Phase IV: In the Matter of the Investigation into the Impact of the AT&T Divestiture and Decisions of the Federal Communications Commission on Bell Atlantic - Washington, D. C. Inc.'s Jurisdictional Rates.

Puerto Rico Telecommunications Regulatory Board

Case No. 98-Q-0001: In Re: Payphone Tariffs.

Case No. JRT-2001-AR-0002: In the Matter of Interconnection Rates, Terms and Conditions between WorldNet Telecommunications, Inc. and Puerto Rico Telephone Company.

Case No. JRT-2003-AR-0001: Re: Petition for Arbitration pursuant to Section 252(b) of the Federal Communications Act, and Section 5(b), Chapter II of the Puerto Rico Telecommunications Act, regarding interconnection rates, terms, and conditions.

Case No. JRT-2004-Q-0068: Telefónica Larga Distancia de Puerto Rico, Inc., Complainant, v. Puerto Rico Telephone Company, Defendant.

Case Nos. JRT-2005-Q-0121 and JRT-2005-Q-0218: Telefónica Larga Distancia de Puerto Rico, Inc., and WorldNet Telecommunications, Inc., Plaintiffs, v. Puerto Rico Telephone Company, Inc., Defendant.

COMMENTS/DECLARATIONS - FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-91: In the Matter of Open Network Architecture Tariffs of Bell Operating Companies.

CC Docket No. 93-162: Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access.

CC Docket No. 91-141: Common Carrier Bureau Inquiry into Local Exchange Company Term and Volume Discount Plans for Special Access.

CC Docket No. 94-97: Review of Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 94-128: Open Network Architecture Tariffs of US West Communications, Inc.

CC Docket No. 94-97, Phase II: Investigation of Cost Issues, Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 96-98: In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996.

CC Docket No. 97-231: Application by BellSouth to Provide In-Region InterLATA Services.

CC Docket No. 98-121: Application by BellSouth to Provide In-Region InterLATA Services.

CCB/CPD No. 99-27: In the Matter of Petition of North Carolina Payphone Association for Expedited Review of, and/or Declaratory Ruling Concerning, Local Exchange Company Tariffs for Basic Payphone Services.

CC Docket No. 96-128: In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CCB/CPD No. 99-31: Oklahoma Independent Telephone Companies Petition for Declaratory Ruling (consolidated).

CCB/CPD No. 00-1: In the Matter of the Wisconsin Public Service Commission Order Directing Filings.

CC Docket No. 99-68: In the Matter of Inter-Carrier Compensation for ISP-Bound Traffic.

File No. EB-01-MD-020: In the Matter of Sprint Communications Company, L.P., Complainant v. Time Warner Telecom, Inc. Defendant.

Request by the American Public Communications Council that the Commission Issue a Notice of Proposed Rulemaking to Update the Dial-Around Compensation Rate.

File Nos. EB-02-MD-018-030: In the Matter of Communications Vending Corp. of Arizona, et. al., Complainants, v. Citizens Communications Co. f/k/a Citizens Utilities Co. and Citizens Telecommunications Co., et. al., Defendants.

CC Docket No. 96-45: In the Matter of Federal-State Joint Board on Universal Service, Cellular South License, Inc., RCC Holdings, Inc., Petitions for designation as an Eligible Telecommunications Carrier in the State of Alabama.

CC Docket No. 96-45: In the Matter of Federal-State Joint Board on Universal Service, Declaration in Support of the Comments to the Federal-State Joint Board of the Rural Cellular Association and the Alliance of Rural CMRS Carriers.

REPRESENTATIVE TESTIMONY – STATE, FEDERAL, AND OVERSEAS COURTS

Court of Common Pleas, Philadelphia County, Pennsylvania

Shared Communications Services of 1800-80 JFK Boulevard, Inc., Plaintiff, v. Bell Atlantic Properties, Inc., Defendant.

Texas State Office of Administrative Hearings

SOAH Docket No. 473-00-0731: Office of Customer Protection (OCP) Investigation of Axces, Inc. for Continuing Violations of PUC Substantive Rule §26.130, Selection of Telecommunications Utilities, Pursuant to Procedural Rules 22.246 Administrative Penalties.

SOAH Docket No. 473-03-3673: Application of NPCR, Inc., dba Nextel Partners for Eligible Telecommunications Carrier Designation (ETC).

SOAH Docket No. 473-04-4450: Application of Dobson Cellular Systems, Inc., for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to 47 U.S.C. 241 (e) and P.U. C. Subst. Rule 26.418.

Superior Court for the State of Alaska, First Judicial District

Richard R. Watson, David K. Brown and Ketchikan Internet Services, a partnership of Richard R. Watson and David K. Brown, Plaintiffs, v. Karl Amylon and the City of Ketchikan, Defendants.

Superior Court for the State of Alaska, Third Judicial District

Dobson Cellular Systems, Inc., Plaintiff, v. Frontline Hospital, LLC, Defendant.

United States District Court for the District of South Carolina, Columbia Division

Brian Wesley Jeffcoat, on behalf of himself and others similarly situated, Plaintiffs, v. Time Warner Entertainment - Advance/Newhouse Partnership, Defendant.

United States District Court for the Northern District of Texas, Fort Worth Division

Multitechnology Services, L. P. d/b/a CoServ Broadband Services, Plaintiffs, v. Southwestern Bell Telephone Company, Defendant.

Multitechnology Services, L. P. d/b/a CoServ Broadband Services, Plaintiffs, v. Verizon Southwest f/k/a GTE Southwest Incorporated, Defendant.

United States District Court for the District of Oregon

Time Warner Telecom of Oregon, LLC, and Qwest Communications Corporation, Plaintiffs, v. The City of Portland, Defendant.

High Court of the Hong Kong Special Administrative Region, Court of First Instance

Commercial List No. 229 of 1999: Cable and Wireless HKT International Limited, Plaintiff v. New World Telephone Limited, Defendant.

REPRESENTATIVE TESTIMONY – PRIVATE COMMERCIAL ARBITRATION TRIBUNALS

American Arbitration Association

Southwestern Bell Telephone Company, Claimant vs. Time Warner Telecom, Respondent.

New Access Communications LLC, Choicetel LLC and Emergent Communications LLC, Claimants vs. Qwest Corporation, Respondent (Case No. 77 Y 1818 0031603).

CPR Institute for Dispute Resolution

Supra Telecommunications and Information Systems, Inc., Claimant vs. BellSouth Telecommunications, Inc., Respondent.

**Development of FCC Proxy Rates
Pursuant to 47 CFR 51.513**

Local Switching (51.513(c)(2)):

Range of \$0.002 to \$0.004

Assumed \$0.003 as mid-point of range

Tandem Switching (51.513(c)(5))

\$0.0015

Local Transport (51.513(c)(4)):

Facility (per MOU per mile)

	<u>Monthly Rate</u>	<u>Per MOU per mile</u>
DS1	\$16.29	0.000075
DS3	\$112.13	0.000019

Termination (per MOU)

	<u>Monthly Rate</u>	<u>Per MOU</u>
DS1	\$80.31	0.000372
DS3	\$449.15	0.000074

Development of Composite Reciprocal Compensation Rate

Local Switching	0.003000	
Tandem Switching	0.000375	(assumes 25% occurrence)
Transport Termination	0.000558	(transport calculation assumes 50% DS1 / 50% DS3,
Transport Mileage	0.000986	25% occurrence of tandem switching, 50% occurrence of host-remote, and an average of 12 miles for each transport link (meet point to tandem, tandem to end office, and host to remote)

Composite Rate	0.004919
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Development of Transport Mileage Rates

DS1	RLEC	Facility Per Mile		Access Lines		
		Rate Band	Monthly Rate	Lines	% of Total Lines	
	Ballard Rural Telephone Coop.	3	\$18.08	6,673	4.5%	
	Brandenburg Telephone Company	2	\$17.88	26,839	18.2%	
	Duo County Telephone Coop.	2	\$17.88	12,883	8.7%	
	Foothills Rural Telephone Coop.	3	\$18.08	15,701	10.6%	
	Gearheart Communications Company	2	\$17.88	6,730	4.6%	
	Logan Telephone Coop.	2	\$17.88	6,619	4.5%	
	Mountain Rural Telephone Coop.	3	\$18.08	16,157	10.9%	
	North Central Telephone Coop.	1	\$17.22	22,026	14.9%	
	Peoples Rural Telephone Coop.	3	\$18.08	8,507	5.8%	
	Thacker-Grigsby Telephone Company	2	\$17.88	7,927	5.4%	
	West Kentucky Rural Telephone Coop.	2	\$17.88	17,580	11.9%	
				147,642	100.0%	
	Weighted Average, NECA Companies					\$17.85
	South Central Rural Telephone Coop.		\$8.09	28,028	100.0%	\$8.09
	Weighted Average, All RLECs			175,670		\$16.29
	Weighted Average per MOU per Mile					\$0.000075

Development of Transport Mileage Rates

DS3

RLEC	Facility Per Mile		Access Lines		
	Rate Band	Monthly Rate	Lines	% of Total Lines	
Ballard Rural Telephone Coop.	3	\$124.46	6,673	4.5%	
Brandenburg Telephone Company	2	\$123.09	26,839	18.2%	
Duo County Telephone Coop.	2	\$123.09	12,883	8.7%	
Foothills Rural Telephone Coop.	3	\$124.46	15,701	10.6%	
Gearheart Communications Company	2	\$123.09	6,730	4.6%	
Logan Telephone Coop.	2	\$123.09	6,619	4.5%	
Mountain Rural Telephone Coop.	3	\$124.46	16,157	10.9%	
North Central Telephone Coop.	1	\$118.53	22,026	14.9%	
Peoples Rural Telephone Coop.	3	\$124.46	8,507	5.8%	
Thacker-Grigsby Telephone Company	2	\$123.09	7,927	5.4%	
West Kentucky Rural Telephone Coop.	2	\$123.09	17,580	11.9%	
Weighted Average, NECA Companies			147,642	100.0%	\$122.85
South Central Rural Telephone Coop.		\$55.70	28,028	100.0%	\$55.70
Weighted Average, All RLECs			175,670		\$112.13
Weighted Average per MOU per Mile					\$0.000019

Development of Transport Termination Rates

DS1

RLEC	Facility Per Termination		Access Lines		
	Rate Band	Monthly Rate	Lines	% of Total Lines	
Ballard Rural Telephone Coop.	3	\$89.13	6,673	4.5%	
Brandenburg Telephone Company	2	\$88.16	26,839	18.2%	
Duo County Telephone Coop.	2	\$88.16	12,883	8.7%	
Foothills Rural Telephone Coop.	3	\$89.13	15,701	10.6%	
Gearheart Communications Company	2	\$88.16	6,730	4.6%	
Logan Telephone Coop.	2	\$88.16	6,619	4.5%	
Mountain Rural Telephone Coop.	3	\$89.13	16,157	10.9%	
North Central Telephone Coop.	1	\$84.89	22,026	14.9%	
Peoples Rural Telephone Coop.	3	\$89.13	8,507	5.8%	
Thacker-Grigsby Telephone Company	2	\$88.16	7,927	5.4%	
West Kentucky Rural Telephone Coop.	2	\$88.16	17,580	11.9%	
Weighted Average, NECA Companies			147,642	100.0%	\$87.98
South Central Rural Telephone Coop.		\$39.88	28,028	100.0%	\$39.88
Weighted Average, All RLECs			175,670		\$80.31
Weighted Average per MOU					\$0.000372

Development of Transport Termination Rates

DS3

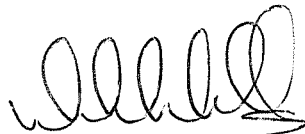
RLEC	Facility Per Termination		Access Lines		
	Rate Band	Monthly Rate	Lines	% of Total Lines	
Ballard Rural Telephone Coop.	3	\$496.45	6,673	4.5%	
Brandenburg Telephone Company	2	\$491.01	26,839	18.2%	
Duo County Telephone Coop.	2	\$491.01	12,883	8.7%	
Foothills Rural Telephone Coop.	3	\$496.45	15,701	10.6%	
Gearheart Communications Company	2	\$491.01	6,730	4.6%	
Logan Telephone Coop.	2	\$491.01	6,619	4.5%	
Mountain Rural Telephone Coop.	3	\$496.45	16,157	10.9%	
North Central Telephone Coop.	1	\$472.81	22,026	14.9%	
Peoples Rural Telephone Coop.	3	\$496.45	8,507	5.8%	
Thacker-Grigsby Telephone Company	2	\$491.01	7,927	5.4%	
West Kentucky Rural Telephone Coop.	2	\$491.01	17,580	11.9%	
			147,642	100.0%	
Weighted Average, NECA Companies					\$490.03
South Central Rural Telephone Coop.		\$233.81	28,028	100.0%	\$233.81
Weighted Average, All RLECs			175,670		\$449.15
Weighted Average per MOU					\$0.000074

AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

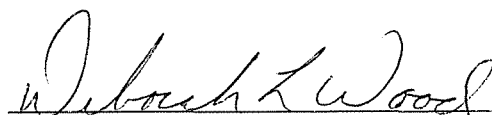
BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Don J. Wood, who being by me first duly sworn deposed and said that:

He is appearing as a witness on behalf of Alltel Communications, Inc. ("Alltel"); American Cellular Corporation ("ACC"); New Cingular Wireless PCS, LLC, successor to BellSouth Mobility LLC, BellSouth Personal Communications LLC and Cincinnati SMSA Limited Partnership d/b/a Cingular Wireless ("Cingular"); Sprint Spectrum L.P., on behalf of itself and SprintCom, Inc., d/b/a Sprint PCS ("Sprint PCS"); T-Mobile USA, Inc., Powertel/Memphis, Inc., and T-Mobile Central LLC ("T-Mobile"); and Cellco Partnership d/b/a Verizon Wireless, GTE Wireless of the Midwest Incorporated, and Kentucky RSA No. 1 Partnership ("Verizon Wireless") before the Kentucky Public Service Commission in Case Nos. 2006-00215, 2006-00217, 2006-00218, 2006-00220, 2006-00252, 2006-00255, 2006-00288, 2006-00292, 2006-00294, 2006-00296, 2006-00298, and 2006-00300, and if present before the Commission and duly sworn, his Testimony would be the same as set forth in the annexed testimony consisting of 59 pages and 4 Attachments.

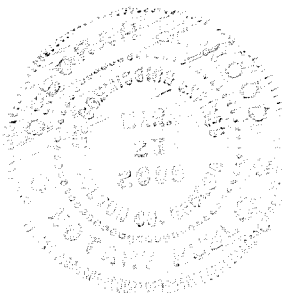


Don J. Wood

SWORN TO AND SUBSCRIBED BEFORE
ME THIS 28th DAY OF September, 2006.



NOTARY PUBLIC



1 Evidence demonstrates that BellSouth bills for transit traffic using
2 a long-established system that is familiar to Florida ICOs ... Small
3 LEC witness Watkins explicitly states that BellSouth's transit
4 invoices should set "forth sufficient details of call records and any
5 other information necessary to determine the accuracy and
6 completeness of usage." We note that BellSouth's summary
7 reports include the information the Small LECs request: 1) the
8 dates for the billing period; 2) a carrier-specific summary of the
9 number of calls and transited minutes; and 3) a total summary of
10 the calls and minutes to which the transit rate applies. Because
11 BellSouth makes its website resource available to all billed
12 carriers, it appears that such carriers are able to verify BellSouth's
13 invoices, which is an important objective.¹⁸

14 **Issue 10: Is each RLEC required to develop a company-specific, TELRIC-based rate for**
15 **transport and termination, what should that rate be for each RLEC, and what are the**
16 **proper rate elements and inputs to derive that rate?**

17 **Q: WHAT OBLIGATIONS DO CARRIERS HAVE WITH REGARD TO**
18 **ESTABLISHING INTERCARRIER COMPENSATION ARRANGEMENTS?**

19 A: As the Commission correctly pointed out in its August 18, 2006 Order, "the RLECs have
20 asked the Commission to arbitrate rates regarding reciprocal compensation arrangements
21 for the transport and termination of telecommunications traffic. Pursuant to 47 USC
22 §251(b)(5), all local exchange carriers have the duty to establish such arrangements.
23 Pursuant to 47 USC §252(d)(2), the Commission must follow statutory pricing standards.
24 Terms and conditions for reciprocal compensation are just and reasonable if they provide
25 mutual and reciprocal recovery and if the costs are based on a reasonable approximation
26 of the additional costs of terminating such calls (47 USC §252(d)(2)(A))."

¹⁸ Florida Public Service Commission Order No. PSC-06-0776-FOF-TP in Docket Nos. 05-0119-TP and 05-0125-TP, Issued September 18, 2006, p. 51.

1 47 CFR §51.701 requires *all* LECs – including the RLECs – to “establish
2 reciprocal compensation arrangements for transport and termination of
3 telecommunications traffic with any requesting telecommunications carrier.” §51.705(a)
4 sets forth three options for a state regulator when it is called upon to establish rates that
5 can be charged for these transport and termination functions:

6 An incumbent LEC's rates for transport and termination of
7 telecommunications traffic shall be established, at the election of the
8 state commission, on the basis of:

- 9 (1) The forward-looking economic costs of such offerings, using a cost
10 study pursuant to Sec. 51.505 and 51.511;
11 (2) Default proxies, as provided in Sec. 51.707; or
12 (3) A bill-and-keep arrangement, as provided in Sec. 51.713.

13 The list in §51.705(a) represents the universe of available options for setting these
14 rates. As the Commission has noted, it is the RLECs who have filed arbitration petitions
15 and who have asked the Commission to approve a rate that they (the RLECs) have
16 proposed. The reciprocal compensation rate proposed by the RLECs is not based on the
17 FCC proxies (the option in §51.705(a)(2)), nor is it a “bill and keep” arrangement (the
18 option in §51.705(a)(2)). As the sole remaining option, the RLECs must demonstrate that
19 their proposed rate for transport and termination is fully compliant with §51.705(a)(1);
20 that is, the rates must be based on a calculation of forward-looking economic costs that
21 conforms to the requirements of §51.505 and §51.511.

22 **Q: IN HIS PREFILED TESTIMONY, MR. WATKINS ASSERTS THAT THE BASIS**
23 **FOR RECIPROCAL COMPENSATION RATES CHARGED BY RLECS IS YET**
24 **TO BE ESTABLISHED. DO YOU AGREE?**

25 **A:** Not at all. With no citations whatsoever to the 1996 Act, FCC rules, orders of either the
26 FCC or a state regulator, or any court decisions, Mr. Watkins unilaterally declares (p. 8)

1 that “the FCC’s pricing rules” are “not applicable to rural telephone companies.” For this
2 reason, he declares (p. 4), “the proper basis” for the reciprocal compensation rate of a
3 rural telephone company is a matter yet to be decided.

4 Mr. Watkins does refer (at p. 8) to an August 3, 2006 “Motion for Rehearing”
5 filed by several of the RLECs as the basis for his assertion that “the FCC’s pricing rules”
6 are “not applicable to rural telephone companies.” Of course, in its August 18, 2006
7 Order, the Commission responded to the RLECs’ pleading and concluded (p. 6) that “the
8 RLECs must prove that the rates for each element do not exceed the forward-looking
9 economic cost per unit of providing the element (47 CFR 51.505(e)). The RLECs have
10 not demonstrated that they are relieved of this requirement.” The RLECs have been
11 unable to make such a demonstration because there is no basis, apart from Mr. Watkins’
12 unilateral (and wholly unsupported) declaration that he thinks rural telephone companies
13 ought to be exempt from applicable federal law, for their rather novel position.

14 Since they are not advocating proxy rates (per §51.705(a)(2)) or a “bill and keep”
15 arrangement (per §51.705(a)(2)), the RLECs must demonstrate – in the record of this
16 proceeding – that their proposed rate does not exceed “the forward-looking economic
17 costs of such offerings, using a cost study pursuant to Sec. 51.505 and 51.511.”

18 **Q: DOES THE FCC DEFINE FORWARD-LOOKING ECONOMIC COSTS AS THE**
19 **TERM IS USED IN §51.705(a)(1)?**

20 **A:** Yes. The relevant costs are those calculated pursuant to §51.505 and §51.511. While
21 part 51 of the FCC’s rules has undergone some revisions since 1996, the core
22 requirements for the calculation of forward-looking economic costs remain. Key
23 elements of these requirements can be summarized as follows:

- 1 1. Rates must be set at a level that equals forward-looking
2 economic cost of an element. This cost consists of the total
3 element long-run incremental cost of the element and a
4 reasonable allocation of forward-looking common costs.
5 §51.503(b)(1).
- 6 2. The total element long-run incremental cost of the element is
7 the forward-looking cost over the long run of the total
8 quantity of the facilities and functions that are directly
9 attributable to, or reasonably identifiable as incremental to,
10 such element, calculated taking as a given the incumbent
11 LEC's provision of other elements. §51.505(b).
- 12 3. The cost must reflect the most efficient technology currently
13 available. §51.505(b)(1).
- 14 4. The cost must reflect the lowest-cost network configuration,
15 taking wire center locations as a given. §51.505(b)(1).¹⁹
- 16 5. The cost of capital assumption must be forward-looking, and
17 depreciation rates must reflect economic depreciation rates.
18 §51.505(b)(2), (3).
- 19 6. The common costs added to the calculation of TELRIC must
20 likewise be forward-looking and reflect efficient operation.
21 §51.505(c).

22 In addition to its description of what must be considered, the FCC also lists a set
23 of factors that *may not be considered* when calculating a cost basis for intercarrier
24 compensation rates.

- 25 1. Embedded costs, defined by the FCC as costs incurred in the
26 past and recorded in the ILEC's books of account (such as

¹⁹ As I will explain later in my testimony, the exception to the efficient network configuration that permits existing wire center locations to be taken as a given significantly simplifies the calculation of forward-looking economic costs for switching and transport functions (the network functions whose costs are recovered through reciprocal compensation rates).

1 the costs used to develop the ILECs' interstate access
2 charges). §51.505(d)(1).

3 2. Retail costs. §51.505(d)(2).

4 3. Opportunity costs, defined by the FCC as the revenues that
5 the incumbent LEC would have received for the sale of
6 telecommunications services in the absence of competition
7 from telecommunications carriers that purchase elements.
8 §51.505(d)(3).

9 4. Revenues to subsidize other services. §51.505(d)(2).

10 **Q: HAS THE FCC DEVELOPED STANDARDS FOR THE COST STUDIES USED TO**
11 **SUPPORT PROPOSED RATES FOR NETWORK ELEMENTS AND**
12 **INTERCARRIER COMPENSATION?**

13 A: Yes. The FCC established specific requirements for cost studies used to support
14 proposed rates for network elements and intercarrier compensation rates based on those
15 elements. §51.505(e)(1) requires an incumbent LEC to *prove* to the state commission
16 that the rates for each element it offers do not exceed the forward-looking economic cost
17 per unit of providing the element, using a cost study that complies with the methodology
18 set forth in §51.505 and §51.511.

19 The FCC also created specific requirements regarding the information that must
20 be made available in a proceeding such as this one. §51.505(e)(2) states that “any state
21 proceeding conducted pursuant to this section shall provide notice and an opportunity for
22 comment to affected parties and shall result in the creation of a written factual record that
23 is sufficient for purposes of review. The record of any state proceeding in which a state
24 commission considers a cost study for purposes of establishing rates under this section
25 shall include any such cost study.” These requirements have had a significant impact on

1 how cost studies and supporting documentation are presented in such a proceeding. To
2 date, the record of this case is incomplete in this important regard.

3 **Q: HOW DO THESE STANDARDS APPLY WHEN A STATE REGULATOR**
4 **ESTABLISHES PRICES FOR RECIPROCAL COMPENSATION RATHER**
5 **THAN FOR NETWORK ELEMENTS?**

6 A: The same standards apply, but rather than setting rates for all network elements the
7 Commission faces the much more limited task of establishing rates only for those
8 network elements used to terminate a local call. The functionality required is a
9 combination of local switching and transport. Importantly, the local loop and switch line
10 port – the network elements with the highest cost and whose cost development has
11 proven to be the most difficult and most controversial – are not considered in any way
12 when developing reciprocal compensation rates. In fact, the FCC has been explicit that
13 such non traffic-sensitive costs are not recoverable in the rates for reciprocal
14 compensation and are not properly included in a cost study used to support a reciprocal
15 compensation rate.²⁰

16 **Q: THE COMMISSION’S JULY 25, 2006 ORDER REQUIRES THE RLECS TO FILE**
17 **THE REQUIRED COST STUDIES AND SUPPORTING TESTIMONY BY**
18 **AUGUST 16, 2006. DID THE RLECS DO SO?**

19 A: No. Appendix C to the Commission’s Order specifically required the RLECs to “file and
20 serve TELRIC-based cost studies and written testimony in support of those cost studies,
21 on which they rely to demonstrate that their proposed reciprocal compensation rates meet
22 the pricing standards of 47 USC §252(d)(2) and the FCC’s Part 51 pricing rules.” In lieu

²⁰ *First Report & Order*, ¶ 1057.

1 of the required cost studies, the RLECs elected to present Mr. Watkins' self-styled
2 "preliminary testimony" that attempts to explain away this fundamental omission and
3 subsequent gap in the record of this case.²¹

4 **Q: THROUGHOUT HIS "PRELIMINARY TESTIMONY," MR. WATKINS**
5 **ATTEMPTS TO RATIONALIZE THE RLECS' DECISION NOT TO PRODUCE**
6 **THE REQUIRED COST STUDIES. DO ANY OF HIS VARIOUS**
7 **RATIONALIZATIONS HAVE MERIT?**

8 A: No. Setting aside the fact that it is not the purpose of this proceeding to re-write federal
9 law, each of Mr. Watkins' excuses is either based on faulty logic, is factually
10 unsupported, or is demonstrably false. His various claims are summarized below.

11 *Watkins Claim No. 1: The RLECs shouldn't be required to produce the required cost studies*
12 *because they haven't yet done the required cost studies.*

13 **Q: WHAT IS THE STATED BASIS FOR THIS CLAIM?**

14 A: Mr. Watkins argues (p. 6) that the Commission should follow what he calls a
15 "reasonable" approach (albeit one that is outside the requirements of the Act and
16 corresponding FCC rules) because the approach ordered by the Commission (notably, the
17 approach that *does* comply with applicable federal law) would require the RLECs (1) to
18 do something that they may not have done before, and (2) to do something that they
19 chose not to do in preparation for this proceeding. When attempting to portray his clients
20 as unable (or somehow legitimately unwilling) to engage in the necessary cost analysis,

²¹ Mr. Watkins' list of reasons why the required cost studies have not been produced, even if it were valid, cannot substitute for the requirement of §51.505(e)(2) that any cost analysis relied upon by the RLECs to support a proposed reciprocal compensation rate be included in the record of this proceeding.

1 Mr. Watkins completely ignores the fact that it is the RLECs who filed petitions for
2 arbitration with the Commission and who are seeking the establishment of a rate that they
3 must demonstrate does not exceed forward-looking economic cost. Surely the RLECs
4 were aware of the requirements of the Act and FCC rules (both in place for over ten
5 years) regarding the need to *demonstrate* that their proposed reciprocal compensation rate
6 does “not exceed the forward-looking economic cost per unit of providing the element.”
7 Given Mr. Watkins’ suggestion that no cost analysis has been performed by the RLECs,
8 it is possible that, even at the time that they filed their petitions for arbitration, the RLECs
9 never intended to provide to the Commission “such information as may be necessary to
10 reach a decision on the unresolved issues.”²²

11 **Q: HAS THIS COMMISSION REACHED A DECISION ON WHETHER THE RLECS**
12 **MUST CONDUCT THE REQUIRED COST STUDIES?**

13 A: Yes. While Mr. Watkins provides no citation in his testimony, the RLECs’ statement of
14 position in the Joint Issues Matrix regarding Issue 10 states in part that §251(f)(1) of the
15 Act exempts the RLECs from the §252(d) pricing requirements.

16 The Commission has previously put the RLECs on notice that such a cost study
17 exemption is not in effect. In its order in Administrative Case No. 355, the Commission
18 noted the potential for a §251(f)(1) exemption:

19 More specifically, the FCC stated that to justify a continued
20 exemption under Section 251(f)(1) of the 1996 Act after receipt of
21 a bona fide request, a LEC must offer evidence that application of
22 those requirements would likely cause undue economic burdens

²² 47 USC §252(b)(4)(B), as cited by the Commission at p. 6 of its August 18, 2006 Order.

1 beyond the economic burdens typically associated with efficient
2 competitive entry ... It is clear from the FCC order that under
3 Section 251(f)(1) or (2) of the 1996 Act, each utility asserting that
4 an exemption should continue or claiming that a suspension or
5 modification should be granted must prove that its specific claim is
6 appropriate.²³

7 **Q: DID THE COMMISSION SPECIFICALLY ADDRESS THE REQUIREMENT**
8 **FOR THE RLECS TO CONDUCT THE REQUIRED COST STUDIES PURSUANT**
9 **TO §252 AND THE FCC'S PART 51 RULES?**

10 A: Yes. The Commission noted that “rural companies generally have not been required to
11 do detailed cost studies,” and that for this reason, their “pricing of interconnection and
12 network elements will be a significant undertaking.” The Commission then explicitly
13 limited the RLECs’ exemptions and concluded that “any request to maintain an
14 exemption or to be given a suspension or modification that relies on failure to complete
15 the cost study” must contain a specific schedule for addressing the shortcoming, and that
16 “as of three years from the date of this order, the Commission will no longer consider a
17 lack of compliance” with the cost study requirement to be “an adequate basis in support
18 of petitions to maintain an exemption or to be given a suspension or modification.”

19 Three years from the date of the Commission’s Order would be September 26,
20 1999. As of the filing date of this testimony, the RLECs have been aware for over seven
21 years that they would be required to conduct the cost studies required by §251 and the
22 FCC’s Part 51 rules in order to set prices for interconnection-related functions, including

²³ Kentucky Public Service Commission, Administrative Case No. 355, Order issued September 26, 1996.

1 reciprocal compensation, and that no §251(f)(1) exemption would apply to this
2 obligation.

3 ***Watkins Claim No. 2: The RLECs shouldn't be required to produce the required cost studies***
4 ***because, at least in Mr. Watkins' view, Congress and the FCC erred by requiring them to do***
5 ***so.***

6 **Q: WHAT IS THE STATED BASIS FOR THIS CLAIM?**

7 A: Mr. Watkins suggests that, rather than requiring the RLECs to “prove that the rates for
8 each element do not exceed the forward-looking economic cost per unit of providing the
9 element” (47 CFR §51.505(e)) and to “provide such information as may be necessary for
10 the Commission to reach a decision” (47 USC §252(b)(4)(B)), the Commission should
11 instead deviate from the process used in all previous arbitrations and adopt what Mr.
12 Watkins (p. 5) considers to be an “appropriate approach” based on “the status of the
13 RTCs.”

14 In reality, there is nothing “appropriate” about Mr. Watkins' recommendation that
15 the Commission deviate from applicable federal law. As described above (and as
16 concluded by the Commission in its August 18, 2006 Order and clearly set forth by the
17 Commission as early as a September 26, 1996 Order), the RLECs are afforded no special
18 status when it comes to the §251 and §252 obligations that are at issue in this case. The
19 RLECs must interconnect (either directly or indirectly, depending on the request of the
20 other carrier) with other carriers in order for the customers of both carriers to complete
21 calls, and intercarrier compensation for the “transport and termination” of these calls is
22 limited (absent a mutual agreement for the use of an alternative approach) to the three
23 choices set forth in 47 CFR §51.705. Since the parties have been unable to agree on a

1 reciprocal compensation rate in negotiations, the RLECs must now provide the required
2 cost studies to demonstrate that their proposed rate meets all of the FCC's pricing
3 requirements.

4 ***Watkins Claim No. 3: The RLECs shouldn't be required to produce the required cost studies***
5 ***because conducting these studies would be too difficult or too expensive.***

6 **Q: WHAT IS THE STATED BASIS FOR THIS CLAIM?**

7 A: Mr. Watkins makes three arguments in support of this claim.

8 First, he characterizes all TELRIC studies as inherently complex and burdensome,
9 yet the information provided regarding his background and experience (Exhibit 1 to his
10 prefiled testimony) provides no evidence that he has ever conducted a TELRIC study or
11 otherwise has first-hand knowledge of the complexity or inherent "burden" of such an
12 undertaking.²⁴ In my experience, an analysis of the forward-looking economic costs of
13 local loop plant has proven to be quite complex, but such non traffic-sensitive costs
14 cannot be recovered through reciprocal compensation rates²⁵ and therefore cannot be a
15 part of a TELRIC study used to set reciprocal compensation rates. In direct contrast, an
16 analysis of the costs that are associated with call transport and termination is a much less
17 complex undertaking. This lower complexity is due in part to the exceptions to the
18 "efficient network configuration" requirement in the FCC's pricing rules. 47 CFR

²⁴ Mr. Watkins' curriculum vita refers to experience in jurisdictional separations and to work with the average schedule cost settlements system. Both of these processes are based directly on embedded costs that, pursuant to §51.505(d)(1), may not be considered when conducting a TELRIC study.

²⁵ 47 USC §252(d)(2)(A).

1 §51.505(b) significantly reduces the complexity of a TELRIC study of transport and
2 switching costs (the only network elements associated with reciprocal compensation)
3 because it has always limited the “efficient network configuration” requirement to reflect
4 “the existing location of the incumbent LEC’s wire centers.”²⁶ Assuming the existing
5 number and location of ILEC wire centers (and by extension, its local switching
6 arrangements) reduces much of the uncertainty and makes the required cost analysis a
7 much more straight-forward exercise.

8 Second, Mr. Watkins argues that the use of the TELRIC studies required by the
9 FCC rules inherently leads to “protracted litigation,” and even goes on to declare that
10 “the pursuit of TELRIC studies here would appear to be nothing more than a path to
11 incessant and contentious proceedings.” This is an awfully strong statement given Mr.
12 Watkins’ limited experience litigating TELRIC issues. Fortunately, the prospects are not
13 nearly so bleak as Mr. Watkins would have the Commission believe. While it is certainly
14 true that it has taken time to litigate the cases in which rates for all UNEs have been at
15 issue, in my experience the vast majority of the time and resources expended in such
16 cases (including those here in Kentucky) have been related to disputes regarding local
17 loop-related costs (the non traffic-sensitive costs that have no impact on a reciprocal
18 compensation rate whatsoever). While it is certainly possible that lengthy litigation could

²⁶ 47 CFR §51.505(b)(i) – the “efficient network configuration” rule – was vacated on July 18, 2000. This simplified the calculation of TELRIC for loop-related elements and retained the much-reduced complexity associated with the calculation of transport and termination costs (i.e. those costs used to develop reciprocal compensation rates).

1 occur if the RLECs were to take an overly aggressive approach when conducting their
2 TELRIC studies, in most cases it is reasonable to expect that if the network elements at
3 issue are limited to call transport and termination (as they are in this case), both the
4 TELRIC studies and the arbitrations in which they are presented will be far less complex
5 and time consuming than a full-blown UNE proceeding.

6 Third, Mr. Watkins makes (p. 12), but does not document, a claim that RLECs
7 would have to spend tens or even hundreds of thousands of dollars in order to conduct the
8 required TELRIC studies. His estimates appear extreme given the fact that such a study
9 would be limited to a very small set of network functions (and the fact that, according to
10 the FCC rules, much of the uncertainty regarding the configuration of these elements has
11 been eliminated). Unfortunately, Mr. Watkins does not indicate what set of tasks the
12 unnamed “available consultants” were actually asked to bid on.²⁷

13 **Q: IS MR. WATKINS’ TESTIMONY SUPPORTED BY THE RLECS’ RESPONSES**
14 **TO THE CMRS PROVIDERS’ INFORMATION REQUESTS?**

15 **A:** No. While Mr. Watkins claims that quotes were solicited, none of the RLECs have
16 apparently had such communications with any consultants. CMRS Providers’
17 Information Request No. 1.31 sought documentation of each RLEC’s “recent inquiries of

²⁷ One clue to the origin of the excessive cost claims appears at p. 12 of Mr. Watkins’ testimony. He refers to the limited availability of “a finite set of outside experts that typically assist these companies.” Given the fact that, as Mr. Watkins claims throughout his testimony, RLECs (and by extension, the consultants that “typically assist these companies”) have little experience conducting forward-looking economic cost studies, such a solicitation of bids – if actually made – could have been to a group of consultants who are possibly the least experienced and therefore least efficient providers in the market.

1 available consultants” referenced by Mr. Watkins. Each RLEC responded that it had in
2 fact “made no such inquiries.”

3 ***Watkins Claim No. 4: The RLECs shouldn’t be required to produce the required cost studies***
4 ***because the FCC now doubts its previous orders regarding the use of TELRIC.***

5 **Q: WHAT IS THE STATED BASIS FOR THIS CLAIM?**

6 A: Mr. Watkins claims (p. 5) that there exists in the industry an “evolving policy
7 recognition” that the use of TELRIC studies should “be abandoned.” While such
8 abandonment may be on the ILEC wish list, I am aware of nothing approaching any kind
9 of broader “policy recognition” that basing intercarrier compensation on a calculation of
10 forward-looking economic costs is anything short of essential.

11 Mr. Watkins goes on to assert that the FCC now doubts “the efficacy of the
12 TELRIC study approach.” His only stated basis for this claim is the fact that in 2003 the
13 FCC initiated a Notice of Proposed Rulemaking (“NPRM”) in order to begin a review of
14 its UNE pricing rules.²⁸ But as the FCC points out (right up front in ¶1) in the NPRM,
15 such a review was fully contemplated when the FCC initially adopted its pricing rules in
16 1996. Conducting a previously-scheduled review is hardly evidence of an “evolving
17 policy recognition” of anything.

18 A review of the NPRM makes it clear that the FCC in no way now “doubts the
19 efficacy” of forward-looking economic costs or of the fundamental principles set forth in
20 its TELRIC rules, but instead is focused on ensuring that proper investment signals are

²⁸ *Notice of Proposed Rulemaking*, FCC 03-224, released September 5, 2003.

1 sent to the marketplace and on streamlining the process for cases in which rates for
2 thousands of UNEs are being determined. In this case, neither of the FCC's stated
3 concerns apply. Unlike a case in which the rates for UNE loops are being set, there is no
4 question here of whether the rates being established will improperly encourage or
5 discourage carriers regarding their network investments: CMRS providers have invested
6 in their own networks, as have the RLECs. The questions at issue in this case relate
7 specifically to the interconnection of those networks and to the compensation for the
8 transport and termination of calls. Likewise, there is no likelihood that the development
9 of reciprocal compensation rates based on the currently-applicable federal rules will
10 require years to complete. Mr. Watkins' citation from the NPRM (at p. 10) is telling; he
11 refers to the FCC's desire to streamline the application of TELRIC in cases that are
12 "extremely complex, as state commission must make dozens of detailed decisions
13 regarding the calculation of the forward-looking cost of *building a local*
14 *telecommunications network*" (emphasis added). Of course, no such task is before the
15 Commission in this case; instead, the issue is limited to the cost of the relatively small set
16 of network functions (terminating switching and transport) needed to complete a local
17 call. Notably absent from this case is the need to develop costs for a complete "local
18 telecommunications network," and the network elements whose costs have consistently
19 proven to be the most controversial (and whose development has consumed the vast
20 majority of the resources expended in the kind of UNE pricing cases being described by
21 the FCC) are explicitly *excluded from consideration* in this case.

1 Finally, a suggestion that the FCC feels some urgency to act as a result of any
2 newfound angst regarding its UNE pricing rules is undermined by the fact that while the
3 FCC received comments on the NPRM 22 months ago (and reply comments 20 months
4 ago), it has yet to change a single pricing rule, including the rules that set forth the
5 TELRIC methodology. In the end, Mr. Watkins makes it clear that the RLECs don't
6 want to perform the required cost studies, but their refusal to calculate costs pursuant to
7 the applicable federal law cannot be justified by a prediction (founded or unfounded) that
8 a fundamental change to these requirements is imminent.

9 ***Watkins Claim No. 5: The RLECs shouldn't be required to produce the required cost studies***
10 ***because TELRIC-based rates would likely be higher than the proposed rate.***

11 **Q: WHAT IS THE STATED BASIS FOR THIS CLAIM?**

12 A: At pp. 13-14, Mr. Watkins argues that rates based on forward-looking economic costs
13 (that is, the costs of an efficient carrier serving the territory of a given RLEC) would be
14 *higher* than rates based on embedded costs (that is, the embedded costs on the books of
15 the RLECs or an average of embedded costs among average-schedule RLECs).²⁹
16 Considering only the cost side of the equation, such a scenario is clearly impossible: a
17 carrier cannot be more than optimally efficient.

18 My understanding of Mr. Watkins' testimony is that his assertion that a TELRIC-
19 based rate would be higher than the RLECs' proposed rate is premised on an assumption

²⁹ Of course, Mr. Watkins can only speculate about which measure of cost would lead to higher rates, and his speculation cannot be tested, because the RLECs did not produce the cost studies required by federal law and ordered by the Commission in its July 25, 2006 Order.

1 about cost recovery (rather than the levels of embedded versus economic costs). He
2 explains that the RLEC rate proposal, which he asserts (but does not demonstrate) is
3 based on interstate access charges, is designed to recover “a less than total amount of
4 actual network cost.” The reason, Mr. Watkins explains, is that the total embedded costs
5 “considered for interstate access rate development for the switching component” are
6 actually recovered through two sources of revenue: interstate access charges and
7 “universal service fund distributions.” My understanding of the rate development process
8 for the RLECs’ interstate access charges is consistent with that of Mr. Watkins.

9 Unfortunatly, Mr. Watkins’ understanding of how the Commission can ensure
10 that, with regard to reciprocal compensation, “the rates for each element do not exceed
11 the forward-looking economic cost per unit of providing the element” (47 CFR
12 51.505(e)) is fundamentally incorrect. He states (p. 14) that “a forward-looking,
13 economic approach to rate-setting considers the full economic cost of representative
14 networks used to transport and terminate traffic and, in so doing, considers the entire cost
15 of such networks, without downward adjustment for universal service [funding].” It is
16 for this reason that Mr. Watkins believes that “TELRIC costing methods would likely
17 yield a greater amount of cost for switching functions than does the equivalent process
18 for interstate access.”

19 When reaching this conclusion, Mr. Watkins has confused the separate processes
20 of calculating costs and recovering costs (that is, of developing an appropriate rate level
21 and design that will permit recovery, but not an over-recovery, of those costs). If a rate is
22 to be developed that will permit the recovery of a carrier’s costs (yet not permit an over-

1 recovery), there are three essential steps that must be followed regardless of the costing
2 methodology used:

- 3 1. Calculate the cost to perform the function in question, based
4 on the required costing methodology,
- 5 2. Identify other sources of revenue whose purpose is to permit
6 the recovery of a portion of the costs incurred to perform the
7 function in question,
- 8 3. Calculate “cost-based” rates based on the unrecovered
9 portion of the calculated costs of that function.

10 For example, if a carrier incurs a cost of \$1.00 per unit to perform a given
11 function, and receives no other revenue that is earmarked for the recovery of that
12 function’s cost, then the cost-based rate that will ensure that “the rates for each element
13 do not exceed the ... cost per unit of providing the element” is \$1.00. Costs = \$1.00, and
14 revenues = \$1.00. If, however, the carrier receives \$0.50 per unit of revenue from
15 another source (earmarked for the recovery of costs associated with the element in
16 question), then the cost-based rate that will ensure that “the rates for each element do not
17 exceed the ... cost per unit of providing the element” is \$0.50. Costs = \$1.00, and
18 revenues = $(\$0.050 + \$0.050) = \$1.00$. This revenue = cost approach contrasts with Mr.
19 Watkins’ view of cost-based rates, in which the RLEC (in this example) would incur
20 \$1.00 in cost, yet set its rates so that it recovers \$1.50 in revenue.

21 This recognition of other sources of revenue (particularly when the additional
22 revenue is received for the express purpose of recovering a portion of the cost of the
23 function at issue) is a fundamental element of rate design and does not depend in any way
24 on the methodology used to calculate the underlying cost.

1 **Q: HAS THE FCC REQUIRED THE CONSIDERATION OF OTHER SOURCES OF**
2 **REVENUE WHEN ESTABLISHING COST-BASED RATES PURSUANT TO THE**
3 **REQUIREMENTS OF THE 1996 ACT?**

4 A: Yes. A simple example is the treatment of the Subscriber Line Charge (“SLC”); the
5 monthly per-line charge that is assessed to end users and whose purpose is to permit the
6 recovery of a portion of the cost of the local loop. If an ILEC were permitted to establish
7 a monthly rate for a UNE unbundled loop that is equal to TELRIC *and* to continue to
8 collect the SLC, it would clearly over-recover its costs. Mathematically, there are two
9 solutions to this over-recovery problem: the UNE rates can be set at a level equal to
10 TELRIC minus SLC, or the carrier purchasing the UNE loop can be permitted to collect
11 the SLC from the end user (while the ILEC is prevented from doing so). Either approach
12 would limit the monthly revenue received by the ILEC to an amount equal to TELRIC.
13 In this example, the FCC solved the over-recovery problem by permitting the carrier that
14 purchases the UNE loop from the ILEC to collect the SLC from the end user. The UNE
15 loop rate was set at 100% of TELRIC because the additional source of revenue to the
16 ILEC had been eliminated.

17 The FCC faced a similar problem of cost over-recovery when establishing rates
18 for Payphone Access Lines (“PALs”). The FCC concluded, based on the requirements of
19 §276 of the Act, that the rate for PALs must be cost-based.³⁰ The FCC explicitly

³⁰ See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 20,541 (1996) (“*Report and Order*”); *Order on Reconsideration*, 11 FCC Rcd 21,233 (1996) (“*Order on Reconsideration*”); *Order*, 12 FCC Rcd 20,997 (Comm. Car. Bur. 1997) (“*Bureau Waiver Order*”); *Order*, 12 FCC Rcd 21,370

1 recognized that when establishing a “cost-based” rate, all relevant sources of revenue
2 must be considered: “In order to avoid double recovery of costs, therefore, the LEC must
3 demonstrate that in setting its payphone rates it has taken into account other sources of
4 revenue (e.g., SLC/EUCL) that are used to recover the costs of the facilities involved.”³¹

5 The FCC went on to conclude that the ILEC

6 may not charge more for payphone line service than is necessary to
7 recover from [payphone service providers] all monthly recurring
8 direct and overhead costs incurred by [ILECs] in providing
9 payphone lines. The forward-looking cost studies used to make
10 these determinations are usually calculations of total costs, not
11 jurisdictionally separated costs. If an incumbent [ILEC] files in its
12 state tariff a charge that fully recovers these unseparated costs and
13 also assesses on the [payphone service provider] its federally
14 tariffed SLC, the [ILEC] will over-recover its costs, and the
15 [payphone service provider] will over-pay, in violation of ... the
16 cost-based rates requirement of the *Payphone Orders*.³²

17 In order to avoid an over-recovery of cost, the FCC required the ILEC to reflect
18 the additional source of revenue by reducing the monthly rate by that amount (i.e., the
19 monthly rate was set at a level equal to “cost minus other revenue”): “in establishing its

(Comm. Car. Bur. 1997) (“*Second Bureau Waiver Order*”), (Collectively, the “*Payphone Orders*”). The FCC standard is set forth in the Bureau Waiver Order (at ¶35): “LECs must have effective state tariffs that comply with the requirements” set forth for these rates and “these requirements are: that payphone services state tariffs must be cost based, consistent with section 276, nondiscriminatory, and consistent with Computer III tariffing guidelines.”

³¹ In the Matter of Wisconsin Public Service Commission: Order Directing Filings, 15 FCC Rcd 9978 (Comm. Car. Bur. 2000) (“*First Wisconsin Order*”), ¶ 12.

³² Memorandum Opinion and Order, 17 FCC 2051 (2002) (“*Second Wisconsin Order*”), ¶¶ 60-61. I have replaced some of the acronyms used by the FCC in this passage to make it more readable, but have made no changes to the remainder of the text or to the meaning of the section.

1 cost-based, state-tariffed charge for payphone line service, the [ILEC] must reduce the
2 monthly per line charge ... by the amount of the applicable federally tariffed SLC.”

3 This need to account for other sources of revenue in order to avoid an over-
4 recovery of cost is not new, and the FCC has addressed this issue in different ways. In
5 some cases it has eliminated the additional source of revenue, and in others it has reduced
6 the level of the cost-based rate by the amount of additional revenue so that costs are
7 recovered once, but only once, by the ILEC.

8 **Q: WOULD THE SAME RATE-DESIGN PRINCIPLE APPLY IN THIS**
9 **PROCEEDING?**

10 A: Yes. Reciprocal compensation rates should be established that will permit the RLECs to
11 recover their switching costs, but to do so only once. As Mr. Watkins explains in his
12 testimony, interstate access charges are set in exactly this manner: the amount of cost to
13 be recovered is reduced by the amount of the additional source of revenue (universal
14 service support) and per-unit access charges are then established to recover the remaining
15 cost. Mr. Watkins offers no explanation to support his conclusion that this fundamental
16 principle of rate design should not be applied when developing reciprocal compensation
17 rates (and when ensuring that “the rates for each element do not exceed the forward-
18 looking economic cost per unit of providing the element”).

19 If the basic rate design principles described by Mr. Watkins at p. 14 of his
20 testimony are consistently applied – as the FCC has done – then Mr. Watkins’ conclusion
21 that TELRIC-based rates for reciprocal compensation will be higher than rates based on
22 embedded costs becomes an impossibility. Of course, even if it were theoretically

1 possible, Mr. Watkins' claim still cannot be subjected to factual scrutiny because the
2 RLECs did not produce the required cost studies as ordered by the Commission.

3 ***Watkins Claim No. 6: The RLECs shouldn't be required to produce the required cost studies***
4 ***because the proposed reciprocal compensation rate is approximately equal to their interstate***
5 ***switched access charges.***

6 **Q: WHAT IS THE STATED BASIS FOR THIS CLAIM?**

7 A: Mr. Watkins states (p. 6) his understanding that "the proposed composite 1.5 cent per
8 minute of use rate for the functions of transport and termination is comparable to the
9 combined RTC's interstate access rates for these functions." There are two basic
10 problems with this statement.

11 First, as explained above, any correlation that might exist between an RLEC's
12 interstate switched access rates and a proposed rate for reciprocal compensation is simply
13 not relevant. As Mr. Watkins explains in his testimony, interstate access rates are based
14 on a jurisdictional allocation of embedded costs, and may include an amount for the
15 recovery of costs that are unrelated to the incremental usage-sensitive cost to transport
16 and terminate a local call. Mr. Watkins notes (p. 6) that the RLECs' interstate access
17 charges have been reduced over the past few years, but he offers no demonstration that
18 such rates meet the pricing requirements set forth in §252 and in the FCC's Part 51 rules.
19 Equally importantly, the access rates of each of the RLECs that concur in the NECA
20 Tariff No. 5 (that is, all of the RLECs except South Central), are not based on the costs of
21 that company, but instead are based on a broad industry average. Any ILEC's cost-based
22 rates developed pursuant to §252 must be developed using the ILEC's own costs.
23 Interstate access charges fail to meet even this most basic requirement.

1 Second, even if this apples-to-oranges comparison is to take place, Mr. Watkins
2 has not provided a basket of either apples or oranges to evaluate. Interstate access
3 charges do not consist of a single composite rate, but instead are composed of a number
4 of separate rate elements. While Mr. Watkins states that he has considered interstate
5 access rates “for the same transport and termination network functions” as are used to
6 complete a local call, at no time does he provide a listing of the rate elements that he has
7 considered or the quantities of each rate element that he has assumed to be included.
8 This omission is critical. The network functions used for the transport and termination of
9 a local call (whose costs are to be recovered through a reciprocal compensation rate) vary
10 depending on the both (1) the type of interconnection between the CMRS provider and
11 the RLEC (direct or indirect), (2) the location of the points of interconnection (“POIs”),
12 and (3) the network characteristics of the RLEC (including the type and location of its
13 switches, any host-remote switching arrangements, and transport distances involved).

14 **Q: ARE THE NETWORK FUNCTIONS USED TO TERMINATE AN ACCESS CALL**
15 **THE SAME AS THE NETWORK FUNCTIONS USED TO TERMINATE A**
16 **LOCAL CALL?**

17 **A:** Sometimes, but not always. For a long distance call to which access charges apply, the
18 Interexchange Carrier (“IXC”) delivers the call to a designated Point of Presence (or
19 “POP”) on the ILEC network. The ILEC incurs the cost to transport the call to the switch
20 that serves the called party and the cost of conducting the terminating switching. As
21 compensation, the ILEC receives interstate access charges based on the functions
22 performed and the applicable access rate elements. For a local call, the originating carrier
23 delivers the call to a designated Point of Interconnection that may or may not be (and

1 often is not) in the same location as the IXC's POP. The ILEC then performs the
2 combination of network functions needed to transport and terminate this call. As
3 compensation, the ILEC receives an amount of reciprocal compensation based on the
4 functions performed.

5 Using some combination of interstate access charge rate elements as a proxy for
6 an appropriate reciprocal compensation rate – as Mr. Watkins recommends – is
7 problematic for two basic reasons. First, the standards for setting the rates for the various
8 rate elements are completely different: interstate access charges are based on a measure
9 of embedded costs, while reciprocal compensation rates must be based on a measure of
10 forward-looking economic costs (in whose calculation embedded costs may not,
11 according to the FCC rules, be considered). For this reason, a lawful access rate may be
12 very different than the reciprocal compensation rate for a comparable network function.
13 Second, because the functions performed by an ILEC when completing a call delivered
14 by an IXC may be very different than the functions performed by the ILEC when
15 competing a local call, the appropriate combination of rate elements may be very
16 different. In the end, the individual rates are unlikely to match, and the combination of
17 rates that must be added together to create a “composite” (like the RLECs’ 1.5 cent per
18 MOU proposal) is likely to be different.

19 **Q: SETTING ASIDE FOR A MINUTE THE ISSUE OF THE DIFFERENT PRICING**
20 **STANDARDS FOR ACCESS AND RECIPROCAL COMPENSATION, DO YOU**
21 **HAVE THE INFORMATION NECESSARY TO TEST MR. WATKINS’ CLAIM**
22 **THAT THE CORRECT COMBINATION OF THE RLECS’ ACCESS RATE**
23 **ELEMENTS WOULD YIELD A COMPOSITE RATE OF APPROXIMATELY 1.5**
24 **CENTS PER MOU?**

1 A: No. In order to fill in the missing information and test Mr. Watkins' assertion that the
2 RLECs' interstate access rates – when combined with information regarding the type of
3 interconnection, location of POI, and network arrangements of the RLECs using to
4 complete local calls – would yield a composite rate that is “comparable”³³ to the RLECs'
5 proposed reciprocal compensation rate of 1.5 cents per MOU, the CMRS Providers
6 requested more details in discovery. To this end, Information Request No. 1.34 sought “a
7 listing and complete description of all network functionalities or elements that comprise
8 ‘transport and termination’ as that term is used in Mr. Watkins’ testimony,” and “if
9 ‘transport and termination can be comprised of more than one possible combination of
10 network functionalities or elements, provide a description of all such combinations.”
11 Having this information for each RLEC, in conjunction with that RLEC’s interstate
12 access rates for each element, would have permitted the CMRS Providers to test whether
13 Mr. Watkins’ claim. Mr. Watkins must have this information in his possession,
14 otherwise he would have been unable to reach the conclusions set forth at p. 6 of his
15 testimony.

16 The RLECs refused to provide the requested information, but instead simply
17 replied that “Mr. Watkins’ usage of the terminology in his testimony is consistent with
18 typical industry usage.” Unfortunately, the essential question is not related to how people

³³ Of course, any two values, whether close or far apart in magnitude, are technically “comparable” (i.e. they can be compared to one another), so Mr. Watkins’ statement has very little meaning unless accompanied by actual numbers. The RLECs have provided no such information.

1 in the industry typically use the terms “transport” and “termination” – I had assumed that
2 Mr. Watkins intended the normal industry usage of these terms – but instead depends on
3 the details of the RLECs’ network arrangements, the location of the POIs, and the form
4 of interconnection assumed by Mr. Watkins when conducting his analysis. In the end, he
5 has made a broad claim that the weight of the baskets is “comparable,” but has not
6 identified the type and number of apples in the apple basket, the type and number of
7 oranges in the orange basket, whether each basket contains the same number of pieces of
8 fruit, and – ultimately most importantly – why it is meaningful to compare these baskets
9 of apples and oranges in the first place.

10 ***Watkins Claim No. 7: The RLECs shouldn’t be required to produce the required cost studies***
11 ***because the proposed Missoula Plan would permit the RLECs to impose their proposed rate on***
12 ***CMRS providers.***

13 **Q: WHAT IS THE STATED BASIS FOR THIS CLAIM?**

14 A: Mr. Watkins argues (pp. 14-15) that the recently-proposed “Missoula Plan” supports his
15 proposal to abandon the requirements of §252 of the Act and the FCC’s Part 51 rules and
16 simply adopt a rate that he claims to be “comparable” to the RLECs’ interstate access
17 rates. Mr. Watkins’ recommendation cannot be adopted for several reasons.

18 First, the “Missoula Plan” is simply a proposal at this point. The FCC has sought
19 comment on this set of proposals, but has recently extended the comment period by
20 another 30 days because of the “extensive nature of the Missoula Plan and the complexity

1 of the proposals contained therein.”³⁴ Even if the FCC ultimately concludes the comment
2 cycle in December as planned, there is absolutely no way to know when it will make a
3 decision regarding these extensive and complex proposals and certainly no way to know
4 what revisions to the current proposals will ultimately be made (assuming the FCC
5 ultimately adopts some version of the Missoula Plan, something that it is not required to
6 do).

7 Second, it appears that Mr. Watkins’ has misstated the provision of the plan on
8 which his testimony relies. He argues (p. 14) that under the terms of the Missoula Plan,
9 “rural carriers such as the RTCs would be permitted to utilize their interstate access rates
10 as the rates for transport and termination for purposes of reciprocal compensation for
11 local interconnection.” Unfortunately, Mr. Watkins provides no citation or other
12 reference to the section of the Missoula Plan that might contain such a provision. I have
13 searched the text of the plan carefully, and it appears that the provision to which Mr.
14 Watkins refers in his testimony actually says something quite different. §II.B.3.b of the
15 Missoula Plan sets forth the manner by which reciprocal compensation rates for Track 3
16 carriers would be determined. I can find no language that would permit the RLECs to
17 decide to “utilize their interstate access rates as the rates for transport and termination for
18 purposes of reciprocal compensation.” Instead, the RLECs’ interstate access charges will
19 serve as a *cap* for reciprocal compensation rates. If an existing interconnection

³⁴ Order, DA 06-1730, released August 29, 2006, ¶ 2.

1 agreement has a reciprocal compensation rate that is higher than the interstate access rate,
2 the reciprocal compensation will be reduced to the level of the interstate access rate
3 (§II.B.3.b.ii.1). When an existing interconnection agreement expires, the RLEC must
4 begin to assess a reciprocal compensation rates equal to the *lower* of its interstate access
5 rate or the previous reciprocal compensation rate (§II.B.3.b.ii.2). If an existing
6 interconnection agreement includes a “bill and keep” provision (and if that provision was
7 ordered through arbitration rather than negotiated), the effective reciprocal compensation
8 rate would be set at the *lower* of the RLECs’ interstate access rate or a cost-based
9 reciprocal compensation rate approved by the state regulator (§II.B.3.b.ii.3).³⁵

10 I can find no language in the Missoula Plan (and Mr. Watkins has cited to no such
11 language) that would permit an RLEC to unilaterally set a reciprocal compensation rate
12 equal to its interstate access rates and no provision that would require a state regulator to
13 do so. Instead, the plan appears to rely on interstate access charges to establish a cap on
14 reciprocal compensation rates. If there is any practical use of the proposed Missoula Plan
15 at this point, it would be for the Commission to ensure that any reciprocal compensation
16 rate that is adopted is *lower* than the interstate access rates for the same network
17 functions. Unfortunately, even this limited use is impossible because the RLECs have
18 refused to identify the interstate access rate elements (and the quantity of each of those

³⁵ In this final scenario, the applicable cap could be lower than the RLEC’s interstate access charges.

1 elements) that they believe would represent the same network functions as those to be
2 recovered through reciprocal compensation.

3 Finally, the language cited by Mr. Watkins underscores why his proposal cannot
4 be adopted in this proceeding. At p. 15 of his testimony, he cites to language from a
5 footnote in the “Legal Justification” document that accompanies the Missoula Plan. The
6 cited language states in part that the FCC could “*modify* its rules implementing sections
7 251(b)(5) and 252(d)(2)” so that a state regulator may “choose to rely on the track 3
8 carrier’s interstate access rate” (emphasis added). As an initial matter, it is the state
9 regulator and not (as Mr. Watkins claims) the RLEC that can make such a choice, but the
10 use of the RLEC’s interstate access rates remains completely optional. Equally
11 importantly, the language cited by Mr. Watkins makes it clear that the FCC would need
12 to *modify* its “rules implementing sections 251(b)(5) and 252(d)(2)” before state
13 regulators would have such an option. At least in the option of the authors of the
14 Missoula Plan’s legal justification, the Commission could not adopt the RLECs’ 1.5 cent
15 per MOU proposal for reciprocal compensation (or accept its basis as being
16 “comparable” to interstate access charges) under existing federal law.³⁶

³⁶ This would be true even if the RLECs had produced for the record a demonstration that when their interstate access rate elements are applied in the quantity needed to perform the network functions associated with the transport and termination of local calls, the total per-MOU charge would approximate 1.5 cents per MOU.

September 29, 2006

1 **Issue 11: If the RLECs fail to demonstrate rates that meet the requirements of 47 USC**
2 **§252(d)(2)(A) and the FCC's Regulations, what rate should the Commission establish for**
3 **each RLEC?**

4 **Q: SHOULD THE COMMISSION DELAY THE RESOLUTION OF THIS ISSUE IN**
5 **ORDER TO GIVE THE RLECS EVEN MORE TIME TO CONDUCT THE**
6 **REQUIRED COST STUDIES?**

7 A: No. Having known for ten years that such studies would be required, and having known
8 for seven years that no §251(f)(1) exemption applied, the RLECs nevertheless failed to
9 comply with the Commission's July 26, 2006 Order to produce these studies on August
10 16. The RLECs should not now be rewarded with an extension of time to do the work
11 that should have done long before now.

12 If a 1.5 cent per MOU rate is established as an initial rate until the RLECs finally
13 meet their obligations under the Act, FCC rules, and this Commission's orders, the
14 RLECs will have little incentive to compete the studies in a timely manner. In effect,
15 their continued intransigence will have been rewarded with a rate that is higher than they
16 could have obtained in this proceeding if they had met their obligations and complied
17 with the Commission's July 26 Order. While the resolution of this issue is made much
18 more difficult by the failure of the RLECs to produce the required cost studies, the
19 Commission should proceed, based on the available information, to establish a rate that
20 will apply for the term of the interconnection agreements between the CMRS providers
21 and the RLECs.

22 **Q: SINCE SEVEN YEARS' ADVANCE NOTICE WAS NOT ENOUGH FOR THE**
23 **RLECS TO COMPLY WITH THE COMMISSION'S ORDER TO PRODUCE THE**
24 **REQUIRED TELRIC STUDIES ON AUGUST 16, HOW SHOULD THE**
25 **COMMISSION PROCEED WITHOUT THIS INFORMATION?**

1 A: As the Commission noted in its August 18, 2006 Order (p. 6), 47 USC §252(b)(4)(B)
2 states:

3 If any party refuses or fails unreasonably to respond on a timely
4 basis to any reasonable request from the State commission, then
5 the State commission may proceed on the basis of the best
6 information available to it from whatever source derived.

7 **Q: IS IT REASONABLE TO CONCLUDE THAT THE RLECS HAVE EITHER**
8 **REFUSED OR FAILED TO RESPOND ON A TIMELY BASIS TO THE**
9 **COMMISSION’S REQUEST FOR THE REQUIRED COST INFORMATION?**

10 A: Yes. The applicable FCC rules have been in place for over ten years, the Commission’s
11 order stating that no §251(f)(1) exemption would apply was released over seven years
12 ago, the RLECs certainly knew of these requirements at the time they filed their petitions
13 for arbitration, and the schedule adopted by the Commission in its July 25 Order was
14 reasonable. It is imminently reasonable to conclude that the RLECs have failed to
15 respond on a timely basis.

16 **Q: HAVING FAILED TO COMPLY WITH THE COMMISSION’S ORDER TO**
17 **PRODUCE THE REQUIRED COST STUDIES, HAVE THE RLECS PROVIDED**
18 **ANY OTHER INFORMATION TO THE COMMISSION THAT COULD BE USED**
19 **TO ESTABLISH A RECIPROCAL COMPENSATION RATE?**

20 A: No. The only information produced by the RLECs is a statement by Mr. Watkins that
21 some unspecified combination of the RLECs’ interstate access rate elements sums to
22 approximately 1.5 cents per minute.

23 As set forth in more detail above, Mr. Watkins’ undocumented claim *cannot*
24 represent the “best information available” for several reasons, including but not
25 necessarily limited to the following:

- 26 1. The RLECs’ interstate access rates are not based on a
27 measure of forward-looking economic cost as required by

- 1 §252 of the Act and the FCC's Part 51 rules (an "it's the
2 wrong methodology" problem),
- 3 2. 47 CFR §51.505 prohibits the use of embedded costs or rates
4 that include revenue to subsidize other services when
5 establishing rates for reciprocal compensation, and the use
6 of interstate access rates would violate each of these
7 prohibitions (a "the FCC says you can't do it that way"
8 problem).
- 9 3. For each of the RLECs that concur in NECA Tariff No. 5
10 (i.e. all but South Central Rural Telephone Cooperative), the
11 rates for the various interstate access rate elements are not
12 based on any measure of cost for that company, but is
13 instead based on costs that have been averaged across
14 companies (a "not actually based on the costs of the RLEC,
15 calculated according to any methodology" problem),
- 16 4. The RLECs have not shown that any combination of the
17 interstate access rate elements that might correspond to the
18 functions performed by an RLEC to "transport and
19 terminate" a local call sums to an amount that is
20 approximately 1.5 cents per MOU, and have certainly not
21 *demonstrated* that their proposed rate is based on "a
22 reasonable approximation of the additional costs of
23 terminating such calls" (a "no one knows what's in there"
24 problem),
- 25 5. When requested in discovery to provide a listing of the
26 interstate access rate elements included in the 1.5 cent per
27 MOU approximation, the RLECs refused to provide this
28 information, refusing a direct request to demonstrate that
29 their proposed rate is "a reasonable approximation of the
30 additional costs of terminating such calls" (a "we're not
31 telling you what's in there" problem).

32 **Q: WHAT INFORMATION CAN THE COMMISSION RELY ON TO ESTABLISH**
33 **RATES FOR RECIPROCAL COMPENSATION?**

34 A: Since the RLECs have not provided information that the Commission can use to establish
35 a reciprocal compensation rate, it is reasonable to review the FCC rules regarding this
36 task. §51.705(a) states

1 An incumbent LEC's rates for transport and termination of
2 telecommunications traffic shall be established, at the election of
3 the state commission, on the basis of:

4 (1) The forward-looking economic costs of such
5 offerings, using a cost study pursuant to Sec. 51.505 and 51.511;

6 (2) Default proxies, as provided in Sec. 51.707; or

7 (3) A bill-and-keep arrangement, as provided in Sec.
8 51.713.

9 The use of ILEC-provided TELRIC studies per §51.705(a)(1) is not an option as
10 the RLECs either refused to provide these studies or failed to provide them on a timely
11 basis. The adoption of a bill and keep arrangement per §51.705(a)(3) remains an option
12 that the Commission should consider. If the Commission decides not to order bill and
13 keep, it can also consider the FCC's proxy rates per §51.705(a)(2). These rates are based
14 on the FCC's approximation, based on the best information available to it, of the forward-
15 looking economic cost to perform various network functions. By combining the rates for
16 the network functions whose costs are recovered through reciprocal compensation, the
17 Commission can develop a rate that is based on "a reasonable approximation of the
18 additional costs of terminating such calls," as required by §252(d)(2)(A)(ii) of the Act.

19 **Q: THE FCC'S PROXY RATES REFERENCED IN §51.705 ARE CONTAINED IN**
20 **§51.513. §51.513 WAS VACATED BY THE EIGHTH CIRCUIT COURT OF**
21 **APPEALS IN 2000. DOES THIS PRECLUDE THE COMMISSION'S USE OF**
22 **THESE RATES?**

23 **A:** No. As I understand it, the basis for the Court's decision was that the FCC did not have
24 the authority to *require* state regulators to use the rates contained in §51.513. The Court
25 specifically concluded that the FCC did not have the authority to "deprive state
26 commissions of their role in implementing the Act" by making the use of the proxy rates

1 mandatory, because “setting specific prices goes beyond the FCC’s authority to design a
2 pricing methodology and intrudes on the states’ rights to set actual rates pursuant to
3 §252(c)(2).”³⁷

4 **Q: WOULD A DECISION BY THE COMMISSION TO USE §51.513 AS A SOURCE**
5 **OF INFORMATION IN THIS CASE DEPRIVE THE COMMISSION OF ITS**
6 **ROLE IN SETTING THE RECIPROCAL COMPENSATION RATE?**

7 A: No. I would argue that the event that has come closest to intruding on this Commission’s
8 “right to set actual rates pursuant to §252(c)(2)” was the RLECs’ refusal to provide the
9 required cost information on a timely basis. I am not suggesting that the FCC’s rule
10 *requiring* the use of the §51.513 proxy rates is currently in effect (as it is not), but I do
11 believe that the rates contained in that section for the functions associated with reciprocal
12 compensation represent a source of information, and almost certainly the *best* source of
13 information, for the Commission to use – not because it is required to do so, but rather
14 because it chooses to do so – to set a rate in these arbitrations.

15 **Q: THE COURT ALSO CONCLUDED THAT PROXY PRICES THAT “RELY ON**
16 **THE HYPOTHETICAL MOST EFFICIENT CARRIER RATIONALE” OR THAT**
17 **“RELY ON THE ERRONEOUS DEFINITION OF “AVOIDED RETAIL COSTS”**
18 **ARE “ALSO INFIRM.” DOES THIS CONCLUSION IMPACT THE USE OF THE**
19 **PROXY RATES NEEDED TO DEVELOP A RATE FOR RECIPROCAL**
20 **COMPENSATION?**

21 A: Fortunately, the answer is no regarding both concerns.

22 In order to develop a rate for reciprocal compensation, it is necessary to consider
23 the costs of transport and local switching. In direct contrast to the proxy rates developed

³⁷ *Iowa Utilities Board v. FCC*, 219 F.3d, 8th Cir. 2000, pp. 19-20.

1 for local loops, the FCC’s proxy rates for local switching were based on best available
2 information (much of it provided by state regulators and their staffs) and was not
3 impacted by the “hypothetical most efficient carrier rationale” addressed by the Court.³⁸
4 Similarly, the FCC’s method for calculating a proxy rate for common transport (set forth
5 in §51.513(c)(4)) is not impacted by the “hypothetical most efficient carrier rationale.”

6 The “erroneous definition of avoided retail costs” referenced by the Court also has
7 no impact of the development of a reciprocal compensation rate. The calculation of
8 avoided retail costs is made when developing a discount to be applied when services are
9 resold; the rates for the network functions associated with reciprocal compensation are
10 not affected.

11 **Q: WHAT PROXY RATES DID THE FCC ADOPT IN §51.513 FOR LOCAL**
12 **SWITCHING AND COMMON TRANSPORT?**

13 A: §51.513(c)(2) states in relevant part that for local switching, the “proxy-based rate for the
14 usage-sensitive component of the unbundled local switching element, including the
15 switching matrix, the functionalities used to provide vertical features, and the trunk ports,
16 shall be no greater than 0.4 cents (\$0.004) per minute, and no less than 0.2 cents (\$0.002)
17 per minute.”

18 §51.513(c)(4) states in relevant part that “the proxy-based rates for shared
19 transmission facilities between tandem switches and end offices shall be no greater than

³⁸ 47 CFR §51.505(b)(1) sets forth the efficient network configuration standard. As explained in an earlier section of my testimony, switching costs are unaffected because – even when it applied – this rule contained an explicit exception that required the use of the existing location of the incumbent LEC’s wire centers.

1 the weighted per-minute equivalent of DS1 and DS3 interoffice dedicated transmission
2 link rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to
3 end office links (or a surrogate based on the proportion of copper and fiber facilities in
4 the interoffice network), calculated using a loading factor of 9,000 minutes per month per
5 voice-grade circuit, as described in Sec. 69.112 of this chapter.”

6 §51.513(c)(5) states in relevant part that “the proxy-based rate for tandem
7 switching shall be no greater than 0.15 cents (\$0.0015) per minute of use.”

8 **Q: WHAT RATES FOR LOCAL SWITCHING, TANDEM SWITCHING, AND**
9 **INTEROFFICE TRANSPORT SHOULD BE USED TO DEVELOP A RATE FOR**
10 **RECIPROCAL COMPENSATION?**

11 A: In my calculation (shown in Exhibit DJW-2), I have used the mid-point of the FCC’s
12 range for local switching costs, or \$0.003 per MOU. In order to develop a rate for
13 transport, it is necessary to conduct the calculation described §51.513(c)(4). This
14 calculation for transport mileage is shown in Exhibit DJW-3, and the corresponding
15 calculation for terminations is shown in Exhibit DJW-4. As a conservative assumption, I
16 have used a composite rate based on mix of 50% DS1 and 50% DS3 circuits. The FCC’s
17 rate for tandem switching is \$0.0015.

18 Based on these element costs, a rate for reciprocal compensation that represents a
19 “reasonable approximation of the additional costs of terminating such calls” and that is
20 based on “best information available” to the Commission is \$0.0049 per MOU.

21 **Q: HOW DO THE ELEMENT RATES USED IN YOUR ANALYSIS COMPARE TO**
22 **THE COST-BASED RATES FOR THE SAME NETWORK FUNCTIONS**
23 **PREVIOUSLY ADOPTED BY THE COMMISSION FOR BELLSOUTH?**

1 A: In almost all cases the FCC proxy rates are much higher than BellSouth's TELRIC rates.

2 While I have proposed a rate of \$0.003 per MOU for local switching, the
3 Commission-approved rate for BellSouth is only \$0.0011971;³⁹ in other words, I am
4 proposing a local switching rate for the RLECs that is almost three times the level of the
5 corresponding BellSouth rate.

6 For tandem switching, BellSouth's rate per MOU, including the tandem switching
7 function and two tandem trunk port terminations, is \$0.0006772. The FCC proxy rate for
8 tandem switching that I propose for the RLECs is over twice this amount.

9 For transport, my calculation based on the FCC's methodology yields a rate
10 (based on a mixture of 50% DS1 facilities and 50% DS3 facilities) of \$0.00022303 per
11 MOU for a facility termination and \$0.00004698 per mile per MOU for the mileage.
12 When the same methodology is applied to BellSouth's transport rates (in order to convert
13 them to a per MOU basis), the facility termination rate is \$0.00031947 but the mileage
14 rate is only \$0.00000094; BellSouth's cost model attributes slightly more costs to facility
15 termination (yielding a rate that is about 40% higher than the proposed RLEC rate), but
16 the proposed RLEC mileage rate is almost fifty times the approved BellSouth rate.

17 The burden of demonstrating that their costs differ from those of BellSouth rests
18 with the RLECs, yet they refused to provide the required cost analysis when ordered to

³⁹ The referenced BellSouth rates were adopted in Administrative Case No. 382. These rates appear at page 7 of 42 of the *BellSouth Kentucky Unbundled Network Elements Rate Summary*, dated December 18, 2001.

1 do so by the Commission. Nevertheless, the FCC proxy rates provide a generous markup
2 over the rates approved by the Commission for BellSouth.

3 **Q: SHOULD THE COMPOSITE RATE OF \$0.0049 FOR RECIPROCAL**
4 **COMPENSATION BE ADOPTED FOR THE TERM OF THE**
5 **INTERCONNECTION AGREEMENTS BEING ARBITRATED IN THIS**
6 **PROCEEDING?**

7 A: Yes.

8 **Issue 18: Should RLEC tariff provisions be incorporated into the contract?**

9 **Q: IS IT APPROPRIATE FOR AN INTERCONNECTION AGREEMENT TO**
10 **REFERENCE ILEC TARIFFS?**

11 A: Yes, if – but only if – such a reference is mutually agreed upon by both parties to the
12 agreement. References that are unclear or ambiguous would be likely to result in
13 disputes regarding interpretation, and of course no party should have the ability to
14 unilaterally dictate this or any other contract term.

15 **Q: HAS THE FCC ADDRESSED THIS ISSUE?**

16 A: Yes. A group of CMRS providers recently sought a declaratory ruling from the FCC that
17 tariffs are not “a proper mechanism for establishing reciprocal compensation
18 arrangements for the transport and termination of traffic.”⁴⁰

19 The FCC decided that “in light of existing carrier disputes,” it would amend its
20 rules to make clear its “preference for contractual arrangements by prohibiting LECs

⁴⁰ *Declaratory Ruling and Report and Order*, FCC 05-42, released February 24, 2005, ¶ 1.

1 from imposing compensation obligations for non-access CMRS traffic pursuant to
2 tariff.”⁴¹ Amended §20.11 now contains such a prohibition.

3 It is my understanding that the parties have not agreed to some of the tariff
4 references contained in the RLECs’ proposed interconnection agreement. Absent such an
5 agreement, references to the RLECs’ tariffs cannot be used to establish intercarrier
6 compensation obligations.

7 **Q: DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

8 **A:** Yes.

⁴¹ *Id.*, ¶¶ 9, 14.