

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Complaint by BellSouth Tele-)
Communications, Inc., Regarding)
The Operation of a Telecommunications)
Company by Miami-Dade County in)
Violation of Florida Statutes and)
Commission Rules)

DOCKET NO. 050257-TL

**DEPOSITION OF RICHARD A. MOSES
DATED OCTOBER 5, 2004**

FINAL EXHIBIT NO. 18

7 of 29

DOCUMENT NUMBER-DATE

06973 AUG-98

FPSC-COMMISSION CLERK

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

BELLSOUTH TELECOMMUNICATIONS,
INC., a foreign corporation,

CASE NO. 02-28688 CA 03

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of
Florida,

Defendant.



DEPOSITION OF: RICHARD A. MOSES
TAKEN AT THE INSTANCE OF: The Plaintiff
DATE: October 5, 2004
TIME: Commenced at 1:30 p.m.
Concluded at 3:33 p.m.
LOCATION: Gunter Building, Room 282
2540 Shumard Oak Boulevard
Tallahassee, Florida
REPORTED BY: MARY ALLEN NEEL, RPR
Notary Public, State
of Florida at Large

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The following deposition was taken on oral examination, pursuant to notice, for purposes of discovery, for use as evidence, and for such other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing of the deposition transcript by the witness is waived.

* * *

Thereupon,

RICHARD A. MOSES

the witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLDBERG:

Q Mr. Moses, let me just introduce myself again on the record. My name is Martin Goldberg. I represent BellSouth Telecommunications in a case that's currently pending in Miami-Dade County, Florida, in the Circuit Court there. It's entitled BellSouth vs. Miami-Dade County. The case number is 02-28688 03.

You are here, and we appreciate your time very much, pursuant to a subpoena that was issued for your deposition; is that correct?

A That's correct.

Q Okay. Let me just show you what I've marked as

1 PSC-1. I've shown a copy to Mr. Hope, who is also
2 present representing Miami-Dade County. You may not
3 have seen the first couple of pages, the Notice of
4 Taking Deposition. But let me ask you, with respect to
5 the back half of that document, is that a copy of the
6 subpoena that brought you here today?

7 A Yes, it is.

8 Q Okay. Thank you very much.

9 Can you just state your full name and spell
10 your last name for the record again, if you didn't do
11 that when we first started?

12 A Certainly. It's Richard Allen Moses. Allen is
13 spelled A-l-l-e-n, last name, M-o-s-e-s.

14 Q Mr. Moses, have you had your deposition taken
15 before?

16 A No, I have not.

17 Q Okay. It's a pretty simple process. I'm just
18 going to be asking you questions. I will finish my
19 questions and wait for you to answer. If at any time,
20 though, I ask an inarticulate question, which may be the
21 case, or for some other reason you don't understand me,
22 please tell me, and then I'll rephrase the question,
23 because I think all of us here want you to answer
24 questions that you truly and completely understand.

25 A Okay.

1 Q If at the time, since you have your counsel
2 here, you want to speak to him or take a break, please
3 let me know, and we'll obviously take a break to
4 accommodate you in any way, shape, or form.

5 A Okay.

6 Q I will ask you questions, and I'm going to
7 probably show you some documents as we go through, and
8 then the deposition will proceed. Mr. Hope will have
9 the opportunity to ask you questions. I don't know if
10 he will or he won't. And then I'll have an opportunity
11 to follow up with some additional questions, and that
12 will be it. That's sort of the course of a deposition.
13 Okay?

14 A Okay.

15 Q Can you just tell me what your current position
16 here is with the PSC or Public Service Commission?

17 A I'm the bureau chief of the Bureau of Service
18 Quality.

19 Q And how long have you been in that position?

20 A Since April 1st, 1999.

21 Q In that position, can you just explain what
22 your general duties and responsibilities are on a
23 day-to-day basis, please?

24 A My bureau has got two sections. One is the
25 service quality, which has engineers that do quality

1 inspections of pay telephones and ILEC service quality,
2 where they go in the field and inspect various things
3 there. The other half is a compliance group, in which
4 we have people investigating companies for compliance
5 with the Commission's rules, orders, and statutes.

6 Q And as we proceed in the deposition, if the
7 court reporter has any problems in hearing any part of
8 your question, she may interrupt and ask you to repeat,
9 so I'll just ask you to try and to keep your voice up so
10 she can hear everything, but I appreciate that.

11 Prior to assuming that role that you just
12 described, were you employed by the PSC in any other
13 capacity?

14 A Yes, I was. I was a utility systems
15 communications engineer supervisor. How's that for a
16 title?

17 Q Pretty long.

18 A I started in December of 1990 in that position
19 and continued it until I was promoted to bureau chief.

20 Q And can you just give us a brief description of
21 your daily responsibilities in that role?

22 A At that time, I was responsible for
23 certification of all different types of telephone
24 companies, and also the compliance with the rules,
25 statutes, and orders. I didn't have the service

1 evaluation portion.

2 Q Thank you. And prior to December of 1990, were
3 you employed in any capacity with the PSC?

4 A No.

5 Q Can you just tell me briefly your prior
6 employment before you came to the PSC, please?

7 A Certainly. I was employed by GTE from
8 September 1972 up until December, I believe, 1989.

9 Q And GTE, just for the record, stands for?

10 A It's Verizon now. It was General Telephone and
11 Electronics.

12 Q But a position in the telecommunications field;
13 correct?

14 A I had several different positions with them,
15 all in telecommunications, yes.

16 Q Okay. With that company, could you just sort
17 of summarize your experience, because I think it's
18 relevant, being that it's in the telecommunications
19 field, what positions you had with that company?

20 A Certainly. I started out as a lineman, then
21 went to installation and repair technician, then was a
22 special services circuit technician, special services
23 circuit design engineer, project manager, and network
24 manager.

25 Q And how many years were you with that company?

1 A Seventeen years.

2 Q Okay. Let me just ask you a couple of
3 questions about the PSC generally. And I apologize in
4 advance if some of the questions seem sort of
5 straightforward or simplistic to you. We're obviously
6 in a case where we need to sort of just bring up the
7 background and explain certain functions to the court
8 that the court may not otherwise be familiar with,
9 particularly as familiar as you may be.

10 A Okay.

11 Q Can you just give me a brief synopsis of what
12 the Public Service Commission does on a daily basis and
13 what its mission is?

14 A That's a pretty broad statement.

15 Q I may be able to help you. Take the best shot
16 you can, and then --

17 A Just in telecommunications, or in all --

18 Q How about as it relates to telecommunications?

19 A Well, they oversee the regulation of the
20 telecommunications companies to the extent that the
21 Florida Statutes lay out as guidance. They hear
22 arbitrations as far as agreements between the incumbent
23 local exchange companies and the competitive local
24 exchange companies. They rule on various things that
25 are handed down from, say, the FCC, such as the TRO

1 docket. There are certain decisions that they make in
2 those type filings.

3 There's still one company that's still rate of
4 return regulated as far as incumbent local exchange
5 companies. The rest of them are what they call price
6 cap regulated, in which there's different baskets -- I'm
7 not all that familiar with the different things that
8 they have to look at, but they look at the operations of
9 the telephone companies.

10 They regulate pay telephone companies to the
11 extent that certain things have to be on the pay
12 telephones as far as signage. Certain functions of the
13 telephones have to perform in a certain way. They have
14 to be installed in a certain way as far as in compliance
15 with the rules passed by the Commission.

16 The interexchange carriers, there are some
17 regulations on those as far as registration
18 requirements, operator service, rate caps as far as zero
19 plus calls from various types of entities, such as
20 hotels and payphones, regulation over shared tenant
21 providers, which are providers that have usually a
22 switch on-site to provide service to various types of
23 entities.

24 There's also the competitive local exchange
25 companies, which are the competitors to the incumbent

1 LECs for local service.

2 And I'm leaving out one. Oh, AAV, which are
3 point-to-point private line providers, more or less a
4 pipe between two places.

5 Q That's a pretty exhaustive overview. Let me
6 just try and short-circuit so I don't ask a whole lot of
7 detailed questions about that. Let me hand you what
8 I've marked as PSC Exhibit Number 2 and ask you if you
9 recognize that document. And I'll represent that I
10 printed it from the PSC's website. It's entitled
11 "Statement of Agency Organization and Operations." Have
12 you seen that before?

13 A Yes, I have.

14 Q If you'll thumb through it, my general question
15 is, does it look like an accurate and complete copy from
16 the website which gives an overview of the PSC?

17 A Subject to check, looking at the website, I
18 would say it is, yes.

19 Q Thank you. We'll just mark that as part of the
20 record, and I think that document will speak for itself
21 as to the agency's background and purpose.

22 Do you have a general understanding, if an
23 understanding at all, about the dispute in this case
24 that has led to the litigation between BellSouth and
25 Miami-Dade County?

1 A I don't know the details of it, no.

2 Q Okay. Fair enough. Let me show you what I
3 have marked next as PSC Exhibit 4. And it's fair to say
4 you haven't seen a copy of the complaint that has been
5 filed in this case by BellSouth?

6 A No, I have not.

7 Q Okay. What I've handed you is a pleading in
8 the case, and it actually is Miami-Dade County's answer
9 and affirmative defenses to the second amended complaint
10 that has been filed by BellSouth. And just for
11 background purposes for this deposition, I wanted to
12 bring your attention to page 2 of that document, if I
13 may, particularly paragraph 12. And I'm sorry, sir. I
14 have an extra copy for you if you like.

15 And paragraph 12, let me read it into the
16 record. It says, "Regarding paragraph 18," and that's
17 referring to the second amended complaint, "the County
18 admits providing shared airport tenant services to
19 airport tenants at Miami International Airport." Did I
20 read that correctly?

21 A Yes.

22 Q Okay. So for purposes of this deposition, I
23 want to just advise you that the County has admitted to
24 providing STS services at Miami International Airport.
25 Do you understand that from what you've read?

1 A Yes, I do.

2 Q Okay. Thank you.

3 Let me show you now what I've marked as
4 Composite Exhibit Number 7, PSC-7. And Composite PSC-7,
5 let me represent to you, is a number of various
6 documents that the County, Miami-Dade County has
7 produced to BellSouth in this case. In other words,
8 they are county documents consisting of various notes
9 that the County has written back in time relating to
10 this issue, as well as -- what we'll go over are certain
11 copies of applications, noncompleted applications for a
12 certificate to provide STS services. Do you understand
13 that, my representation that these are county documents?

14 A Yes.

15 Q Let me direct your attention to the second page
16 of that composite exhibit, to the bottom of that page.
17 And at the bottom of the page, you'll see, "STS. Do we
18 need to apply? Call PSC." Do you see that --

19 A Yes, I do.

20 Q -- written there? Okay.

21 In your job here at the PSC, have you ever
22 received calls or been made aware of calls from entities
23 that want advice as to whether or not they're either
24 providing STS services or need to be certificated to
25 provide those services?

1 A Yes.

2 Q Does that happen routinely, would you say,
3 during the course of a year that certain entities call?

4 A Regarding STS, it's not too frequent. There's
5 not that many providers of shared tenant. I think
6 there's only around 34 in the state right now, and it
7 has never been much higher than that. So I may get two
8 or three calls a year.

9 Q Fair enough. Let me direct your attention to
10 next -- you'll see at the bottom of that document
11 they're Bates stamped. If I could ask you to turn to
12 the document bearing Bates stamp 17, or MDC(5) and then
13 00017. You're at that page; correct?

14 A Yes.

15 Q Let me walk you down through this page of
16 handwritten notes, and I have some questions for you.
17 At the top right, you see that it's marked October 26,
18 2001; correct?

19 A Correct.

20 Q And then the heading of it is PSC, which you
21 understand that to be Public Service Commission;
22 correct?

23 A Yes.

24 Q On STS. And then it says, "Main number,
25 (850)413-6600." Is that the PSC's number here in

1 Tallahassee?

2 A That's the number for the Telecommunications
3 Division, yes.

4 Q In October of 2001, where were you working here
5 at the PSC?

6 A I was the bureau chief.

7 Q For the Telecommunications Division?

8 A No, just for the Bureau of Service Quality.

9 Q Okay. The next item down is a name, Jackie
10 Gilchrist, and in parentheses, boss. Can you tell me
11 who Jackie Gilchrist is or was when she worked here at
12 the PSC?

13 A She was a supervisor. They had moved
14 certification over under a different bureau chief, and
15 she was a supervisor under that bureau chief.

16 Q Okay. And when you say they moved
17 certification, could you just explain what you mean by
18 certification?

19 A The group of people that were under my
20 supervision that were handling certificates and name
21 changes and things of that nature were taken and moved
22 as a section over under a different bureau chief. I was
23 no longer handling certification, which I'm now handling
24 again.

25 Q Sure. Tom Williams, who was Tom Williams at

1 the time?

2 A At the time that Jackie Gilchrist was his boss,
3 he was an Engineer IV working for her doing
4 certification and tariff issues.

5 Q And do you know whether or not the number next
6 to his name was his number here at the PSC?

7 A I don't know.

8 Q And the next name down obviously is your name,
9 Richard Moses. Do you know if that was your number at
10 the time?

11 A Yes, it was.

12 Q It says next to your name -- let me read it
13 into the record. "He was at MIA five to six years ago
14 looking at this issue." Let me ask you, does that mean
15 anything to you?

16 Strike that. Let me ask you, were you ever at
17 MIA or Miami International Airport five to six years
18 prior to October of 2001?

19 A Yes, I was.

20 Q Can you explain what brought you to MIA?

21 A There was a dispute filed with the Commission
22 between BellSouth and the Miami-Dade Airport Authority.
23 At that time, Allen Taylor was the bureau chief. I was
24 a supervisor working under him, and the two of us went
25 to Miami for the purpose of looking at all the various

1 terminals. I think the main issue was access at that
2 time. And we were just looking at the terminals to try
3 to get a feel for the magnitude of the problem.

4 Q And how long were you at MIA when you went on
5 that visit?

6 A One day.

7 Q During that one day, did you get a good feel or
8 understanding of the telecommunications service that was
9 being provided at the airport at that time?

10 A Not the service itself. Mainly we were looking
11 at cabling issues, how much cable was there, was there
12 room for additional cable, things of that nature. We
13 didn't look at any individual services.

14 Q And again, the nature of that dispute at the
15 time to the best of your understanding was what?

16 A I'm trying to think back. That has been a long
17 time ago. If I'm not mistaken, and I've got documents
18 in my office I could review, but it was a dispute that
19 ended up being resolved between the two parties. The
20 Commission never made a ruling on it. It was withdrawn.

21 Q Fair enough. Is it fair to say that that
22 dispute is different from your understanding of this
23 dispute, in part dealing with whether or not Miami-Dade
24 County is operating a telecommunications utility or
25 telephone utility or telecommunications company?

1 MR. HOPE: Objection to the form.

2 MR. GOLDBERG: You can still answer.

3 A Up until now, I wasn't real sure what the
4 dispute is, because I had never seen the lawsuit or
5 anything as far as what the dispute has been between the
6 two of them.

7 Q Fair enough. Let me ask it a different way.
8 If I were to represent to you that the dispute in this
9 case centers around whether or not Miami-Dade County
10 through its facilities at the airport is operating a
11 telephone utility or telecommunications company, and
12 also as a by-product of that, whether they need to be
13 certificated as an STS provider, are those issues that I
14 just outlined for you different from the issues that
15 brought you down to MIA a number of years prior that we
16 just spoke about?

17 MR. HOPE: Object to the form.

18 A I believe they are.

19 Q If you can repeat your answer.

20 A I believe they are.

21 Q And let me just highlight. I may ask certain
22 questions. Mr. Hope is well within his prerogative to
23 object. Usually you'll hear him say, "Objection to the
24 form." He'll try and get that objection in before you
25 answer. If you see that he's objecting, wait for him to

1 object, and then notwithstanding his objection, you can
2 still answer unless your attorney tells you not to for
3 some reason.

4 A Okay.

5 Q There there's some additional writing in the
6 middle of this page that says, "If MIA is going to
7 provide service not related to public transportation
8 (hotels, shops, et cetera) we need to file an
9 application." Then it says, "In any event, trunks will
10 have to be partitioned." Did I read that correctly?

11 A Yes, you did.

12 Q And then the language says, "It takes two
13 months once they receive the application. Twelve days
14 before the next Commission meeting." Did I read that
15 correctly?

16 A Yes, you did.

17 Q And down at the bottom it has a name, Myra
18 Bustamonte. And I apologize for coughing. Myra
19 Bustamonte, do you know who she is?

20 A No, I don't.

21 Q To your knowledge, she's not an employee of the
22 PSC, nor was she back in October of 2001?

23 A Not to my knowledge.

24 Q Now, let me ask you, do you have any
25 independent recollection in or about October of 2001 of

1 receiving a phone call from any individuals associated
2 with the Miami International Airport or Miami-Dade
3 County seeking advice as to whether or not they needed
4 to be certificated as an STS provider?

5 A Not that I recall.

6 Q Are you aware of participating in any telephone
7 conferences with anybody associated with the Miami
8 International Airport concerning whether or not they
9 should be certificated to be an STS provider?

10 A During this time period?

11 Q Yes.

12 A Not that I can recall.

13 Q Okay. Are you aware of any communications in
14 or around this time period, October of 2001, between
15 individuals at the Miami-Dade County Airport and the
16 Public Service Commission seeking advice as to whether
17 or not the County should apply for a certificate to
18 provide STS services at the airport?

19 A I am not aware of any.

20 Q If you could look again at this document,
21 particularly the language in the middle of the page, let
22 me just ask you a technical question. After reviewing
23 the names on this page, Jackie Gilchrist, Tom Williams,
24 and yourself, as well as the language in the middle,
25 does that refresh your recollection in any manner as to

1 communications by and between the PSC and the airport
2 regarding issues of certification?

3 A Well, at that time, Jackie Gilchrist and Tom
4 Williams, neither worked for me, so they could have had
5 conversations that I'm not aware of. As far as myself,
6 I don't recall having any conversations as far as
7 certification.

8 Q Do you know where Jackie Gilchrist is
9 presently?

10 A No, I do not. She's no longer with the
11 Commission.

12 Q Do you know where Tom Williams is presently?

13 A He should be in his office.

14 Q So that means he's still employed here at the
15 PSC?

16 A Yes.

17 Q Okay. Fair enough. Fair enough.

18 Let me ask you to turn the page in that
19 composite exhibit, if I may. Let me ask you if you
20 recognize this document or a document like this entitled
21 "FPSC Alphabetic Listing of Regulated Telecommunications
22 Companies: Shared Tenant Service."

23 A I believe this is what a report would look
24 like if you generated it from our website.

25 Q And just in simple English, what is this

1 listing supposed to or meant to show or indicate?

2 A It's a list of certificated shared tenant
3 providers as of that date that's listed on there.

4 Q So do only certificated companies get placed on
5 this list as far as you know?

6 A I believe that's the way they have it set up on
7 the website, so you don't end up looking at companies
8 that have discontinued service or been canceled for
9 whatever reason.

10 Q If a company is not on this list -- well,
11 strike that. Let me ask you, if a company is not
12 certificated, but still an STS provider, do you know
13 whether they would appear on this list?

14 A If they're not certificated, no, they would not
15 appear on that list.

16 Q Let me continue to ask you along those lines,
17 if you have an STS provider who is not certificated and
18 obviously wouldn't appear on this list, are they still a
19 telecommunications company?

20 A I believe they would meet the requirements
21 under 364 as a telecommunications company if they're
22 providing two-way telecommunications for hire.

23 Q And as a telecommunications company providing
24 two-way telecommunications for hire, would they be
25 subject to the exclusive jurisdiction of the PSC for

1 which you work?

2 A Yes.

3 Q Let me take you to another portion of this
4 composite exhibit and direct your attention to page 6 of
5 the exhibit, back to the beginning part. And before I
6 ask you questions, if you just want to generally peruse
7 pages 6 through 16, I'm going to ask you questions about
8 that document.

9 A Okay.

10 Q Do you recognize that document as a whole?

11 A Yes, I do.

12 Q Okay. What is this document, setting aside the
13 handwritten notes for now that are on there?

14 A It's an application to provide shared tenant
15 service, requesting authority from the Commission.

16 Q And is this a form that is utilized by the PSC
17 for those who want to apply for a certificate to provide
18 STS services?

19 A Yes, it is.

20 Q Let me direct your attention to the second page
21 of that application, particularly question number 1,
22 which is on Bates stamped page number 7, where it says,
23 "This is an application for." And then am I correct
24 that it gives four possible options to check, either an
25 original certificate or the three below that?

1 A You're correct.

2 Q You can pick original certificate, which this
3 application has hand marked; correct?

4 A Correct.

5 Q And then going down the list of options, what
6 does the next option essentially require if you were to
7 select that?

8 A That would be the approval of transferring a
9 certificate to another entity.

10 Q So if a non-certificated company purchases a
11 certificated company and desires to retain that original
12 certificate, you would have to check that box; correct?

13 A That's correct.

14 Q The next line or selection down, does that deal
15 with the assignment of an existing certificate?

16 A Yes, it does.

17 Q So an entity that wants to have a certificate
18 assigned to them would check that box; correct?

19 A I believe they give an example right below that
20 where a certificated company purchases a certificated
21 company and desires to retain the certificate of
22 authority of that company, so that would be correct.

23 Q And the last option that's laid out is approval
24 of transfer of control. And the example there is a
25 company purchases 51 percent of a certificated company,

1 and the PSC must approve that new controlling entity; is
2 that correct?

3 A That's correct.

4 Q Okay. What box would one select if the
5 purchasing entity -- if an entity purchased a
6 non-certificated company, yet the purchasing entity was
7 operating an STS service that required certification?

8 A And the originating entity that you're speaking
9 of is not certificated?

10 Q Yes. The entity being purchased is not
11 certificated, rightly or wrongly, but the acquiring
12 entity is operating an STS service. Would that entity
13 select original certificate?

14 A Is the operating entity certificated already or
15 not certificated?

16 Q Not certificated.

17 A Then it would be original certificate.

18 Q Would the fact that the operating entity who
19 purchases a non-certificated company, in that scenario
20 -- strike that. In the scenario I just described, would
21 the fact that the purchased entity that was operating
22 without a certificate, the fact that they did not have a
23 certificate, does that bear any relevance as to whether
24 or not the new entity should obtain a certificate if
25 they're actually providing STS services?

1 MR. HOPE: Object to the form.

2 MR. GOLDBERG: You can still answer.

3 A No.

4 Q Let me direct your attention now to the last
5 page of that document, which is Bates stamped 16 in the
6 bottom right corner, and also at the top of that
7 document, it says "Applicant Acknowledgment Statement."
8 The first line speaks about a regulatory assessment fee,
9 and then it talks about a gross receipts tax and a sales
10 tax. If a company becomes certificated per the laws of
11 the State of Florida and the PSC's jurisdiction, are
12 there fees and/or taxes that need to be paid by that
13 company?

14 A Yes, there is.

15 Q Okay. So would you agree, is there an economic
16 disadvantage, so to speak, if you do become certificated
17 because you have to pay fees and taxes to the State of
18 Florida?

19 A I'm not sure I would characterize it as a
20 disadvantage.

21 Q Okay. Does it cost the entity an amount yearly
22 if they become certificated?

23 A Yes.

24 Q Okay. And is that cost split up between
25 regulatory assessment fee, the gross receipts tax, and

1 sales tax that's outlined on this document?

2 A Yes.

3 Q Are there any other costs or fees or taxes that
4 you're aware of that certificated companies need to pay
5 other than the ones mentioned on this document?

6 A I believe there's a communications tax at the
7 Department of Revenue, but I'm not sure. I would have
8 to check on that. There's out of our jurisdiction.
9 There may be other fees, or maybe not. I don't know.

10 Q Fair enough. Let me ask you this question,
11 though. If a company did not become certificated, there
12 wouldn't be any fees or taxes to be paid; is that
13 correct?

14 A For the other agencies, I don't know the answer
15 to that.

16 Q Let me limit my question again to the PSC, and
17 let me rephrase it. If a company did not become
18 certificated by the PSC to provide STS services, that
19 company would not be paying or be required to pay the
20 regulatory assessment fee, gross receipts tax, and sales
21 tax. Do you agree with that?

22 A That's correct.

23 Q Do you recall on one of the prior documents it
24 said that once an application, an application like the
25 one we went over is filed with the PSC, that it takes

1 approximately two months to be approved or disapproved?

2 Is that an accurate statement?

3 A It depends on the type of application. IXCs
4 have tariffs involved, so they take a little bit longer.
5 Shared tenant does not have the tariff involved, so it
6 wouldn't take quite as long. But it depends on when the
7 filing comes in to us and the schedule of the agendas as
8 to how quickly we can get it to agenda.

9 Q Now, in order to get certificated, all that
10 needs to happen from an entity's perspective is to file
11 an application and pay the application fee; is that
12 correct?

13 A For shared tenant?

14 Q Yes.

15 A That's correct.

16 Q And they file an application just like the one
17 we went over; correct?

18 A I believe it hasn't changed; that's correct.

19 Q And that's contained again in Exhibit PSC-7.

20 Would you agree that the act of applying for an
21 application is required by Florida law or Florida
22 Statutes prior to providing STS services?

23 MR. HOPE: Objection to the form.

24 MR. GOLDBERG: You can answer.

25 A Yes.

1 Q And the act of applying for a certificate as
2 Florida law describes, it is not ambiguous. I mean,
3 it's pretty direct that a entity shall apply for a
4 certificate; is that correct?

5 A That's correct.

6 Q And let me show you, just to highlight that
7 point, what I've marked as PSC-9. This is a copy of
8 Section 364.339 out of the Florida Statutes. Let me
9 direct your attention to subparagraph 2, where it says,
10 "No person shall provide shared tenant service without
11 first obtaining from the Commission a certificate of
12 public convenience and necessity to provide such
13 service." And is that in part what you've based your
14 prior answer on that it's pretty clear that the law
15 requires an application before providing a service?

16 A Yes.

17 Q And just so we're clear, the application for a
18 certificate, the law calls that a certificate of public
19 convenience and necessity; is that correct?

20 A That's correct.

21 Q So would you agree with me that the act of
22 applying for a certificate is an act directed by the law
23 here in Florida?

24 MR. HOPE: Objection to the form.

25 A Yes.

1 Q And the fact that the law requires an
2 application be sought is indisputable. Would you agree
3 with that?

4 MR. HOPE: Objection to the form.

5 A Could you repeat that?

6 Q Let me phrase it another way, because that was
7 a poor question. Would you agree that there's no
8 dispute that the law requires that an application be
9 submitted to the PSC to be certificated in order to
10 provide STS services?

11 MR. HOPE: Objection to the form.

12 A To the extent that the law requires
13 certification. There are exemptions also.

14 Q And we'll talk about the exemptions in a
15 second, but in order to apply -- in order to provide STS
16 -- strike that.

17 Let me show you now what has been marked as
18 PSC-6. Actually, I'm going to give you a composite
19 exhibit that contains PSC-5 and PSC-6. And let me
20 direct your attention to the last page of this document,
21 which is marked PSC-6. Do you see that document?

22 A Yes, I do.

23 Q Is that an e-mail from you to Maurice Jenkins
24 at the Miami Airport?

25 A Yes, it is.

1 Q I'll give you a second to review that e-mail,
2 and when you're done, let me know, and I'll ask you some
3 questions about it.

4 A Go ahead.

5 Q Do you recall sending this e-mail to
6 Mr. Jenkins?

7 A Yes, I do.

8 Q In or about what month or year do you believe
9 that you send this e-mail?

10 A Well, I gave him a response date of March 10th,
11 so I would have sent it probably 15 days prior to that.

12 Q And it states in the e-mail that you've been
13 informed that the Miami Airport may be providing
14 telephone service beyond its current authority, and
15 pursuant to Rule 25-24.580, Florida Administrative Code,
16 an airport is exempt from the certification requirements
17 of this Commission as long as it is only providing
18 telephone service necessary to ensure the safe and
19 efficient transportation of passengers and freight
20 through the airport facility. Is that the exemption
21 that you just made reference to in your prior answer?

22 A Yes.

23 Q And then the e-mail goes on to state, does it
24 not, "Therefore, any services provided to entities such
25 as concession stands, restaurants, or hotels would be

1 outside of the exemption, and certification would be
2 required before telephone service can be provided"? Did
3 I state that correctly?

4 A You stated it correctly, but it's an incorrect
5 statement to the extent that they still would not need a
6 certificate if they were to partition their switch.

7 Q So to the extent that -- and maybe I'll use
8 different language. To the extent that the airport
9 partitions its trunk, or should I use partitions its
10 trunks, is it your understanding that they would not
11 need to be certificated?

12 A If they partitioned their switch to where
13 entities that they're providing the service to that are
14 not necessary for the safe transportation of passengers,
15 where there's no sharing the local trunks between that
16 entity and another unaffiliated entity, they would not
17 need a certificate.

18 Q Now, if they are not partitioning their switch
19 as you just indicated, would they still need a
20 certificate from the PSC?

21 A They would need a certificate if they don't
22 partition the trunks.

23 Q And if they don't partition their trunks, going
24 back to my initial question to you, would the need to
25 file an application with the PSC to become certificated

1 to provide STS services be indisputable?

2 MR. HOPE: Objection to the form.

3 A Well, I --

4 Q Do you want me to rephrase the question?

5 A Yes.

6 Q According to your testimony today, if the Miami
7 Airport is not partitioning its trunks, then they cannot
8 avail themselves of this exemption that you made
9 reference to in your e-mail; is that correct?

10 MR. HOPE: Objection to the form.

11 A That would be my opinion.

12 Q And if they cannot avail themselves of the
13 exemption, then is it clear under the law that they need
14 to apply for a certificate from the PSC to provide STS
15 services?

16 MR. HOPE: Objection to the form.

17 MR. GOLDBERG: You can answer yes or no and
18 explain if you want.

19 A I believe they would need a certificate if
20 they had not partitioned the switch and were providing
21 service to entities that are not really associated with
22 the airport.

23 Q And let's talk about those entities that are
24 not really associated with the airport. Would those
25 entities be entities such as a hotel, concession stands,

1 shopping mall, ice cream shops, pizza places, and the
2 like? Would you agree with that?

3 A Yes.

4 Q So if the Miami-Dade County Airport has not
5 partitioned its trunks and is providing
6 telecommunications service to entities such as a hotel,
7 concession stands, pizza places, and the like, would you
8 agree that there's no dispute under the law that they
9 need to apply for a certificate with the PSC?

10 A I would agree with that.

11 Q And that in fact in that scenario, the act of
12 applying for a certificate is mandated by law?

13 A Yes.

14 One thing also I need to make sure is clear on
15 the record, I am not a lawyer, so all these opinions are
16 strictly mine and are not a position of the Commission,
17 nor to be construed as such.

18 Q Okay. At the time you sent this e-mail to
19 Mr. Jenkins, did you have any telephone communications
20 with Mr. Jenkins or anybody else at the airport about
21 this e-mail before you received a response, which we'll
22 get to in a minute?

23 A We did speak on the phone. He was essentially
24 trying to get more clarification of what I was looking
25 for, and he did provide a list in compliance with my

1 e-mail request.

2 Q Do you recall what Mr. Jenkins said at the time
3 or what you said to him?

4 A I told him that I was looking for a list of
5 every entity that they were providing service to through
6 their switch, and he provided that.

7 Q And did he provide it as documented in what
8 I've marked before you as PSC-5? Is that the response?

9 A Yes.

10 Q And that's the response e-mail on Monday, March
11 17, 2003, directed to Mr. Moses from Pedro Garcia, which
12 says, "Attached is the list you requested"?

13 A Yes.

14 Q Understanding what we've talked about in this
15 deposition here today about partitioning trunks and the
16 exemption and your understanding of that, did you have
17 any such discussion with Mr. Jenkins or Mr. Garcia or
18 anybody at the airport subsequent to receiving this list
19 that's referenced in PSC-5?

20 A I don't know if I did or not, it's been so long
21 ago.

22 Q Do you recall whether anybody affiliated with
23 Miami-Dade County or the airport contacted you after
24 they sent this list to further discuss your e-mail in
25 March of 2003 which indicates that certification would

1 be required before telephone service can be provided?

2 A I received a phone call, I believe, from
3 Mr. Garcia, if I'm not mistaken, just making sure that I
4 did get the information, and that if there was anything
5 else I needed, just to let him know.

6 Q At the time you received that phone call from
7 Mr. Garcia, did he bring any facts whatsoever to your
8 attention to try and suggest that Miami-Dade County
9 Airport was somehow exempt or had some basis not to file
10 an application with the PSC?

11 MR. HOPE: Objection to the form.

12 A No. I think the discussion was mainly about
13 emergency services. They were concerned about emergency
14 services. There was nothing more discussed at that
15 time. I essentially acknowledged that I did get the
16 information.

17 Q Did you in any way, shape, or form tell
18 Mr. Garcia when he called that you had changed or
19 altered your opinion as referenced in your earlier
20 e-mail in March of 2003 identified as PSC-6?

21 A No.

22 MR. HOPE: Objection to the form.

23 BY MR. GOLDBERG:

24 Q As we sit here today, do you know whether or
25 not subsequent to this correspondence with Miami-Dade

1 County, the County has applied for a certificate for STS
2 services?

3 A Not to my knowledge.

4 Q You do not know as we sit here today that they
5 have applied? Is that --

6 A No, I do not.

7 Q Okay. If the County were to argue that the
8 fact that they did not apply for a certificate and have
9 been operating without a certificate from the time of
10 these e-mails in March of 2003 to the present, that that
11 somehow approves or sanctions their operation without a
12 certificate, would you agree with that, if you
13 understood my question?

14 MR. HOPE: Objection to the form.

15 A No. Only the Commission can approve the
16 authority to provide shared tenant service.

17 Q And do you say that because the Commission has
18 exclusive jurisdiction over that area?

19 A Yes.

20 Q And actually, the Commission's grant of
21 exclusive jurisdiction is stated very clearly in Florida
22 law; correct?

23 A Correct.

24 Q And would you agree with me that the PSC has
25 exclusive jurisdiction over whether or not an entity

1 needs or does not need certification, and that by
2 definition means any other person or entity in the State
3 of Florida cannot make that determination?

4 MR. HOPE: Objection to the form.

5 BY MR. GOLDBERG:

6 Q Correct?

7 A Correct.

8 Q So in other words, just to be clear, you would
9 agree that another entity or person cannot
10 self-determine whether or not they need a certificate or
11 do not need a certificate to provide STS services?
12 Would you agree with that?

13 MR. HOPE: Objection to the form.

14 A Yes.

15 Q Let me direct your attention back to PSC-5, the
16 customer list that you received from Miami-Dade County
17 Airport as of February 2003. Based on the customer list
18 that you reviewed, and assuming no partitioning of the
19 switch, as you've referred to it here, would Miami-Dade
20 County need to apply for certification as an STS
21 provider?

22 MR. HOPE: Objection to the form.

23 A Yes.

24 Q And can you explain that answer, please?

25 A Under the title "Concession/Others," the

1 companies that are listed underneath there, in my
2 opinion, would not be necessary for the safe passage of
3 passengers through the terminal, so it would lay outside
4 of the exemption if they have not partitioned their
5 switch. And the same would hold true for management
6 companies.

7 Q If I could ask you to go back for a minute to
8 PSC-7, which is a composite exhibit of notes and the
9 application, and go again to page 17, I would appreciate
10 that. I'm sorry to have you jump back and forth.

11 A Okay.

12 Q In the middle of the page, the notes written by
13 an individual at the County says, "If MIA is going to
14 provide service not related to public transportation
15 (hotels, shops, et cetera) we need to file an
16 application." Is that language consistent with your
17 testimony that you've given here today?

18 A If they don't partition their switch to those
19 entities, yes, it would be.

20 Q Whether or not an STS provider partitions their
21 trunks, or switch, partitions their switch, as you've
22 used, or did not partition the switch, are they still a
23 telecommunications provider or company under Florida
24 law?

25 A Yes.

1 Q During your time here at the PSC, have you
2 dealt with certification issues relating to Orlando
3 International Airport?

4 A I don't recall specifically if I was involved
5 with it or not. It may have happened on my watch, but I
6 don't recall.

7 Q If the County were to argue in this case that
8 because Orlando International Airport provides STS
9 without a PSC certificate, that that somehow sanctions
10 the County's operation without a certificate, would you
11 agree or disagree with that statement?

12 A I would not agree that it allows anyone to
13 operate without a certificate, no.

14 Q Can you explain that a little bit further,
15 please?

16 A Well, the Orlando Airport is one entity, and
17 the Miami Airport is another entity. I don't know if
18 the two operate the same. Orlando may have partitioned
19 their switch, and certification wouldn't be required.

20 Q If I could ask you to stay in that same
21 exhibit, PSC-7, and if I could direct your attention to
22 a certain page that I'll be able to find in a second,
23 Bates stamp 18 again, the list of certificated STS
24 providers, let me direct your attention to the middle of
25 that page. On the list it says Hillsborough County

1 Aviation Authority. Do you know whether that entity is
2 the entity that operates the Orlando International
3 Airport or any other airport?

4 A I believe they operate Tampa International.

5 Q Tampa International?

6 A Yes.

7 Q So this would mean that the authority operating
8 Tampa International Airport has been certificated by the
9 PSC to the best of your knowledge; is that correct?

10 A Yes.

11 MR. GOLDBERG: Could we take a five-minute
12 break, because I may be close to finishing up with
13 my questions.

14 THE WITNESS: Sure.

15 (Short recess.)

16 BY MR. GOLDBERG:

17 Q I just have one sort of small area to follow up
18 with you on, and I appreciate your time again, and then
19 I'll be done with my questioning. Mr. Hope may have
20 some questions for you, and then I may have some short
21 follow-up.

22 One area I wanted to go back to is this. Let
23 me just see if I can summarize some of your testimony,
24 and please correct me if I summarize it incorrectly.

25 In your testimony today you have said that if

1 the County is not partitioning its switch and it is
2 providing STS services to entities such as a hotel,
3 shopping mall, concession stands, pizza places, and the
4 like, then they would need to file and obtain a
5 certificate from the PSC before providing those
6 services; is that correct?

7 A That's correct.

8 Q If the County were to argue that they were not
9 making any money through the operation of a hotel or a
10 pizza place or a shopping mall, they weren't profiting
11 from the provision of that service, would that change
12 your answer in any way?

13 A No.

14 MR. GOLDBERG: I do not have any further
15 questions at this time.

16 CROSS-EXAMINATION

17 BY MR. HOPE:

18 Q Thank you, Mr. Moses. I'm David Stephen Hope.
19 I'm an assistant county attorney with Miami-Dade
20 County. I'm going to ask you some questions, and
21 remember, you're still under oath. And also, if the
22 answers to the questions that I pose to you conceivably
23 conflict with or change answers that you've given
24 previously to questions that Mr. Goldberg provided, then
25 you can go back and clarify that previous question if

1 you remember it.

2 If a dispute exists between two entities that
3 may be regulated by the PSC, what's the mechanism for
4 resolving that dispute?

5 A Well, I guess it depends on the dispute. If
6 the dispute is something that is regulated by this
7 Commission, a filing with the Commission would be
8 appropriate.

9 Q Now, when you say a filing, is the filing
10 considered a complaint, or what's the proper terminology
11 for that filing?

12 A Well, it depends on the dispute. There are
13 people that file complaints with us that we handle
14 without going to the Commission in some instances.
15 There are formal filings that are done if there's
16 something that the parties want brought before the
17 Commission specifically. That's really the only two
18 avenues I can think of off the top of my head.

19 Q So in this situation where BellSouth has
20 alleged that Miami-Dade County through its Aviation
21 Department is operating a telephone utility without
22 proper PSC certification, what sort of filing would be
23 necessary to bring that matter in front of the PSC?

24 MR. GOLDBERG: Objection to the form. You can
25 answer.

1 A I'm not sure there would necessarily have to be
2 a filing. Certainly staff on its own motion can do
3 things, investigations, things of that nature. We get
4 whistle-blowers, for instance, that give us
5 information. So it's not a necessity. It's also not
6 something they couldn't do. They could also do a filing
7 if they choose.

8 Q Are you aware of any filings that have been
9 made related to the facts that I've laid out to you
10 today and also what has been discussed in this
11 deposition?

12 A No.

13 Q Are you aware of any current filings involving
14 Miami-Dade County?

15 A Not to my knowledge.

16 Q Are you aware of any current filings involving
17 BellSouth Telecommunications, Inc.?

18 A Well, BellSouth makes filings just about every
19 day. As far as regarding Miami-Dade County, I don't
20 believe there have been any filings.

21 Q But there may be -- since you say they make
22 filings every day, they may have filed other disputes
23 against other --

24 A That's correct.

25 Q To your knowledge, are any of those other

1 matters dealing with the provision of STS services in
2 other jurisdictions within Florida?

3 A I'm not aware of all of the filings they have
4 made.

5 Q Besides the e-mail communication that is marked
6 as PSC-6, have you had any other communications with
7 anyone concerning the telecommunications and data
8 network operations at Miami International Airport?

9 A If I understand your question correctly, have I
10 had any other communications with anyone at the
11 Miami-Dade --

12 Q No, anyone. Not necessarily at the airport.
13 Have you had communications with anyone concerning the
14 operations at the airport?

15 MR. GOLDBERG: Let me object to the form.

16 That could also include privileged communications
17 with his attorney.

18 BY MR. HOPE:

19 Q Outside of privileged communications with your
20 attorney, have you had communications with anyone about
21 the operations at Miami International Airport?

22 A Yes.

23 Q With whom?

24 A The management, upper management.

25 Q Upper management of the airport?

1 A No, sir. Of the PSC.

2 Q Anyone outside of the Public Service
3 Commission?

4 A I had spoken with Wayne Tuba on occasion
5 whenever he has asked questions about certification.

6 Q And those conversations, were any of those
7 conversations specific to the operations at Miami
8 International?

9 A Yes.

10 Q Have any documents been supplied to BellSouth
11 concerning the operations at Miami International
12 Airport?

13 A Not the operations specifically, but there was
14 a copy of a white paper provided, which was nothing more
15 than my opinion regarding what the rules say as far as
16 STS, shared tenant.

17 Q The STS customer list that's dated as of
18 February 2003 which is attached to PSC-5, was that ever
19 supplied to any representative of BellSouth?

20 A I believe it was provided.

21 Q Was it provided based upon BellSouth's request?

22 A Yes.

23 Q Do you remember approximately when it was
24 provided?

25 A It would more than likely be in the April 2003

1 time frame. And I'm not 100 percent it was provided,
2 but I believe I recall it being provided.

3 Q Besides Maurice Jenkins and Pedro Garcia, have
4 you had any other conversations with anyone at the
5 Miami-Dade Aviation Department concerning its operations
6 at MIA?

7 A Not since the time frame of this. I think when
8 I was there on that visit, which was probably in the
9 '92, '93 time frame, I was present there when things
10 were being discussed, but I didn't personally have any
11 discussion at that time.

12 Q Besides the e-mail marked as PSC-6, have you
13 rendered any other opinions as to whether the operations
14 at MIA require PSC certification?

15 A An opinion to the Miami --

16 Q Correct.

17 A No, I have not.

18 Q What's a local exchange telecommunications
19 company?

20 A It's a provider of your local services. You've
21 got to be clear when you say local exchange company,
22 because that can be misconstrued as a competitive local
23 exchange company. They're both local exchange
24 companies. But it's a provider of local services.

25 Q Now, you just said it can be competitive local

1 exchange?

2 A Yes.

3 Q There exists competitive local exchange and
4 then local exchange?

5 A That's correct.

6 Q What's a competitive local exchange carrier,
7 and what's a local exchange company?

8 A Competitive local exchange carriers are those
9 that were certificated since -- I believe it was July
10 1st of 1995. The companies that were certificated prior
11 to that time are incumbent local exchange companies.

12 Q So when you say incumbent, which are those
13 companies that were certified prior to 1995, would those
14 come under the moniker now of just local exchange, and
15 then the competitive would be after?

16 A Let me back up one second, I think it was 1996,
17 not 1995. My apologies.

18 MR. GOLDBERG: And let me object to the form of
19 the last question.

20 THE WITNESS: And if you could restate your
21 last question, please.

22 BY MR. HOPE:

23 Q Is a competitive local exchange company a
24 company that was certified after 1996?

25 A If they applied to be a competitive local

1 exchange company, yes.

2 Q Some entity that applied for certification
3 after 1996, do they have the option of either applying
4 as a competitive local exchange company versus a local
5 exchange company?

6 A You cannot apply as a local exchange company.

7 Q Got you. An incumbent local exchange company
8 is a local exchange company that was certified prior to
9 1996?

10 A Yes. I still can't remember if it was '96 or
11 '95.

12 MR. GOLDBERG: I'll help you out later.

13 BY MR. HOPE:

14 Q Is BellSouth a local exchange company?

15 A Yes, they are.

16 Q Is Miami-Dade County a local exchange company?

17 MR. GOLDBERG: Objection to the form.

18 A They're not authorized by the Commission as a
19 local exchange company.

20 Q Is BellSouth the only local exchange company in
21 Florida?

22 MR. GOLDBERG: Objection to the form, but go
23 ahead and answer.

24 A No.

25 Q Who are the other local exchange companies in

1 Florida?

2 A There are ten of them, and heaven help me
3 trying to name them.

4 Let's see. Sprint Florida, Verizon, BellSouth,
5 GT Com. I can't remember the rest of them. I should
6 know them by heart. Frontier, did I mention Frontier?

7 Q No.

8 A NEFCOM, which is Northeast Telephone. And some
9 of them have changed their name, so I'm not sure.
10 There's one that used to be Buena Vista, but they
11 changed their name. I think it's Smart City now.

12 I can provide a list of them, but I don't know
13 them off the top of my head.

14 Q But to your knowledge, there's ten local
15 exchange companies in the State of Florida?

16 A That's correct, incumbents.

17 Q What determines where a local exchange company
18 incumbent in the State of Florida can provide service?

19 A They each have franchised areas that are
20 determined by maps that are filed with the Commission at
21 the time of their certification, which are on file with
22 the Commission. And if boundary changes are necessary,
23 they are approved by the Commission.

24 Q Can the service area for a local exchange
25 company overlap with the service area of another local

1 exchange company?

2 A Not to my knowledge.

3 Q Based on that answer, does that mean that
4 BellSouth is the only local exchange company for
5 Miami-Dade County?

6 MR. GOLDBERG: Objection to the form.

7 A It's the only incumbent local exchange company,
8 but there are competitive local exchange companies that
9 also provide service in the area.

10 Q Okay. What competitive local exchange
11 companies provide service in Miami-Dade County?

12 A I don't know.

13 Q Do you know offhand how many competitive local
14 exchange companies provide service in Miami-Dade County?

15 A Not without looking in the front of the phone
16 book and seeing who's listed.

17 Q Do you know whether there are some competitive
18 local exchange companies that provide service in
19 Miami-Dade County?

20 A Yes, there are.

21 Q And somebody can look in the front of the
22 telephone book, you said?

23 A Usually in the front of the telephone book
24 there's a list of competitive local exchange carriers.
25 It's not an all-inclusive list because it's only printed

1 once a year.

2 Q What's a shared tenant service provider?

3 MR. GOLDBERG: Objection to the form.

4 A A shared tenant provider is a provider that
5 uses an on-site switch to aggregate traffic from users
6 behind the switch to shared trunks for economies of
7 scale.

8 Q You said earlier to a question posed that a
9 shared tenant service provider would also be a
10 telecommunications company if it provided two-way
11 communications to the public for hire; is that correct?

12 A That's correct.

13 Q If a shared tenant service provider, an STS
14 provider doesn't provide two-way communications to the
15 public for hire, does that mean that it's not a
16 telecommunications company?

17 MR. GOLDBERG: Objection to the form.

18 A If you weren't providing two-way
19 communications, you wouldn't be a shared tenant
20 provider.

21 Q To your knowledge, is BellSouth a shared tenant
22 service provider?

23 A Not to my knowledge. It's not necessary for
24 them to be a shared tenant provider. They're the
25 incumbent local exchange company.

1 Q Can you itemize the difference in
2 telecommunications services provided between a local
3 exchange company and a non-local exchange company?

4 A I'm not sure I understand your question.

5 Q Is there a difference in the type of service
6 that can be provided between a local exchange company
7 and a non-local exchange company?

8 A Well, when you say non-local exchange company,
9 I don't --

10 Q STS.

11 MR. GOLDBERG: Let me object to the form. You
12 can answer if you understand.

13 A Well, let me explain what a shared tenant
14 provider does, and then maybe you can form your line of
15 questioning where I can understand better. A shared
16 tenant provider uses an on-site switch to be able to
17 serve persons behind that switch and to be able to
18 aggregate the traffic through the switch to fewer trunks
19 that connect to a local exchange company, and the reason
20 they do it that way is for the economies of doing so.
21 In other words, if each station or each customer out
22 there had to have their own trunk to get back to the
23 local exchange company, that trunk is not going to be
24 busy all day long. So if you can aggregate, say, 50
25 people to, say, five trunks and keep those trunks busy,

1 you're going to see quite a bit of a cost savings. So
2 that's the reason that the shared tenant is used, is to
3 be able to allow that cost savings.

4 Now, when you compare that to how a local
5 exchange company provides it, they normally provide
6 individual access lines to each person that subscribes
7 to their service. So that's the main difference, I
8 think is what you're asking me.

9 Q Okay. What do you mean when you say the
10 provision of local service?

11 A Dial tone that is provided to you for the
12 purpose of making a local call.

13 Q Does the local exchange company provide dial
14 tone?

15 A Yes.

16 Q Does a shared tenant service provider provide
17 dial tone?

18 A They provide their own dial tone from their
19 switch, yes.

20 Q Is internal four-digit dialing considered local
21 service?

22 MR. GOLDBERG: Objection to the form.

23 A In what regard?

24 Q You say basically that -- let me explain this,
25 that the shared tenant service provides service from

1 this switch back to their customers, if I'm getting your
2 scenario correct. And then from the switch outward is
3 what's being provided by the local exchange carrier?

4 A Right.

5 Q So from the switch back to the customers, if
6 the switch allows four-digit dialing amongst customers
7 on this side of the switch, is that local service?

8 MR. GOLDBERG: Objection to the form.

9 A I believe it would still be local service, yes.

10 Q And why is that?

11 A It's two-way telecommunications. It's local.
12 It's not long distance.

13 Q So you're saying that as long as someone can
14 dial, whether it's dialing outside of the switch or
15 inside of the switch, that's local service?

16 MR. GOLDBERG: Objection to the form. Asked
17 and answered.

18 A I think the terms you're using are too broad
19 for my technical brain, because I'm more -- when you say
20 local service, that encompasses a lot. And --

21 Q Let me give you an example, and then let's see
22 if you understand it. My thought process of local
23 service, and correct me if I'm wrong, is that I go and
24 pick up a phone, and I dial -- if I'm in Miami-Dade, I
25 dial the ten-digit extension, and I can reach someone at

1 that ten-digit number, someone within Miami-Dade such
2 that it's a not a toll call, it's not a long distance
3 call.

4 MR. GOLDBERG: Before you go on, let me just
5 object to the form of the question.

6 MR. HOPE: Well, it's not a question.

7 MR. GOLDBERG: I know. That's the whole point.
8 You can't testify here at the deposition.

9 MR. HOPE: That's fine. I'm not testifying.

10 BY MR. HOPE:

11 Q If I can pick up a phone and dial ten digits to
12 someone within Miami-Dade County, is that local
13 service?

14 MR. GOLDBERG: Objection to the form. Again,
15 move to strike the statement made by counsel which
16 preceded the question.

17 A Am I to answer?

18 Q Yes.

19 A That would be a form of local service, yes.

20 Q If someone outside of a facility wants to dial
21 someone inside of a facility and picks up a phone and
22 dials a ten-digit number inside a facility like the
23 airport, is that considered local service?

24 MR. GOLDBERG: Objection to the form.

25 A Yes.

1 Q If someone inside the facility only has the
2 capability of dialing inside the facility and not
3 outside of the facility, is that considered local
4 service?

5 MR. GOLDBERG: Objection to the form.

6 A Could you repeat that, please?

7 Q If someone inside the facility can only dial
8 inside the facility, hence, dialing another extension
9 inside the facility, but does not have the ability to
10 dial outside the facility, is that considered local
11 service?

12 MR. HOPE: Same objection.

13 A Are you speaking of this as being a shared
14 tenant provider?

15 Q Yes.

16 A That's prohibited under the rules.

17 Q Why?

18 A It says right here, allow intercommunication
19 between unaffiliated entities. It says, "Shared tenant
20 service providers shall not be allowed to," and under
21 (d)3, "Allow intercommunication between unaffiliated
22 entities."

23 Q Can I get the rule you're reading from, for the
24 record?

25 A 25-24.575, and it's titled "Shared Tenant

1 Service Operations."

2 MR. GOLDBERG: Thank you.

3 BY MR. HOPE:

4 Q And which sub was it?

5 A It's under paragraph (5)(d)1. No, excuse me,
6 (5)(d)3.

7 Q What if outside dialing isn't prohibited by the
8 provider, meaning that the customer only wants to be
9 able to dial internally and does not want to be able to
10 dial externally?

11 MR. GOLDBERG: Objection to the form.

12 A I don't know. I would have to study on that.
13 I don't know.

14 Q Is the provision of STS services by
15 governmental entities exempt from PSC regulation?

16 MR. GOLDBERG: Objection to the form.

17 A Hold on one minute, because I've got to refresh
18 my memory on that. Just one moment.

19 The statute, from my understanding, under
20 364.339(3)(a), allows the Commission to exempt from
21 certification entities that provide STS services to
22 government entities.

23 Q Is the provision of STS services at airports
24 exempt from PSC regulation?

25 MR. GOLDBERG: Object to the form.

1 A Again, it depends on how you're providing the
2 service.

3 Q And that gets down to whether the trunk is
4 partitioned and to whom?

5 A Exactly.

6 Q Just a couple more things. You stated earlier,
7 and this refers to PSC-5, which has the listing of
8 customers that are being supplied with shared tenant
9 services at Miami International, that it was your
10 opinion that unless Miami International had partitioned
11 its trunk, it would require certification for provision
12 of services to everyone listed under the concessions and
13 others column and the management companies column.

14 MR. GOLDBERG: Object to the form.

15 A Definitely under the concessions part. As far
16 as the management, not being familiar with every entity
17 under that management part -- actually, if airport
18 management were there, I think that would be part of the
19 necessary persons to serve. But certainly the Miami
20 International Airport Hotel, they would need to
21 partition that.

22 Q Okay. Does it matter where the concession is
23 located?

24 A No.

25 Q So there's no difference between the concession

1 being located physically in the terminal building versus
2 a mile away as far as a trunk would need to be
3 partitioned in order to provide service to them absent a
4 PSC certificate?

5 A It would not matter where they were located.

6 Q Is there any other exemption to PSC
7 certification besides the airport exemption?

8 A Well, an entity can petition for waivers or
9 exemptions, provided that the language is in the rules
10 that you can petition for such. Certainly the
11 Commission cannot waive anything that's statutorily
12 required.

13 MR. HOPE: Nothing further.

14 REDIRECT EXAMINATION

15 BY MR. GOLDBERG:

16 Q Let me ask a few follow-up questions, and then
17 I think that will conclude the deposition. Let me sort
18 of begin where Mr. Hope left off. He asked you a
19 question that gave rise to your answer that an entity
20 could petition the PSC for a waiver. Are you using
21 waiver in the same manner as the word "exemption"?

22 A No, I don't think the two mean the same.
23 Again, not being a lawyer, I'm not sure. There is
24 certain language in certain statutes that allows the
25 Commission to do certain things when it comes to

1 allowing a company not to comply with that particular
2 section. But --

3 Q Sure. Along -- I'm sorry. I didn't mean to
4 interrupt you.

5 A What I was referring to was the rules. If
6 there is something in the rules that an entity does not
7 want to comply with, they can petition the Commission
8 for a waiver of that rule, and then the Commission makes
9 a determination if that waiver is granted or not.

10 Q And with that answer, let me ask you, are you
11 aware of whether or not Miami-Dade County has at any
12 time petitioned for a waiver of any PSC rules as it
13 relates to their operations at the Miami-Dade County
14 Airport?

15 A I'm not aware of any petitions.

16 Q Let me also follow up on another question that
17 Mr. Hope asked you, and that was, he asked you whether
18 or not it would matter whether a concession or a hotel
19 was located in the airport terminal or a mile away. And
20 correct me if I'm wrong, but your answer was that it
21 would not matter.

22 A Correct.

23 Q Let me ask you a similar question. Would it
24 matter as to where that concession or hotel is placed,
25 whether or not it is placed on property owned by the

1 airport or property owned by somebody else? Would that
2 matter?

3 A I don't know.

4 Q And the reason you don't know, is there any
5 thought process behind that?

6 A I never have been asked the question before.

7 Q Okay.

8 A Normally if someone is going to provide service
9 for somebody that is off-premises, they get a
10 competitive local exchange carrier license and not a
11 shared tenant provider license, because normally the
12 loop supervision of the switch won't reach that far.

13 Q Sure. If you recall, I asked you a similar
14 question about whether it would matter in your answers
15 given in this deposition as to whether or not as it
16 relates to the concession or hotels, the County would
17 argue that they were making money or not making money in
18 terms of a profit. And to summarize, you said it
19 wouldn't matter; is that correct?

20 A That's correct.

21 Q Along the same lines, does it matter whether or
22 not that concession or hotel is located on property
23 owned by the airport or not owned by the airport as to
24 whether or not they need a certificate to provide STS
25 services?

1 MR. HOPE: Object to the form.

2 A I believe the provision of the service itself
3 is what requires it to be certificated, not particularly
4 so much as who owns the property.

5 Q During this deposition today, you have -- when
6 talking about partitioning, you've combined partitioning
7 with the word "switch" in terms of whether or not the
8 airport partitions its switch.

9 A Uh-huh.

10 Q Would you agree that a switch is the same thing
11 as a trunk, as trunk is used in the Florida
12 Administrative Code by the Florida PSC rules?

13 MR. HOPE: Objection to the form.

14 A No.

15 Q Let me see if I can clarify my understanding of
16 your testimony. Let me hand you what has been marked as
17 PSC-12. PSC-12 is what is known as or titled as the
18 airport exemption. Obviously, you're familiar with this
19 language; correct?

20 A Yes, uh-huh.

21 Q Okay. In the language, it uses the word -- let
22 me read the last sentence. "However, if the airport
23 partitions its trunks," and then it goes on. Were you
24 meaning to refer to the term "trunks" when you were
25 using the word "switch" in your prior testimony, or were

1 you referring to something different?

2 A Well, in actuality, what this says here is what
3 they mean to happen. But what you actually have to
4 partition is the switch in order for it to route the
5 traffic to a particular trunk group. You can't take a
6 trunk and partition it. It just sits there. So what
7 you're doing is, you're taking the switch, programming
8 it, these stations route to this trunk group and this
9 trunk group only. You then partition the switch to that
10 particular trunk group.

11 Q So essentially, your use of the word "switch"
12 is consistent with the use of the word "trunk" in the
13 airport exemption, except you're just being more
14 technically accurate. Is that fair to say?

15 MR. HOPE: Objection to the form.

16 A That's true. That's correct.

17 Q I said I would help you out on one point, so
18 just so your testimony is clear at the end of the day,
19 let me let me hand you what has been marked as PSC-8.

20 You were asked some questions at the outset by
21 Mr. Hope as it relates to the definition of a local
22 exchange telecommunications company. If I can direct
23 your attention to the second page of this document,
24 which is a recitation of Florida Statute Section 364.02,
25 does it provide at subparagraph (7) a statutory

1 definition of local exchange telecommunications company?

2 A Yes, it does.

3 Q And does that help refresh your recollection as
4 to the date you were looking for before?

5 A Yes, it does.

6 Q Can you just read that date into the record?

7 A June 30, 1995.

8 Q Does that help you out okay?

9 A Yes, it does. I couldn't remember the correct
10 date to save my life.

11 Q That's okay. Mr. Hope also asked you in his
12 cross-examination about whether or not the PSC has
13 mechanisms to resolve disputes between parties. Do you
14 remember that series of questions?

15 A Yes.

16 Q And are you saying in your testimony that a
17 court, a state circuit court in Florida does not have
18 jurisdiction or the ability to resolve a dispute
19 involving certification or PSC statutes or rules?

20 A I'm sure the courts do. The Supreme Court is
21 what references anything that we have that we make a
22 decision on. If the parties don't care for it, they
23 take it to the Supreme Court.

24 Q But you are not saying by your testimony, are
25 you, that any dispute that happens to involve PSC rules

1 or statutes has to come to the PSC first before a court
2 can address that issue?

3 MR. HOPE: Object to the form of the question.

4 A No, I'm not saying that.

5 Q Mr. Hope was asking various questions about
6 local service, and some of the requests had to do with
7 what can overlap, and I think there was one question
8 that dealt with whether local service can overlap with
9 local service. Be that as it may, my question is, can
10 an STS service, a provider of STS service overlap with a
11 provider of local service?

12 A Yes.

13 Q And when I use the word "overlap," would you
14 agree that an STS provider can overlap and therefore
15 compete with a local service provider?

16 MR. HOPE: Objection to the form.

17 A Yes.

18 Q Would you accommodate me for another three or
19 four minutes so that I can just review my notes and talk
20 to Ms. Liebman and see if we can conclude?

21 A Certainly.

22 MR. GOLDBERG: I appreciate it. Thank you very
23 much.

24 (Short recess.)

25 BY MR. GOLDBERG:

1 Q Okay. Mr. Moses, I actually just have one
2 question, and then we're going conclude, so if you'll
3 indulge me for one second.

4 Earlier in your deposition I asked you whether
5 or not you understood the nature of the lawsuit that
6 brings us here today to take your deposition; correct?

7 A Correct.

8 Q And correct me if I'm wrong, but I recall you
9 answering no, you didn't have a great understanding of
10 the lawsuit.

11 A That's correct.

12 Q And I think you also testified, and correct me
13 if I'm wrong, that you had not even read the complaint
14 that has been filed in this case by BellSouth.

15 A That's correct.

16 Q Let me represent to you that in that complaint,
17 the majority of the complaint concerns whether or not
18 Miami-Dade County has violated its own charter by
19 operating and providing telecommunications services at
20 the Miami-Dade County Airport and other airports, so in
21 essence, it is an issue regarding the Miami-Dade charter
22 and whether or not it has been violated.

23 Having said that, is it your testimony that
24 that would be a matter -- strike that. Would that be a
25 matter that would be brought before the PSC for

1 resolution?

2 MR. HOPE: Objection to the form.

3 MR. FORDHAM: Unless he's comfortable answering
4 it, I would object on the basis that that requires a
5 rather sophisticated legal analysis.

6 MR. GOLDBERG: Okay. Fair enough.

7 BY MR. GOLDBERG:

8 Q But would you agree it's not your testimony
9 today that an alleged violation of the Miami-Dade
10 charter needs to be resolved by the PSC and not a
11 court?

12 MR. HOPE: Objection to the form.

13 A Again, I knew nothing of the charter before you
14 just now spoke about it, so I wouldn't think that would
15 be something that would be addressed with the
16 Commission.

17 MR. GOLDBERG: Well, that was probably a couple
18 of questions, but that's it. It was one main
19 question.

20 That concludes the deposition. As I'm sure
21 your lawyer, who is well experienced, more
22 experienced than me, can explain to you, at the end
23 of every deposition, the witness such as yourself
24 gets an option to either read the transcript of your
25 answers to make sure that they're accurate, and once

1 you read it, you have the opportunity to make
2 corrections or do what's called an errata sheet so
3 you can ensure that your testimony is accurate, or
4 you can waive reading and just let your testimony
5 stand as it is. So I'm sure -- do you want to read,
6 or would you like to waive?

7 THE WITNESS: I waive.

8 MR. GOLDBERG: Is that okay with you?

9 MR. FORDHAM: Yes.

10 MR. GOLDBERG: Okay. I do want to thank you
11 very much. I know this has taken up some of your
12 time here at the Commission, but we greatly
13 appreciate it, and I appreciate your attention to
14 this.

15 THE WITNESS: Certainly. Thank you.

16 (Deposition concluded at 3:33 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, Notary Public in and for
the State of Florida at Large:

DO HEREBY CERTIFY that on the date and place
indicated on the title page of the foregoing transcript,
an oath was duly administered by me to the designated
witness before testimony was taken.

WITNESS my hand and official seal this 18th day
of October, 2004.



Mary Allen Neel
MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308

CERTIFICATE OF REPORTER


STATE OF FLORIDA)

COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 69 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 18th day of October, 2004.


MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

BELLSOUTH TELECOMMUNICATIONS, CASE NO. 02-28688 CA 03
INC., a foreign corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of
Florida,

Defendant.

DEPOSITION OF. RICHARD A. MOSES
TAKEN AT THE INSTANCE OF: The Plaintiff
DATE: October 5, 2004
TIME: Commenced at 1.30 p.m.
Concluded at 3.33 p.m.
LOCATION: Gunter Building, Room 282
2540 Shumard Oak Boulevard
Tallahassee, Florida
REPORTED BY. MARY ALLEN NEEL, RPR
Notary Public, State
of Florida at Large

ACCURATE STENOGRAPHY REPORTERS, INC.
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TALLAHASSEE, FLORIDA 32308
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PROCEEDINGS

1
2 The following deposition was taken on oral
3 examination, pursuant to notice, for purposes of
4 discovery, for use as evidence, and for such other uses
5 and purposes as may be permitted by the applicable and
6 governing rules. Reading and signing of the deposition
7 transcript by the witness is waived.

* * *

8
9 Thereupon,
10 RICHARD A. MOSES
11 the witness herein, having been first duly sworn, was
12 examined and testified as follows:

DIRECT EXAMINATION

13
14 BY MR. GOLDBERG:

15 Q Mr. Moses, let me just introduce myself again
16 on the record. My name is Martin Goldberg. I represent
17 BellSouth Telecommunications in a case that's currently
18 pending in Miami-Dade County, Florida, in the Circuit
19 Court there. It's entitled BellSouth vs. Miami-Dade
20 County. The case number is 02-28688 03.

21 You are here, and we appreciate your time very
22 much, pursuant to a subpoena that was issued for your
23 deposition; is that correct?

24 A That's correct.

25 Q Okay. Let me just show you what I've marked as

1 PSC-1. I've shown a copy to Mr. Hope, who is also
2 present representing Miami-Dade County. You may not
3 have seen the first couple of pages, the Notice of
4 Taking Deposition. But let me ask you, with respect to
5 the back half of that document, is that a copy of the
6 subpoena that brought you here today?

7 A Yes, it is.

8 Q Okay. Thank you very much.

9 Can you just state your full name and spell
10 your last name for the record again, if you didn't do
11 that when we first started?

12 A Certainly. It's Richard Allen Moses. Allen is
13 spelled A-l-l-e-n, last name, M-o-s-e-s.

14 Q Mr. Moses, have you had your deposition taken
15 before?

16 A No, I have not

17 Q Okay. It's a pretty simple process. I'm just
18 going to be asking you questions. I will finish my
19 questions and wait for you to answer. If at any time,
20 though, I ask an inarticulate question, which may be the
21 case, or for some other reason you don't understand me,
22 please tell me, and then I'll rephrase the question,
23 because I think all of us here want you to answer
24 questions that you truly and completely understand.

25 A Okay.

1 inspections of pay telephones and ILEC service quality,
2 where they go in the field and inspect various things
3 there. The other half is a compliance group, in which
4 we have people investigating companies for compliance
5 with the Commission's rules, orders, and statutes.

6 Q And as we proceed in the deposition, if the
7 court reporter has any problems in hearing any part of
8 your question, she may interrupt and ask you to repeat,
9 so I'll just ask you to try and to keep your voice up so
10 she can hear everything, but I appreciate that.

11 Prior to assuming that role that you just
12 described, were you employed by the PSC in any other
13 capacity?

14 A Yes, I was. I was a utility systems
15 communications engineer supervisor. How's that for a
16 title?

17 Q Pretty long.

18 A I started in December of 1990 in that position
19 and continued it until I was promoted to bureau chief.

20 Q And can you just give us a brief description of
21 your daily responsibilities in that role?

22 A At that time, I was responsible for
23 certification of all different types of telephone
24 companies, and also the compliance with the rules,
25 statutes, and orders. I didn't have the service

1 Q If at the time, since you have your counsel
2 here, you want to speak to him or take a break, please
3 let me know, and we'll obviously take a break to
4 accommodate you in any way, shape, or form.

5 A Okay.

6 Q I will ask you questions, and I'm going to
7 probably show you some documents as we go through, and
8 then the deposition will proceed. Mr. Hope will have
9 the opportunity to ask you questions. I don't know if
10 he will or he won't. And then I'll have an opportunity
11 to follow up with some additional questions, and that
12 will be it. That's sort of the course of a deposition.
13 Okay?

14 A Okay.

15 Q Can you just tell me what your current position
16 here is with the PSC or Public Service Commission?

17 A I'm the bureau chief of the Bureau of Service
18 Quality.

19 Q And how long have you been in that position?

20 A Since April 1st, 1999.

21 Q In that position, can you just explain what
22 your general duties and responsibilities are on a
23 day-to-day basis, please?

24 A My bureau has got two sections. One is the
25 service quality, which has engineers that do quality

1 evaluation portion

2 Q Thank you. And prior to December of 1990, were
3 you employed in any capacity with the PSC?

4 A No

5 Q Can you just tell me briefly your prior
6 employment before you came to the PSC, please?

7 A Certainly. I was employed by GTE from
8 September 1972 up until December, I believe, 1989.

9 Q And GTE, just for the record, stands for?

10 A It's Verizon now. It was General Telephone and
11 Electronics.

12 Q But a position in the telecommunications field;
13 correct?

14 A I had several different positions with them,
15 all in telecommunications, yes

16 Q Okay. With that company, could you just sort
17 of summarize your experience, because I think it's
18 relevant, being that it's in the telecommunications
19 field, what positions you had with that company?

20 A Certainly. I started out as a lineman, then
21 went to installation and repair technician, then was a
22 special services circuit technician, special services
23 circuit design engineer, project manager, and network
24 manager.

25 Q And how many years were you with that company?

1 A Seventeen years.

2 **Q Okay. Let me just ask you a couple of**

3 **questions about the PSC generally. And I apologize in**

4 **advance if some of the questions seem sort of**

5 **straightforward or simplistic to you. We're obviously**

6 **in a case where we need to sort of just bring up the**

7 **background and explain certain functions to the court**

8 **that the court may not otherwise be familiar with,**

9 **particularly as familiar as you may be.**

10 A Okay.

11 **Q Can you just give me a brief synopsis of what**

12 **the Public Service Commission does on a daily basis and**

13 **what its mission is?**

14 A That's a pretty broad statement.

15 **Q I may be able to help you. Take the best shot**

16 **you can, and then --**

17 A Just in telecommunications, or in all --

18 **Q How about as it relates to telecommunications?**

19 A Well, they oversee the regulation of the

20 telecommunications companies to the extent that the

21 Florida Statutes lay out as guidance. They hear

22 arbitrations as far as agreements between the incumbent

23 local exchange companies and the competitive local

24 exchange companies. They rule on various things that

25 are handed down from, say, the FCC, such as the TRO

1 docket There are certain decisions that they make in

2 those type filings.

3 There's still one company that's still rate of

4 return regulated as far as incumbent local exchange

5 companies. The rest of them are what they call price

6 cap regulated, in which there's different baskets -- I'm

7 not all that familiar with the different things that

8 they have to look at, but they look at the operations of

9 the telephone companies.

10 They regulate pay telephone companies to the

11 extent that certain things have to be on the pay

12 telephones as far as signage. Certain functions of the

13 telephones have to perform in a certain way. They have

14 to be installed in a certain way as far as in compliance

15 with the rules passed by the Commission

16 The interexchange carriers, there are some

17 regulations on those as far as registration

18 requirements, operator service, rate caps as far as zero

19 plus calls from various types of entities, such as

20 hotels and payphones, regulation over shared tenant

21 providers, which are providers that have usually a

22 switch on-site to provide service to various types of

23 entities.

24 There's also the competitive local exchange

25 companies, which are the competitors to the incumbent

1 LECs for local service.

2 And I'm leaving out one. Oh, AAV, which are

3 point-to-point private line providers, more or less a

4 pipe between two places.

5 **Q That's a pretty exhaustive overview. Let me**

6 **just try and short-circuit so I don't ask a whole lot of**

7 **detailed questions about that. Let me hand you what**

8 **I've marked as PSC Exhibit Number 2 and ask you if you**

9 **recognize that document. And I'll represent that I**

10 **printed it from the PSC's website. It's entitled**

11 **"Statement of Agency Organization and Operations." Have**

12 **you seen that before?**

13 A Yes, I have.

14 **Q If you'll thumb through it, my general question**

15 **is, does it look like an accurate and complete copy from**

16 **the website which gives an overview of the PSC?**

17 A Subject to check, looking at the website, I

18 would say it is, yes.

19 **Q Thank you. We'll just mark that as part of the**

20 **record, and I think that document will speak for itself**

21 **as to the agency's background and purpose.**

22 **Do you have a general understanding, if an**

23 **understanding at all, about the dispute in this case**

24 **that has led to the litigation between BellSouth and**

25 **Miami-Dade County?**

1 A I don't know the details of it, no.

2 **Q Okay. Fair enough. Let me show you what I**

3 **have marked next as PSC Exhibit 4. And it's fair to say**

4 **you haven't seen a copy of the complaint that has been**

5 **filed in this case by BellSouth?**

6 A No, I have not.

7 **Q Okay. What I've handed you is a pleading in**

8 **the case, and it actually is Miami-Dade County's answer**

9 **and affirmative defenses to the second amended complaint**

10 **that has been filed by BellSouth. And just for**

11 **background purposes for this deposition, I wanted to**

12 **bring your attention to page 2 of that document, if I**

13 **may, particularly paragraph 12. And I'm sorry, sir. I**

14 **have an extra copy for you if you like.**

15 **And paragraph 12, let me read it into the**

16 **record. It says, "Regarding paragraph 18," and that's**

17 **referring to the second amended complaint, "the County**

18 **admits providing shared airport tenant services to**

19 **airport tenants at Miami International Airport." Did I**

20 **read that correctly?**

21 A Yes.

22 **Q Okay. So for purposes of this deposition, I**

23 **want to just advise you that the County has admitted to**

24 **providing STS services at Miami International Airport.**

25 **Do you understand that from what you've read?**

1 A Yes, I do.

2 Q Okay. Thank you.

3 Let me show you now what I've marked as
4 Composite Exhibit Number 7, PSC-7. And Composite PSC-7,
5 let me represent to you, is a number of various
6 documents that the County, Miami-Dade County has
7 produced to BellSouth in this case. In other words,
8 they are county documents consisting of various notes
9 that the County has written back in time relating to
10 this issue, as well as -- what we'll go over are certain
11 copies of applications, noncompleted applications for a
12 certificate to provide STS services. Do you understand
13 that, my representation that these are county documents?

14 A Yes.

15 Q Let me direct your attention to the second page
16 of that composite exhibit, to the bottom of that page.
17 And at the bottom of the page, you'll see, "STS. Do we
18 need to apply? Call PSC." Do you see that --

19 A Yes, I do.

20 Q -- written there? Okay.

21 In your job here at the PSC, have you ever
22 received calls or been made aware of calls from entities
23 that want advice as to whether or not they're either
24 providing STS services or need to be certificated to
25 provide those services?

1 A Yes.

2 Q Does that happen routinely, would you say,
3 during the course of a year that certain entities call?

4 A Regarding STS, it's not too frequent. There's
5 not that many providers of shared tenant. I think
6 there's only around 34 in the state right now, and it
7 has never been much higher than that. So I may get two
8 or three calls a year.

9 Q Fair enough. Let me direct your attention to
10 next -- you'll see at the bottom of that document
11 they're Bates stamped. If I could ask you to turn to
12 the document bearing Bates stamp 17, or MDC(5) and then
13 00017. You're at that page; correct?

14 A Yes.

15 Q Let me walk you down through this page of
16 handwritten notes, and I have some questions for you.
17 At the top right, you see that it's marked October 26,
18 2001; correct?

19 A Correct.

20 Q And then the heading of it is PSC, which you
21 understand that to be Public Service Commission;
22 correct?

23 A Yes.

24 Q On STS. And then it says, "Main number,
25 (850)413-6600." Is that the PSC's number here in

1 Tallahassee?

2 A That's the number for the Telecommunications
3 Division, yes.

4 Q In October of 2001, where were you working here
5 at the PSC?

6 A I was the bureau chief

7 Q For the Telecommunications Division?

8 A No, just for the Bureau of Service Quality.

9 Q Okay. The next item down is a name, Jackie
10 Gilchrist, and in parentheses, boss. Can you tell me
11 who Jackie Gilchrist is or was when she worked here at
12 the PSC?

13 A She was a supervisor. They had moved
14 certification over under a different bureau chief, and
15 she was a supervisor under that bureau chief.

16 Q Okay. And when you say they moved
17 certification, could you just explain what you mean by
18 certification?

19 A The group of people that were under my
20 supervision that were handling certificates and name
21 changes and things of that nature were taken and moved
22 as a section over under a different bureau chief. I was
23 no longer handling certification, which I'm now handling
24 again.

25 Q Sure. Tom Williams, who was Tom Williams at

1 the time?

2 A At the time that Jackie Gilchrist was his boss,
3 he was an Engineer IV working for her doing
4 certification and tariff issues

5 Q And do you know whether or not the number next
6 to his name was his number here at the PSC?

7 A I don't know.

8 Q And the next name down obviously is your name,
9 Richard Moses. Do you know if that was your number at
10 the time?

11 A Yes, it was

12 Q It says next to your name -- let me read it
13 into the record. "He was at MIA five to six years ago
14 looking at this issue." Let me ask you, does that mean
15 anything to you?

16 Strike that. Let me ask you, were you ever at
17 MIA or Miami International Airport five to six years
18 prior to October of 2001?

19 A Yes, I was.

20 Q Can you explain what brought you to MIA?

21 A There was a dispute filed with the Commission
22 between BellSouth and the Miami-Dade Airport Authority.
23 At that time, Allen Taylor was the bureau chief. I was
24 a supervisor working under him, and the two of us went
25 to Miami for the purpose of looking at all the various

1 terminals. I think the main issue was access at that
2 time. And we were just looking at the terminals to try
3 to get a feel for the magnitude of the problem.

4 **Q And how long were you at MIA when you went on
5 that visit?**

6 A One day.

7 **Q During that one day, did you get a good feel or
8 understanding of the telecommunications service that was
9 being provided at the airport at that time?**

10 A Not the service itself. Mainly we were looking
11 at cabling issues, how much cable was there, was there
12 room for additional cable, things of that nature. We
13 didn't look at any individual services.

14 **Q And again, the nature of that dispute at the
15 time to the best of your understanding was what?**

16 A I'm trying to think back. That has been a long
17 time ago. If I'm not mistaken, and I've got documents
18 in my office I could review, but it was a dispute that
19 ended up being resolved between the two parties. The
20 Commission never made a ruling on it. It was withdrawn.

21 **Q Fair enough. Is it fair to say that that
22 dispute is different from your understanding of this
23 dispute, in part dealing with whether or not Miami-Dade
24 County is operating a telecommunications utility or
25 telephone utility or telecommunications company?**

1 **object, and then notwithstanding his objection, you can
2 still answer unless your attorney tells you not to for
3 some reason.**

4 A Okay.

5 **Q There there's some additional writing in the
6 middle of this page that says, "If MIA is going to
7 provide service not related to public transportation
8 (hotels, shops, et cetera) we need to file an
9 application." Then it says, "In any event, trunks will
10 have to be partitioned." Did I read that correctly?**

11 A Yes, you did.

12 **Q And then the language says, "It takes two
13 months once they receive the application. Twelve days
14 before the next Commission meeting." Did I read that
15 correctly?**

16 A Yes, you did.

17 **Q And down at the bottom it has a name, Myra
18 Bustamonte. And I apologize for coughing. Myra
19 Bustamonte, do you know who she is?**

20 A No, I don't.

21 **Q To your knowledge, she's not an employee of the
22 PSC, nor was she back in October of 2001?**

23 A Not to my knowledge.

24 **Q Now, let me ask you, do you have any
25 independent recollection in or about October of 2001 of**

1 MR. HOPE: Objection to the form.

2 MR. GOLDBERG: You can still answer.

3 A Up until now, I wasn't real sure what the
4 dispute is, because I had never seen the lawsuit or
5 anything as far as what the dispute has been between the
6 two of them.

7 **Q Fair enough. Let me ask it a different way.
8 If I were to represent to you that the dispute in this
9 case centers around whether or not Miami-Dade County
10 through its facilities at the airport is operating a
11 telephone utility or telecommunications company, and
12 also as a by-product of that, whether they need to be
13 certificated as an STS provider, are those issues that I
14 just outlined for you different from the issues that
15 brought you down to MIA a number of years prior that we
16 just spoke about?**

17 MR. HOPE: Object to the form.

18 A I believe they are.

19 **Q If you can repeat your answer.**

20 A I believe they are.

21 **Q And let me just highlight. I may ask certain
22 questions. Mr. Hope is well within his prerogative to
23 object. Usually you'll hear him say, "Objection to the
24 form." He'll try and get that objection in before you
25 answer. If you see that he's objecting, wait for him to**

1 **receiving a phone call from any individuals associated
2 with the Miami International Airport or Miami-Dade
3 County seeking advice as to whether or not they needed
4 to be certificated as an STS provider?**

5 A Not that I recall.

6 **Q Are you aware of participating in any telephone
7 conferences with anybody associated with the Miami
8 International Airport concerning whether or not they
9 should be certificated to be an STS provider?**

10 A During this time period?

11 **Q Yes.**

12 A Not that I can recall.

13 **Q Okay. Are you aware of any communications in
14 or around this time period, October of 2001, between
15 individuals at the Miami-Dade County Airport and the
16 Public Service Commission seeking advice as to whether
17 or not the County should apply for a certificate to
18 provide STS services at the airport?**

19 A I am not aware of any.

20 **Q If you could look again at this document,
21 particularly the language in the middle of the page, let
22 me just ask you a technical question. After reviewing
23 the names on this page, Jackie Gilchrist, Tom Williams,
24 and yourself, as well as the language in the middle,
25 does that refresh your recollection in any manner as to**

1 **communications by and between the PSC and the airport**
2 **regarding issues of certification?**

3 A Well, at that time, Jackie Gilchrist and Tom
4 Williams, neither worked for me, so they could have had
5 conversations that I'm not aware of. As far as myself,
6 I don't recall having any conversations as far as
7 certification.

8 **Q Do you know where Jackie Gilchrist is**
9 **presently?**

10 A No, I do not. She's no longer with the
11 Commission.

12 **Q Do you know where Tom Williams is presently?**

13 A He should be in his office.

14 **Q So that means he's still employed here at the**
15 **PSC?**

16 A Yes.

17 **Q Okay. Fair enough. Fair enough.**

18 **Let me ask you to turn the page in that**
19 **composite exhibit, if I may. Let me ask you if you**
20 **recognize this document or a document like this entitled**
21 **"FPSC Alphabetic Listing of Regulated Telecommunications**
22 **Companies: Shared Tenant Service."**

23 A I believe this is what a report would look
24 like if you generated it from our website.

25 **Q And just in simple English, what is this**

1 **listing supposed to or meant to show or indicate?**

2 A It's a list of certificated shared tenant
3 providers as of that date that's listed on there.

4 **Q So do only certificated companies get placed on**
5 **this list as far as you know?**

6 A I believe that's the way they have it set up on
7 the website, so you don't end up looking at companies
8 that have discontinued service or been canceled for
9 whatever reason.

10 **Q If a company is not on this list -- well,**
11 **strike that. Let me ask you, if a company is not**
12 **certificated, but still an STS provider, do you know**
13 **whether they would appear on this list?**

14 A If they're not certificated, no, they would not
15 appear on that list

16 **Q Let me continue to ask you along those lines,**
17 **if you have an STS provider who is not certificated and**
18 **obviously wouldn't appear on this list, are they still a**
19 **telecommunications company?**

20 A I believe they would meet the requirements
21 under 364 as a telecommunications company if they're
22 providing two-way telecommunications for hire.

23 **Q And as a telecommunications company providing**
24 **two-way telecommunications for hire, would they be**
25 **subject to the exclusive jurisdiction of the PSC for**

1 **which you work?**

2 A Yes

3 **Q Let me take you to another portion of this**
4 **composite exhibit and direct your attention to page 6 of**
5 **the exhibit, back to the beginning part. And before I**
6 **ask you questions, if you just want to generally peruse**
7 **pages 6 through 16, I'm going to ask you questions about**
8 **that document.**

9 A Okay

10 **Q Do you recognize that document as a whole?**

11 A Yes, I do.

12 **Q Okay. What is this document, setting aside the**
13 **handwritten notes for now that are on there?**

14 A It's an application to provide shared tenant
15 service, requesting authority from the Commission.

16 **Q And is this a form that is utilized by the PSC**
17 **for those who want to apply for a certificate to provide**
18 **STS services?**

19 A Yes, it is.

20 **Q Let me direct your attention to the second page**
21 **of that application, particularly question number 1,**
22 **which is on Bates stamped page number 7, where it says,**
23 **"This is an application for." And then am I correct**
24 **that it gives four possible options to check, either an**
25 **original certificate or the three below that?**

1 A You're correct.

2 **Q You can pick original certificate, which this**
3 **application has hand marked; correct?**

4 A Correct

5 **Q And then going down the list of options, what**
6 **does the next option essentially require if you were to**
7 **select that?**

8 A That would be the approval of transferring a
9 certificate to another entity.

10 **Q So if a non-certificated company purchases a**
11 **certificated company and desires to retain that original**
12 **certificate, you would have to check that box; correct?**

13 A That's correct.

14 **Q The next line or selection down, does that deal**
15 **with the assignment of an existing certificate?**

16 A Yes, it does.

17 **Q So an entity that wants to have a certificate**
18 **assigned to them would check that box; correct?**

19 A I believe they give an example right below that
20 where a certificated company purchases a certificated
21 company and desires to retain the certificate of
22 authority of that company, so that would be correct.

23 **Q And the last option that's laid out is approval**
24 **of transfer of control. And the example there is a**
25 **company purchases 51 percent of a certificated company,**

1 and the PSC must approve that new controlling entity; is
2 that correct?

3 A That's correct.

4 Q Okay. What box would one select if the
5 purchasing entity -- if an entity purchased a
6 non-certificated company, yet the purchasing entity was
7 operating an STS service that required certification?

8 A And the originating entity that you're speaking
9 of is not certificated?

10 Q Yes. The entity being purchased is not
11 certificated, rightly or wrongly, but the acquiring
12 entity is operating an STS service. Would that entity
13 select original certificate?

14 A Is the operating entity certificated already or
15 not certificated?

16 Q Not certificated.

17 A Then it would be original certificate.

18 Q Would the fact that the operating entity who
19 purchases a non-certificated company, in that scenario
20 -- strike that. In the scenario I just described, would
21 the fact that the purchased entity that was operating
22 without a certificate, the fact that they did not have a
23 certificate, does that bear any relevance as to whether
24 or not the new entity should obtain a certificate if
25 they're actually providing STS services?

1 MR. HOPE: Object to the form.

2 MR. GOLDBERG: You can still answer.

3 A No.

4 Q Let me direct your attention now to the last
5 page of that document, which is Bates stamped 16 in the
6 bottom right corner, and also at the top of that
7 document, it says "Applicant Acknowledgment Statement."
8 The first line speaks about a regulatory assessment fee,
9 and then it talks about a gross receipts tax and a sales
10 tax. If a company becomes certificated per the laws of
11 the State of Florida and the PSC's jurisdiction, are
12 there fees and/or taxes that need to be paid by that
13 company?

14 A Yes, there is

15 Q Okay. So would you agree, is there an economic
16 disadvantage, so to speak, if you do become certificated
17 because you have to pay fees and taxes to the State of
18 Florida?

19 A I'm not sure I would characterize it as a
20 disadvantage.

21 Q Okay. Does it cost the entity an amount yearly
22 if they become certificated?

23 A Yes.

24 Q Okay. And is that cost split up between
25 regulatory assessment fee, the gross receipts tax, and

1 sales tax that's outlined on this document?

2 A Yes.

3 Q Are there any other costs or fees or taxes that
4 you're aware of that certificated companies need to pay
5 other than the ones mentioned on this document?

6 A I believe there's a communications tax at the
7 Department of Revenue, but I'm not sure. I would have
8 to check on that. There's out of our jurisdiction.
9 There may be other fees, or maybe not I don't know.

10 Q Fair enough. Let me ask you this question,
11 though. If a company did not become certificated, there
12 wouldn't be any fees or taxes to be paid; is that
13 correct?

14 A For the other agencies, I don't know the answer
15 to that.

16 Q Let me limit my question again to the PSC, and
17 let me rephrase it. If a company did not become
18 certificated by the PSC to provide STS services, that
19 company would not be paying or be required to pay the
20 regulatory assessment fee, gross receipts tax, and sales
21 tax. Do you agree with that?

22 A That's correct.

23 Q Do you recall on one of the prior documents it
24 said that once an application, an application like the
25 one we went over is filed with the PSC, that it takes

1 approximately two months to be approved or disapproved?
2 Is that an accurate statement?

3 A It depends on the type of application. IXC's
4 have tariffs involved, so they take a little bit longer
5 Shared tenant does not have the tariff involved, so it
6 wouldn't take quite as long. But it depends on when the
7 filing comes in to us and the schedule of the agendas as
8 to how quickly we can get it to agenda.

9 Q Now, in order to get certificated, all that
10 needs to happen from an entity's perspective is to file
11 an application and pay the application fee; is that
12 correct?

13 A For shared tenant?

14 Q Yes.

15 A That's correct.

16 Q And they file an application just like the one
17 we went over; correct?

18 A I believe it hasn't changed; that's correct

19 Q And that's contained again in Exhibit PSC-7.

20 Would you agree that the act of applying for an
21 application is required by Florida law or Florida
22 Statutes prior to providing STS services?

23 MR. HOPE: Objection to the form.

24 MR. GOLDBERG: You can answer.

25 A Yes.

1 **Q** And the act of applying for a certificate as
2 Florida law describes, it is not ambiguous. I mean,
3 it's pretty direct that an entity shall apply for a
4 certificate; is that correct?

5 A That's correct.

6 **Q** And let me show you, just to highlight that
7 point, what I've marked as PSC-9. This is a copy of
8 Section 364.339 out of the Florida Statutes. Let me
9 direct your attention to subparagraph 2, where it says,
10 "No person shall provide shared tenant service without
11 first obtaining from the Commission a certificate of
12 public convenience and necessity to provide such
13 service." And is that in part what you've based your
14 prior answer on that it's pretty clear that the law
15 requires an application before providing a service?

16 A Yes.

17 **Q** And just so we're clear, the application for a
18 certificate, the law calls that a certificate of public
19 convenience and necessity; is that correct?

20 A That's correct.

21 **Q** So would you agree with me that the act of
22 applying for a certificate is an act directed by the law
23 here in Florida?

24 MR. HOPE: Objection to the form.

25 A Yes.

1 -Q -I'll give you a second to review that e-mail,
2 and when you're done, let me know, and I'll ask you some
3 questions about it.

4 A Go ahead.

5 **Q** Do you recall sending this e-mail to
6 Mr. Jenkins?

7 A Yes, I do.

8 **Q** In or about what month or year do you believe
9 that you send this e-mail?

10 A Well, I gave him a response date of March 10th,
11 so I would have sent it probably 15 days prior to that.

12 **Q** And it states in the e-mail that you've been
13 informed that the Miami Airport may be providing
14 telephone service beyond its current authority, and
15 pursuant to Rule 25-24.580, Florida Administrative Code,
16 an airport is exempt from the certification requirements
17 of this Commission as long as it is only providing
18 telephone service necessary to ensure the safe and
19 efficient transportation of passengers and freight
20 through the airport facility. Is that the exemption
21 that you just made reference to in your prior answer?

22 A Yes.

23 **Q** And then the e-mail goes on to state, does it
24 not, "Therefore, any services provided to entities such
25 as concession stands, restaurants, or hotels would be

1 **Q** And the fact that the law requires an
2 application be sought is indisputable. Would you agree
3 with that?

4 MR. HOPE: Objection to the form.

5 A Could you repeat that?

6 **Q** Let me phrase it another way, because that was
7 a poor question. Would you agree that there's no
8 dispute that the law requires that an application be
9 submitted to the PSC to be certificated in order to
10 provide STS services?

11 MR. HOPE: Objection to the form

12 A To the extent that the law requires
13 certification. There are exemptions also.

14 **Q** And we'll talk about the exemptions in a
15 second, but in order to apply -- in order to provide STS
16 -- strike that.

17 Let me show you now what has been marked as
18 PSC-6. Actually, I'm going to give you a composite
19 exhibit that contains PSC-5 and PSC-6. And let me
20 direct your attention to the last page of this document,
21 which is marked PSC-6. Do you see that document?

22 A Yes, I do.

23 **Q** Is that an e-mail from you to Maurice Jenkins
24 at the Miami Airport?

25 A Yes, it is

1 outside of the exemption, and certification would be
2 required before telephone service can be provided"? Did
3 I state that correctly?

4 A You stated it correctly, but it's an incorrect
5 statement to the extent that they still would not need a
6 certificate if they were to partition their switch.

7 **Q** So to the extent that -- and maybe I'll use
8 different language. To the extent that the airport
9 partitions its trunk, or should I use partitions its
10 trunks, is it your understanding that they would not
11 need to be certificated?

12 A If they partitioned their switch to where
13 entities that they're providing the service to that are
14 not necessary for the safe transportation of passengers,
15 where there's no sharing the local trunks between that
16 entity and another unaffiliated entity, they would not
17 need a certificate.

18 **Q** Now, if they are not partitioning their switch
19 as you just indicated, would they still need a
20 certificate from the PSC?

21 A They would need a certificate if they don't
22 partition the trunks

23 **Q** And if they don't partition their trunks, going
24 back to my initial question to you, would the need to
25 file an application with the PSC to become certificated

1 to provide STS services be indisputable?
 2 MR. HOPE: Objection to the form
 3 A Well, I --
 4 Q Do you want me to rephrase the question?
 5 A Yes.
 6 Q According to your testimony today, if the Miami
 7 Airport is not partitioning its trunks, then they cannot
 8 avail themselves of this exemption that you made
 9 reference to in your e-mail; is that correct?
 10 MR. HOPE: Objection to the form.
 11 A That would be my opinion.
 12 Q And if they cannot avail themselves of the
 13 exemption, then is it clear under the law that they need
 14 to apply for a certificate from the PSC to provide STS
 15 services?
 16 MR HOPE: Objection to the form
 17 MR. GOLDBERG: You can answer yes or no and
 18 explain if you want.
 19 A I believe they would need a certificate if
 20 they had not partitioned the switch and were providing
 21 service to entities that are not really associated with
 22 the airport.
 23 Q And let's talk about those entities that are
 24 not really associated with the airport. Would those
 25 entities be entities such as a hotel, concession stands,

1 shopping mall, ice cream shops, pizza places, and the
 2 like? Would you agree with that?
 3 A Yes.
 4 Q So if the Miami-Dade County Airport has not
 5 partitioned its trunks and is providing
 6 telecommunications service to entities such as a hotel,
 7 concession stands, pizza places, and the like, would you
 8 agree that there's no dispute under the law that they
 9 need to apply for a certificate with the PSC?
 10 A I would agree with that.
 11 Q And that in fact in that scenario, the act of
 12 applying for a certificate is mandated by law?
 13 A Yes.
 14 One thing also I need to make sure is clear on
 15 the record, I am not a lawyer, so all these opinions are
 16 strictly mine and are not a position of the Commission,
 17 nor to be construed as such.
 18 Q Okay. At the time you sent this e-mail to
 19 Mr. Jenkins, did you have any telephone communications
 20 with Mr. Jenkins or anybody else at the airport about
 21 this e-mail before you received a response, which we'll
 22 get to in a minute?
 23 A We did speak on the phone. He was essentially
 24 trying to get more clarification of what I was looking
 25 for, and he did provide a list in compliance with my

1 e-mail request.
 2 Q Do you recall what Mr. Jenkins said at the time
 3 or what you said to him?
 4 A I told him that I was looking for a list of
 5 every entity that they were providing service to through
 6 their switch, and he provided that.
 7 Q And did he provide it as documented in what
 8 I've marked before you as PSC-5? Is that the response?
 9 A Yes.
 10 Q And that's the response e-mail on Monday, March
 11 17, 2003, directed to Mr. Moses from Pedro Garcia, which
 12 says, "Attached is the list you requested"?
 13 A Yes.
 14 Q Understanding what we've talked about in this
 15 deposition here today about partitioning trunks and the
 16 exemption and your understanding of that, did you have
 17 any such discussion with Mr. Jenkins or Mr. Garcia or
 18 anybody at the airport subsequent to receiving this list
 19 that's referenced in PSC-5?
 20 A I don't know if I did or not, it's been so long
 21 ago.
 22 Q Do you recall whether anybody affiliated with
 23 Miami-Dade County or the airport contacted you after
 24 they sent this list to further discuss your e-mail in
 25 March of 2003 which indicates that certification would

1 be required before telephone service can be provided?
 2 A I received a phone call, I believe, from
 3 Mr. Garcia, if I'm not mistaken, just making sure that I
 4 did get the information, and that if there was anything
 5 else I needed, just to let him know.
 6 Q At the time you received that phone call from
 7 Mr. Garcia, did he bring any facts whatsoever to your
 8 attention to try and suggest that Miami-Dade County
 9 Airport was somehow exempt or had some basis not to file
 10 an application with the PSC?
 11 MR. HOPE: Objection to the form.
 12 A No. I think the discussion was mainly about
 13 emergency services. They were concerned about emergency
 14 services. There was nothing more discussed at that
 15 time. I essentially acknowledged that I did get the
 16 information.
 17 Q Did you in any way, shape, or form tell
 18 Mr. Garcia when he called that you had changed or
 19 altered your opinion as referenced in your earlier
 20 e-mail in March of 2003 identified as PSC-6?
 21 A No.
 22 MR. HOPE: Objection to the form
 23 BY MR. GOLDBERG:
 24 Q As we sit here today, do you know whether or
 25 not subsequent to this correspondence with Miami-Dade

1 **County, the County has applied for a certificate for STS**
2 **services?**

3 A Not to my knowledge.

4 **Q You do not know as we sit here today that they**
5 **have applied? Is that --**

6 A No, I do not.

7 **Q Okay. If the County were to argue that the**
8 **fact that they did not apply for a certificate and have**
9 **been operating without a certificate from the time of**
10 **these e-mails in March of 2003 to the present, that that**
11 **somehow approves or sanctions their operation without a**
12 **certificate, would you agree with that, if you**
13 **understood my question?**

14 MR. HOPE: Objection to the form.

15 A No. Only the Commission can approve the
16 authority to provide shared tenant service.

17 **Q And do you say that because the Commission has**
18 **exclusive jurisdiction over that area?**

19 A Yes.

20 **Q And actually, the Commission's grant of**
21 **exclusive jurisdiction is stated very clearly in Florida**
22 **law; correct?**

23 A Correct.

24 **Q And would you agree with me that the PSC has**
25 **exclusive jurisdiction over whether or not an entity**

1 companies that are listed underneath there, in my
2 opinion, would not be necessary for the safe passage of
3 passengers through the terminal, so it would lay outside
4 of the exemption if they have not partitioned their
5 switch. And the same would hold true for management
6 companies.

7 **Q If I could ask you to go back for a minute to**
8 **PSC-7, which is a composite exhibit of notes and the**
9 **application, and go again to page 17, I would appreciate**
10 **that. I'm sorry to have you jump back and forth.**

11 A Okay.

12 **Q In the middle of the page, the notes written by**
13 **an individual at the County says, "If MIA is going to**
14 **provide service not related to public transportation**
15 **(hotels, shops, et cetera) we need to file an**
16 **application." Is that language consistent with your**
17 **testimony that you've given here today?**

18 A If they don't partition their switch to those
19 entities, yes, it would be

20 **Q Whether or not an STS provider partitions their**
21 **trunks, or switch, partitions their switch, as you've**
22 **used, or did not partition the switch, are they still a**
23 **telecommunications provider or company under Florida**
24 **law?**

25 A Yes.

1 needs or does not need certification, and that by
2 definition means any other person or entity in the State
3 of Florida cannot make that determination?

4 MR. HOPE: Objection to the form.

5 BY MR. GOLDBERG:

6 **Q Correct?**

7 A Correct.

8 **Q So in other words, just to be clear, you would**
9 **agree that another entity or person cannot**
10 **self-determine whether or not they need a certificate or**
11 **do not need a certificate to provide STS services?**
12 **Would you agree with that?**

13 MR. HOPE: Objection to the form.

14 A Yes

15 **Q Let me direct your attention back to PSC-5, the**
16 **customer list that you received from Miami-Dade County**
17 **Airport as of February 2003. Based on the customer list**
18 **that you reviewed, and assuming no partitioning of the**
19 **switch, as you've referred to it here, would Miami-Dade**
20 **County need to apply for certification as an STS**
21 **provider?**

22 MR. HOPE: Objection to the form.

23 A Yes.

24 **Q And can you explain that answer, please?**

25 A Under the title "Concession/Others," the

1 **Q During your time here at the PSC, have you**
2 **dealt with certification issues relating to Orlando**
3 **International Airport?**

4 A I don't recall specifically if I was involved
5 with it or not. It may have happened on my watch, but I
6 don't recall.

7 **Q If the County were to argue in this case that**
8 **because Orlando International Airport provides STS**
9 **without a PSC certificate, that that somehow sanctions**
10 **the County's operation without a certificate, would you**
11 **agree or disagree with that statement?**

12 A I would not agree that it allows anyone to
13 operate without a certificate, no.

14 **Q Can you explain that a little bit further,**
15 **please?**

16 A Well, the Orlando Airport is one entity, and
17 the Miami Airport is another entity. I don't know if
18 the two operate the same Orlando may have partitioned
19 their switch, and certification wouldn't be required.

20 **Q If I could ask you to stay in that same**
21 **exhibit, PSC-7, and if I could direct your attention to**
22 **a certain page that I'll be able to find in a second,**
23 **Bates stamp 18 again, the list of certificated STS**
24 **providers, let me direct your attention to the middle of**
25 **that page. On the list it says Hillsborough County**

1 **Aviation Authority. Do you know whether that entity is**
2 **the entity that operates the Orlando International**
3 **Airport or any other airport?**

4 A I believe they operate Tampa International.

5 **Q Tampa International?**

6 A Yes.

7 **Q So this would mean that the authority operating**
8 **Tampa International Airport has been certificated by the**
9 **PSC to the best of your knowledge; is that correct?**

10 A Yes.

11 MR. GOLDBERG: Could we take a five-minute
12 break, because I may be close to finishing up with
13 my questions.

14 THE WITNESS: Sure.

15 (Short recess.)

16 BY MR. GOLDBERG:

17 **Q I just have one sort of small area to follow up**
18 **with you on, and I appreciate your time again, and then**
19 **I'll be done with my questioning. Mr. Hope may have**
20 **some questions for you, and then I may have some short**
21 **follow-up.**

22 **One area I wanted to go back to is this. Let**
23 **me just see if I can summarize some of your testimony,**
24 **and please correct me if I summarize it incorrectly.**

25 **In your testimony today you have said that if**

1 you remember it.

2 **If a dispute exists between two entities that**
3 **may be regulated by the PSC, what's the mechanism for**
4 **resolving that dispute?**

5 A Well, I guess it depends on the dispute. If
6 the dispute is something that is regulated by this
7 Commission, a filing with the Commission would be
8 appropriate.

9 **Q Now, when you say a filing, is the filing**
10 **considered a complaint, or what's the proper terminology**
11 **for that filing?**

12 A Well, it depends on the dispute. There are
13 people that file complaints with us that we handle
14 without going to the Commission in some instances.
15 There are formal filings that are done if there's
16 something that the parties want brought before the
17 Commission specifically. That's really the only two
18 avenues I can think of off the top of my head.

19 **Q So in this situation where BellSouth has**
20 **alleged that Miami-Dade County through its Aviation**
21 **Department is operating a telephone utility without**
22 **proper PSC certification, what sort of filing would be**
23 **necessary to bring that matter in front of the PSC?**

24 MR. GOLDBERG: Objection to the form. You can
25 answer.

1 **the County is not partitioning its switch and it is**
2 **providing STS services to entities such as a hotel,**
3 **shopping mall, concession stands, pizza places, and the**
4 **like, then they would need to file and obtain a**
5 **certificate from the PSC before providing those**
6 **services; is that correct?**

7 A That's correct.

8 **Q If the County were to argue that they were not**
9 **making any money through the operation of a hotel or a**
10 **pizza place or a shopping mall, they weren't profiting**
11 **from the provision of that service, would that change**
12 **your answer in any way?**

13 A No.

14 MR. GOLDBERG: I do not have any further
15 questions at this time.

16 CROSS-EXAMINATION

17 BY MR. HOPE:

18 **Q Thank you, Mr. Moses. I'm David Stephen Hope.**
19 **I'm an assistant county attorney with Miami-Dade**
20 **County. I'm going to ask you some questions, and**
21 **remember, you're still under oath. And also, if the**
22 **answers to the questions that I pose to you conceivably**
23 **conflict with or change answers that you've given**
24 **previously to questions that Mr. Goldberg provided, then**
25 **you can go back and clarify that previous question if**

1 A I'm not sure there would necessarily have to be
2 a filing. Certainly staff on its own motion can do
3 things, investigations, things of that nature. We get
4 whistle-blowers, for instance, that give us
5 information. So it's not a necessity. It's also not
6 something they couldn't do. They could also do a filing
7 if they choose.

8 **Q Are you aware of any filings that have been**
9 **made related to the facts that I've laid out to you**
10 **today and also what has been discussed in this**
11 **deposition?**

12 A No.

13 **Q Are you aware of any current filings involving**
14 **Miami-Dade County?**

15 A Not to my knowledge.

16 **Q Are you aware of any current filings involving**
17 **BellSouth Telecommunications, Inc.?**

18 A Well, BellSouth makes filings just about every
19 day. As far as regarding Miami-Dade County, I don't
20 believe there have been any filings.

21 **Q But there may be -- since you say they make**
22 **filings every day, they may have filed other disputes**
23 **against other --**

24 A That's correct.

25 **Q To your knowledge, are any of those other**

1 **matters dealing with the provision of STS services in**
2 **other jurisdictions within Florida?**

3 A I'm not aware of all of the filings they have
4 made.

5 **Q Besides the e-mail communication that is marked**
6 **as PSC-6, have you had any other communications with**
7 **anyone concerning the telecommunications and data**
8 **network operations at Miami International Airport?**

9 A If I understand your question correctly, have I
10 had any other communications with anyone at the
11 Miami-Dade --

12 **Q No, anyone. Not necessarily at the airport.**
13 **Have you had communications with anyone concerning the**
14 **operations at the airport?**

15 MR. GOLDBERG. Let me object to the form.
16 That could also include privileged communications
17 with his attorney.

18 BY MR. HOPE:

19 **Q Outside of privileged communications with your**
20 **attorney, have you had communications with anyone about**
21 **the operations at Miami International Airport?**

22 A Yes.

23 **Q With whom?**

24 A The management, upper management.

25 **Q Upper management of the airport?**

1 A No, sir. Of the PSC.

2 **Q Anyone outside of the Public Service**
3 **Commission?**

4 A I had spoken with Wayne Tuba on occasion
5 whenever he has asked questions about certification.

6 **Q And those conversations, were any of those**
7 **conversations specific to the operations at Miami**
8 **International?**

9 A Yes.

10 **Q Have any documents been supplied to BellSouth**
11 **concerning the operations at Miami International**
12 **Airport?**

13 A Not the operations specifically, but there was
14 a copy of a white paper provided, which was nothing more
15 than my opinion regarding what the rules say as far as
16 STS, shared tenant.

17 **Q The STS customer list that's dated as of**
18 **February 2003 which is attached to PSC-5, was that ever**
19 **supplied to any representative of BellSouth?**

20 A I believe it was provided.

21 **Q Was it provided based upon BellSouth's request?**

22 A Yes.

23 **Q Do you remember approximately when it was**
24 **provided?**

25 A It would more than likely be in the April 2003

1 time-frame. And I'm not 100-percent it was provided, -
2 but I believe I recall it being provided.

3 **Q Besides Maurice Jenkins and Pedro Garcia, have**
4 **you had any other conversations with anyone at the**
5 **Miami-Dade Aviation Department concerning its operations**
6 **at MIA?**

7 A Not since the time frame of this. I think when
8 I was there on that visit, which was probably in the
9 '92, '93 time frame, I was present there when things
10 were being discussed, but I didn't personally have any
11 discussion at that time.

12 **Q Besides the e-mail marked as PSC-6, have you**
13 **rendered any other opinions as to whether the operations**
14 **at MIA require PSC certification?**

15 A An opinion to the Miami --

16 **Q Correct.**

17 A No, I have not.

18 **Q What's a local exchange telecommunications**
19 **company?**

20 A It's a provider of your local services. You've
21 got to be clear when you say local exchange company,
22 because that can be misconstrued as a competitive local
23 exchange company. They're both local exchange
24 companies. But it's a provider of local services.

25 **Q Now, you just said it can be competitive local**

1 **exchange?**

2 A Yes.

3 **Q There exists competitive local exchange and**
4 **then local exchange?**

5 A That's correct.

6 **Q What's a competitive local exchange carrier,**
7 **and what's a local exchange company?**

8 A Competitive local exchange carriers are those
9 that were certificated since -- I believe it was July
10 1st of 1995. The companies that were certificated prior
11 to that time are incumbent local exchange companies.

12 **Q So when you say incumbent, which are those**
13 **companies that were certified prior to 1995, would those**
14 **come under the moniker now of just local exchange, and**
15 **then the competitive would be after?**

16 A Let me back up one second, I think it was 1996,
17 not 1995. My apologies.

18 MR. GOLDBERG: And let me object to the form of
19 the last question.

20 THE WITNESS. And if you could restate your
21 last question, please.

22 BY MR. HOPE:

23 **Q Is a competitive local exchange company a**
24 **company that was certified after 1996?**

25 A If they applied to be a competitive local

1 exchange company, yes.

2 **Q Some entity that applied for certification**
3 **after 1996, do they have the option of either applying**
4 **as a competitive local exchange company versus a local**
5 **exchange company?**

6 A You cannot apply as a local exchange company.

7 **Q Got you. An incumbent local exchange company**
8 **is a local exchange company that was certified prior to**
9 **1996?**

10 A Yes. I still can't remember if it was '96 or
11 '95.

12 MR. GOLDBERG: I'll help you out later.

13 BY MR. HOPE:

14 **Q Is BellSouth a local exchange company?**

15 A Yes, they are.

16 **Q Is Miami-Dade County a local exchange company?**

17 MR. GOLDBERG: Objection to the form.

18 A They're not authorized by the Commission as a
19 local exchange company.

20 **Q Is BellSouth the only local exchange company in**
21 **Florida?**

22 MR. GOLDBERG: Objection to the form, but go
23 ahead and answer

24 A No.

25 **Q Who are the other local exchange companies in**

1 exchange company?

2 A Not to my knowledge

3 **Q Based on that answer, does that mean that**
4 **BellSouth is the only local exchange company for**
5 **Miami-Dade County?**

6 MR. GOLDBERG: Objection to the form.

7 A It's the only incumbent local exchange company,
8 but there are competitive local exchange companies that
9 also provide service in the area.

10 **Q Okay. What competitive local exchange**
11 **companies provide service in Miami-Dade County?**

12 A I don't know.

13 **Q Do you know offhand how many competitive local**
14 **exchange companies provide service in Miami-Dade County?**

15 A Not without looking in the front of the phone
16 book and seeing who's listed

17 **Q Do you know whether there are some competitive**
18 **local exchange companies that provide service in**
19 **Miami-Dade County?**

20 A Yes, there are.

21 **Q And somebody can look in the front of the**
22 **telephone book, you said?**

23 A Usually in the front of the telephone book
24 there's a list of competitive local exchange carriers.

25 It's not an all-inclusive list because it's only printed

1 Florida?

2 A There are ten of them, and heaven help me
3 trying to name them.

4 Let's see. Spnnt Florida, Verizon, BellSouth,
5 GT Com. I can't remember the rest of them. I should
6 know them by heart. Frontier, did I mention Frontier?

7 **Q No.**

8 A NEFCOM, which is Northeast Telephone. And some
9 of them have changed their name, so I'm not sure.

10 There's one that used to be Buena Vista, but they
11 changed their name. I think it's Smart City now

12 I can provide a list of them, but I don't know
13 them off the top of my head.

14 **Q But to your knowledge, there's ten local**
15 **exchange companies in the State of Florida?**

16 A That's correct, incumbents.

17 **Q What determines where a local exchange company**
18 **incumbent in the State of Florida can provide service?**

19 A They each have franchised areas that are
20 determined by maps that are filed with the Commission at
21 the time of their certification, which are on file with
22 the Commission. And if boundary changes are necessary,
23 they are approved by the Commission.

24 **Q Can the service area for a local exchange**
25 **company overlap with the service area of another local**

1 once a year.

2 **Q What's a shared tenant service provider?**

3 MR. GOLDBERG: Objection to the form.

4 A A shared tenant provider is a provider that
5 uses an on-site switch to aggregate traffic from users
6 behind the switch to shared trunks for economies of
7 scale.

8 **Q You said earlier to a question posed that a**
9 **shared tenant service provider would also be a**
10 **telecommunications company if it provided two-way**
11 **communications to the public for hire; is that correct?**

12 A That's correct.

13 **Q If a shared tenant service provider, an STS**
14 **provider doesn't provide two-way communications to the**
15 **public for hire, does that mean that it's not a**
16 **telecommunications company?**

17 MR. GOLDBERG: Objection to the form.

18 A If you weren't providing two-way
19 communications, you wouldn't be a shared tenant
20 provider.

21 **Q To your knowledge, is BellSouth a shared tenant**
22 **service provider?**

23 A Not to my knowledge. It's not necessary for
24 them to be a shared tenant provider. They're the
25 incumbent local exchange company.

1 **Q Can you itemize the difference in**
2 **telecommunications services provided between a local**
3 **exchange company and a non-local exchange company?**

4 A I'm not sure I understand your question.

5 **Q Is there a difference in the type of service**
6 **that can be provided between a local exchange company**
7 **and a non-local exchange company?**

8 A Well, when you say non-local exchange company,
9 I don't --

10 **Q STS.**

11 MR. GOLDBERG: Let me object to the form. You
12 can answer if you understand.

13 A Well, let me explain what a shared tenant
14 provider does, and then maybe you can form your line of
15 questioning where I can understand better. A shared
16 tenant provider uses an on-site switch to be able to
17 serve persons behind that switch and to be able to
18 aggregate the traffic through the switch to fewer trunks
19 that connect to a local exchange company, and the reason
20 they do it that way is for the economies of doing so.
21 In other words, if each station or each customer out
22 there had to have their own trunk to get back to the
23 local exchange company, that trunk is not going to be
24 busy all day long. So if you can aggregate, say, 50
25 people to, say, five trunks and keep those trunks busy,

1 this switch back to their customers, if I'm getting your
2 scenario correct. And then from the switch outward is
3 what's being provided by the local exchange carrier?

4 A Right.

5 **Q So from the switch back to the customers, if**
6 **the switch allows four-digit dialing amongst customers**
7 **on this side of the switch, is that local service?**

8 MR. GOLDBERG: Objection to the form.

9 A I believe it would still be local service, yes

10 **Q And why is that?**

11 A It's two-way telecommunications. It's local.
12 It's not long distance.

13 **Q So you're saying that as long as someone can**
14 **dial, whether it's dialing outside of the switch or**
15 **inside of the switch, that's local service?**

16 MR. GOLDBERG: Objection to the form. Asked
17 and answered.

18 A I think the terms you're using are too broad
19 for my technical brain, because I'm more -- when you say
20 local service, that encompasses a lot. And --

21 **Q Let me give you an example, and then let's see**
22 **if you understand it. My thought process of local**
23 **service, and correct me if I'm wrong, is that I go and**
24 **pick up a phone, and I dial -- if I'm in Miami-Dade, I**
25 **dial the ten-digit extension, and I can reach someone at**

1 you're going to see quite a bit of a cost savings. So
2 that's the reason that the shared tenant is used, is to
3 be able to allow that cost savings.

4 Now, when you compare that to how a local
5 exchange company provides it, they normally provide
6 individual access lines to each person that subscribes
7 to their service. So that's the main difference, I
8 think is what you're asking me.

9 **Q Okay. What do you mean when you say the**
10 **provision of local service?**

11 A Dial tone that is provided to you for the
12 purpose of making a local call.

13 **Q Does the local exchange company provide dial**
14 **tone?**

15 A Yes.

16 **Q Does a shared tenant service provider provide**
17 **dial tone?**

18 A They provide their own dial tone from their
19 switch, yes.

20 **Q Is internal four-digit dialing considered local**
21 **service?**

22 MR. GOLDBERG: Objection to the form.

23 A In what regard?

24 **Q You say basically that -- let me explain this,**
25 **that the shared tenant service provides service from**

1 that ten-digit number, someone within Miami-Dade such
2 that it's a not a toll call, it's not a long distance
3 call.

4 MR. GOLDBERG: Before you go on, let me just
5 object to the form of the question.

6 MR. HOPE. Well, it's not a question.

7 MR. GOLDBERG: I know. That's the whole point
8 You can't testify here at the deposition.

9 MR. HOPE: That's fine. I'm not testifying.

10 BY MR. HOPE:

11 **Q If I can pick up a phone and dial ten digits to**
12 **someone within Miami-Dade County, is that local**
13 **service?**

14 MR. GOLDBERG: Objection to the form. Again,
15 move to strike the statement made by counsel which
16 preceded the question.

17 A Am I to answer?

18 **Q Yes.**

19 A That would be a form of local service, yes.

20 **Q If someone outside of a facility wants to dial**
21 **someone inside of a facility and picks up a phone and**
22 **dials a ten-digit number inside a facility like the**
23 **airport, is that considered local service?**

24 MR. GOLDBERG. Objection to the form.

25 A Yes

1 **Q If someone inside the facility only has the**
2 **capability of dialing inside the facility and not**
3 **outside of the facility, is that considered local**
4 **service?**

5 MR. GOLDBERG: Objection to the form.

6 A Could you repeat that, please?

7 **Q If someone inside the facility can only dial**
8 **inside the facility, hence, dialing another extension**
9 **inside the facility, but does not have the ability to**
10 **dial outside the facility, is that considered local**
11 **service?**

12 MR. HOPE: Same objection

13 A Are you speaking of this as being a shared
14 tenant provider?

15 **Q Yes.**

16 A That's prohibited under the rules.

17 **Q Why?**

18 A It says right here, allow intercommunication
19 between unaffiliated entities. It says, "Shared tenant
20 service providers shall not be allowed to," and under
21 (d)3, "Allow intercommunication between unaffiliated
22 entities."

23 **Q Can I get the rule you're reading from, for the**
24 **record?**

25 A 25-24.575, and it's titled "Shared Tenant

1 Service Operations."

2 MR. GOLDBERG. Thank you.

3 BY MR. HOPE:

4 **Q And which sub was it?**

5 A It's under paragraph (5)(d)1. No, excuse me,
6 (5)(d)3.

7 **Q What if outside dialing isn't prohibited by the**
8 **provider, meaning that the customer only wants to be**
9 **able to dial internally and does not want to be able to**
10 **dial externally?**

11 MR. GOLDBERG: Objection to the form.

12 A I don't know. I would have to study on that.
13 I don't know.

14 **Q Is the provision of STS services by**
15 **governmental entities exempt from PSC regulation?**

16 MR. GOLDBERG: Objection to the form.

17 A Hold on one minute, because I've got to refresh
18 my memory on that. Just one moment.

19 The statute, from my understanding, under
20 364.339(3)(a), allows the Commission to exempt from
21 certification entities that provide STS services to
22 government entities.

23 **Q Is the provision of STS services at airports**
24 **exempt from PSC regulation?**

25 MR. GOLDBERG: Object to the form

1 A Again, it depends on how you're providing the
2 service

3 **Q And that gets down to whether the trunk is**
4 **partitioned and to whom?**

5 A Exactly.

6 **Q Just a couple more things. You stated earlier,**
7 **and this refers to PSC-5, which has the listing of**
8 **customers that are being supplied with shared tenant**
9 **services at Miami International, that it was your**
10 **opinion that unless Miami International had partitioned**
11 **its trunk, it would require certification for provision**
12 **of services to everyone listed under the concessions and**
13 **others column and the management companies column.**

14 MR. GOLDBERG: Object to the form.

15 A Definitely under the concessions part. As far
16 as the management, not being familiar with every entity
17 under that management part -- actually, if airport
18 management were there, I think that would be part of the
19 necessary persons to serve. But certainly the Miami
20 International Airport Hotel, they would need to
21 partition that.

22 **Q Okay. Does it matter where the concession is**
23 **located?**

24 A No.

25 **Q So there's no difference between the concession**

1 **being located physically in the terminal building versus**
2 **a mile away as far as a trunk would need to be**
3 **partitioned in order to provide service to them absent a**
4 **PSC certificate?**

5 A It would not matter where they were located.

6 **Q Is there any other exemption to PSC**
7 **certification besides the airport exemption?**

8 A Well, an entity can petition for waivers or
9 exemptions, provided that the language is in the rules
10 that you can petition for such. Certainly the
11 Commission cannot waive anything that's statutorily
12 required.

13 MR. HOPE: Nothing further.

14 REDIRECT EXAMINATION

15 BY MR. GOLDBERG:

16 **Q Let me ask a few follow-up questions, and then**
17 **I think that will conclude the deposition. Let me sort**
18 **of begin where Mr. Hope left off. He asked you a**
19 **question that gave rise to your answer that an entity**
20 **could petition the PSC for a waiver. Are you using**
21 **waiver in the same manner as the word "exemption"?**

22 A No, I don't think the two mean the same
23 Again, not being a lawyer, I'm not sure. There is
24 certain language in certain statutes that allows the
25 Commission to do certain things when it comes to

1 allowing a company not to comply with that particular
2 section. But --

3 **Q Sure. Along -- I'm sorry. I didn't mean to**
4 **interrupt you.**

5 A What I was referring to was the rules. If
6 there is something in the rules that an entity does not
7 want to comply with, they can petition the Commission
8 for a waiver of that rule, and then the Commission makes
9 a determination if that waiver is granted or not

10 **Q And with that answer, let me ask you, are you**
11 **aware of whether or not Miami-Dade County has at any**
12 **time petitioned for a waiver of any PSC rules as it**
13 **relates to their operations at the Miami-Dade County**
14 **Airport?**

15 A I'm not aware of any petitions.

16 **Q Let me also follow up on another question that**
17 **Mr. Hope asked you, and that was, he asked you whether**
18 **or not it would matter whether a concession or a hotel**
19 **was located in the airport terminal or a mile away. And**
20 **correct me if I'm wrong, but your answer was that it**
21 **would not matter.**

22 A Correct.

23 **Q Let me ask you a similar question. Would it**
24 **matter as to where that concession or hotel is placed,**
25 **whether or not it is placed on property owned by the**

1 MR..HOPE: Object to the form. ---

2 A I believe the provision of the service itself
3 is what requires it to be certificated, not particularly
4 so much as who owns the property.

5 **Q During this deposition today, you have -- when**
6 **talking about partitioning, you've combined partitioning**
7 **with the word "switch" in terms of whether or not the**
8 **airport partitions its switch.**

9 A Uh-huh.

10 **Q Would you agree that a switch is the same thing**
11 **as a trunk, as trunk is used in the Florida**
12 **Administrative Code by the Florida PSC rules?**

13 MR. HOPE: Objection to the form.

14 A No.

15 **Q Let me see if I can clarify my understanding of**
16 **your testimony. Let me hand you what has been marked as**
17 **PSC-12. PSC-12 is what is known as or titled as the**
18 **airport exemption. Obviously, you're familiar with this**
19 **language; correct?**

20 A Yes, uh-huh.

21 **Q Okay. In the language, it uses the word -- let**
22 **me read the last sentence. "However, if the airport**
23 **partitions its trunks," and then it goes on. Were you**
24 **meaning to refer to the term "trunks" when you were**
25 **using the word "switch" in your prior testimony, or were**

1 **airport or property owned by somebody else? Would that**
2 **matter?**

3 A I don't know.

4 **Q And the reason you don't know, is there any**
5 **thought process behind that?**

6 A I never have been asked the question before.

7 **Q Okay.**

8 A Normally if someone is going to provide service
9 for somebody that is off-premises, they get a
10 competitive local exchange carrier license and not a
11 shared tenant provider license, because normally the
12 loop supervision of the switch won't reach that far.

13 **Q Sure. If you recall, I asked you a similar**
14 **question about whether it would matter in your answers**
15 **given in this deposition as to whether or not as it**
16 **relates to the concession or hotels, the County would**
17 **argue that they were making money or not making money in**
18 **terms of a profit. And to summarize, you said it**
19 **wouldn't matter; is that correct?**

20 A That's correct.

21 **Q Along the same lines, does it matter whether or**
22 **not that concession or hotel is located on property**
23 **owned by the airport or not owned by the airport as to**
24 **whether or not they need a certificate to provide STS**
25 **services?**

1 **you referring to something different?**

2 A Well, in actuality, what this says here is what
3 they mean to happen. But what you actually have to
4 partition is the switch in order for it to route the
5 traffic to a particular trunk group. You can't take a
6 trunk and partition it. It just sits there. So what
7 you're doing is, you're taking the switch, programming
8 it, these stations route to this trunk group and this
9 trunk group only. You then partition the switch to that
10 particular trunk group.

11 **Q So essentially, your use of the word "switch"**
12 **is consistent with the use of the word "trunk" in the**
13 **airport exemption, except you're just being more**
14 **technically accurate. Is that fair to say?**

15 MR. HOPE: Objection to the form.

16 A That's true. That's correct.

17 **Q I said I would help you out on one point, so**
18 **just so your testimony is clear at the end of the day,**
19 **let me let me hand you what has been marked as PSC-8.**

20 **You were asked some questions at the outset by**
21 **Mr. Hope as it relates to the definition of a local**
22 **exchange telecommunications company. If I can direct**
23 **your attention to the second page of this document,**
24 **which is a recitation of Florida Statute Section 364.02,**
25 **does it provide at subparagraph (7) a statutory**

1 definition of local exchange telecommunications company?..

2 A Yes, it does.

3 Q And does that help refresh your recollection as
4 to the date you were looking for before?

5 A Yes, it does.

6 Q Can you just read that date into the record?

7 A June 30, 1995.

8 Q Does that help you out okay?

9 A Yes, it does. I couldn't remember the correct
10 date to save my life.

11 Q That's okay. Mr. Hope also asked you in his
12 cross-examination about whether or not the PSC has
13 mechanisms to resolve disputes between parties. Do you
14 remember that series of questions?

15 A Yes.

16 Q And are you saying in your testimony that a
17 court, a state circuit court in Florida does not have
18 jurisdiction or the ability to resolve a dispute
19 involving certification or PSC statutes or rules?

20 A I'm sure the courts do. The Supreme Court is
21 what references anything that we have that we make a
22 decision on. If the parties don't care for it, they
23 take it to the Supreme Court.

24 Q But you are not saying by your testimony, are
25 you, that any dispute that happens to involve PSC rules

1 Q - Okay. Mr. Moses, I actually just have one
2 question, and then we're going to conclude, so if you'll
3 indulge me for one second.

4 Earlier in your deposition I asked you whether
5 or not you understood the nature of the lawsuit that
6 brings us here today to take your deposition; correct?

7 A Correct.

8 Q And correct me if I'm wrong, but I recall you
9 answering no, you didn't have a great understanding of
10 the lawsuit.

11 A That's correct.

12 Q And I think you also testified, and correct me
13 if I'm wrong, that you had not even read the complaint
14 that has been filed in this case by BellSouth.

15 A That's correct.

16 Q Let me represent to you that in that complaint,
17 the majority of the complaint concerns whether or not
18 Miami-Dade County has violated its own charter by
19 operating and providing telecommunications services at
20 the Miami-Dade County Airport and other airports, so in
21 essence, it is an issue regarding the Miami-Dade charter
22 and whether or not it has been violated.

23 Having said that, is it your testimony that
24 that would be a matter -- strike that. Would that be a
25 matter that would be brought before the PSC for

1 or statutes has to come to the PSC first before a court
2 can address that issue?

3 MR. HOPE: Object to the form of the question.

4 A No, I'm not saying that

5 Q Mr. Hope was asking various questions about
6 local service, and some of the requests had to do with
7 what can overlap, and I think there was one question
8 that dealt with whether local service can overlap with
9 local service. Be that as it may, my question is, can
10 an STS service, a provider of STS service overlap with a
11 provider of local service?

12 A Yes.

13 Q And when I use the word "overlap," would you
14 agree that an STS provider can overlap and therefore
15 compete with a local service provider?

16 MR. HOPE: Objection to the form.

17 A Yes.

18 Q Would you accommodate me for another three or
19 four minutes so that I can just review my notes and talk
20 to Ms. Liebman and see if we can conclude?

21 A Certainly.

22 MR. GOLDBERG: I appreciate it. Thank you very
23 much.

24 (Short recess.)

25 BY MR. GOLDBERG:

1 resolution?

2 MR. HOPE: Objection to the form.

3 MR. FORDHAM: Unless he's comfortable answering
4 it, I would object on the basis that that requires a
5 rather sophisticated legal analysis.

6 MR. GOLDBERG: Okay. Fair enough.

7 BY MR. GOLDBERG:

8 Q But would you agree it's not your testimony
9 today that an alleged violation of the Miami-Dade
10 charter needs to be resolved by the PSC and not a
11 court?

12 MR. HOPE: Objection to the form.

13 A Again, I knew nothing of the charter before you
14 just now spoke about it, so I wouldn't think that would
15 be something that would be addressed with the
16 Commission.

17 MR. GOLDBERG: Well, that was probably a couple
18 of questions, but that's it. It was one main
19 question.

20 That concludes the deposition. As I'm sure
21 your lawyer, who is well experienced, more
22 experienced than me, can explain to you, at the end
23 of every deposition, the witness such as yourself
24 gets an option to either read the transcript of your
25 answers to make sure that they're accurate, and once

1 you read it, you have the opportunity to make
2 corrections or do what's called an errata sheet so
3 you can ensure that your testimony is accurate, or
4 you can waive reading and just let your testimony
5 stand as it is. So I'm sure -- do you want to read,
6 or would you like to waive?

7 THE WITNESS: I waive.

8 MR. GOLDBERG. Is that okay with you?

9 MR. FORDHAM: Yes

10 MR. GOLDBERG: Okay. I do want to thank you
11 very much. I know this has taken up some of your
12 time here at the Commission, but we greatly
13 appreciate it, and I appreciate your attention to
14 this.

15 THE WITNESS: Certainly. Thank you.

16 (Deposition concluded at 3:33 p.m.)
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2 CERTIFICATE OF REPORTER
3

4 STATE OF FLORIDA)

5 COUNTY OF LEON)
6

7 I, MARY ALLEN NEEL, do hereby certify that the
8 foregoing proceedings were taken before me at the time
9 and place therein designated, that my shorthand notes
10 were thereafter transcribed under my supervision; and
11 that the foregoing pages numbered 1 through 69 are
12 a true and correct transcription of my stenographic
13 notes.

14 I FURTHER CERTIFY that I am not a relative,
15 employee, attorney or counsel of any of the parties, or
16 relative or employee of such attorney or counsel, or
17 financially interested in the action.

18 DATED THIS 18th day of October, 2004.
19
20
21
22

23 MARY ALLEN NEEL, RPR
24 2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221
25

1
2 CERTIFICATE OF OATH
3
4

5 STATE OF FLORIDA)

6 COUNTY OF LEON)
7
8

9 I, MARY ALLEN NEEL, Notary Public in and for
10 the State of Florida at Large

11 DO HEREBY CERTIFY that on the date and place
12 indicated on the title page of the foregoing transcript,
13 an oath was duly administered by me to the designated
14 witness before testimony was taken

15 WITNESS my hand and official seal this 18th day
16 of October, 2004.
17
18
19

20 MARY ALLEN NEEL, RPR
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Tallahassee, Florida 32308
22
23
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IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS,
INC., a foreign corporation,

Plaintiff,

v.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

NOTICE OF TAKING DEPOSITION

TO: David Hope, Esq.
Assistant County Attorney
County Attorney's Office
P.O. Box 592075, Miami, FL 33159-2075.

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of
the following party:

<u>NAME</u>	<u>DATE AND TIME</u>	<u>PLACE</u>
Richard A. Moses	Tuesday, October 5, 2004 at 1:30 p.m.	Florida Public Service Commission Gunter Building, Room 262 2540 Shumard Oak Boulevard Tallahassee, Florida 32399

upon oral examination before Accurate Stenotype Reporters, Notary Public, or any other
notary or officer authorized by law to take depositions in the State of Florida. The oral
examination will continue from day to day until completed. This deposition is being taken

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CASE NO. 02-28688 CA 03

for the purposes of discovery, for use at trial, or for such other purposes as are permitted under the rules of court.

Respectfully submitted,

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PSC 5541

CASE NO. 02-28688 CA 03

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Facsimile and U.S. Mail this 15 day of September, 2004, to David Hope, Assistant County Attorney, County Attorney's Office, P.O. Box 592075, Miami, FL 33159-2075.

By: 
Martin B. Goldberg

In Accordance with the Americans with Disabilities Act of 1990 (ADA), disabled persons who, because of their disabilities, need special accommodation to participate in this proceeding shall contact the Attorney ADA Coordinator, Martin B. Goldberg, at telephone number 305/347-4040 or telephone voice/TDD 1/800/955-8770, via Florida Relay System, not later than five business days prior to such proceeding.

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IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS,
INC., a foreign corporation,

Plaintiff,

SUBPOENA FOR DEPOSITION

v.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Defendant.

THE STATE OF FLORIDA

To: **Mr. Richard A. Moses**
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the office of the Florida Public Service Commission, Gunter Building, Room 262, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399, on October 5, 2004, at 1:30 p.m., for the taking of your deposition in the above-styled cause.

If you fail to appear, you may be held in contempt of Court. You are subpoenaed

LASH & GOLDBERG LLP

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CASE NO. 00-12558 CA 22

to appear by the following attorneys, and unless excused from this subpoena by these attorneys, or the Court, you shall respond to this subpoena as directed.

DATED: September 15, 2004

LASH & GOLDBERG LLP
For the Court

By: 
MARTIN B. GOLDBERG

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FLORIDA
PUBLIC
SERVICE
COMMISSION

STATEMENT OF
AGENCY
ORGANIZATION
& OPERATIONS



STATEMENT OF
AGENCY ORGANIZATION & OPERATIONS*

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* As required by Rule 28-101.001, Florida Administrative Code

Effective as of May 2004

STATEMENT OF
AGENCY ORGANIZATION & OPERATIONS

COMMISSION MISSION STATEMENT

Customers are served best by markets that facilitate the efficient provision of safe and reliable utility services at fair prices. The mission of the Florida Public Service Commission is to promote the development of competitive markets – as directed by state and federal law – by removing regulatory barriers to competition, and by emphasizing incentive-based approaches, where feasible, to regulate areas that remain subject to rate of return regulation. Once markets become sufficiently competitive, the Florida Public Service Commission will eliminate regulatory involvement to the extent permitted by law

COMMISSION GOALS

The Commission fulfills this mission by pursuing a number of goals, as follows:

GOALS FOR ECONOMIC REGULATION

- To the extent possible, streamline regulatory requirements to provide an open, accessible and efficient regulatory process that is fair and unbiased.
- Ensure that the regulatory process results in fair and reasonable rates while offering rate base-regulated utilities an opportunity to earn a fair return on their investments.
- Where feasible, use incentive-based regulatory mechanisms to encourage efficiency and innovation among regulated utilities to ensure that customer needs are met in a cost effective manner.
- ◆ Encourage and facilitate responsible use of resources and technology in the provision and consumption of utility services.

GOALS FOR REGULATORY OVERSIGHT

- Remove regulatory barriers which impede the development of competitive markets, as directed by law.
- Provide appropriate regulatory oversight to protect consumers
- Ensure that all entities providing utility services to consumers comply with all appropriate requirements subject to the Commission's jurisdiction.

GOALS FOR SERVICE REGULATION
AND CONSUMER ASSISTANCE

- ◆ Facilitate the provision of safe utility services at levels of quality and reliability that comply with established industry standards and practices.
- ◆ Inform utility consumers regarding utility matters
- ◆ Expedite resolution of disputes between consumers and utilities.

COMMISSION ORGANIZATION

The Commission consists of five Commissioners appointed by the Governor from nominees selected by the Florida Public Service Commission Nominating Council for terms of four years, as provided in Chapter 350, Florida Statutes.

The Chairman is the chief administrative officer of the Commission, presiding at all hearings and conferences when present, setting Commission hearings, and performing those duties prescribed by law. In the Chairman's absence, the senior member of the Commission panel presides. The Chairman is elected by the Commission pursuant to law.

A majority of any Commission panel constitutes a quorum, and the Commission cannot take formal action in the absence of a quorum. A majority vote of the quorum determines Commission action. Where only two Commissioners are assigned to a proceeding and they do not agree on a final decision, the Chairman of the Commission, after appropriate review of the record, shall cast the deciding vote. When the Chairman is one of a two-member panel and the panel does not agree on a final decision, the matter shall be referred to the full Commission for disposition. In such an event, the full Commission shall review the record as appropriate.

COMMISSION STAFF ORGANIZATION

The Commission carries on its work through two primary functional units: The Office of the Executive Director and the Office of the General Counsel. The Offices of the Executive Director and the General Counsel are charged with implementing Chapters 350, 364, 366, 367, 368 and 427, Florida Statutes, and Sections 403 064, 403 501-403 539, and 403 9401-403 9425, Florida Statutes.

I OFFICE OF THE EXECUTIVE DIRECTOR

The **Office of the Executive Director** advises the Commission on all technical and policy matters under the Commission's jurisdiction and, in coordination with the Office of the General Counsel, serves as the Commission's liaison with federal and state agencies as well as the Florida Legislature. Also, the Office of the Executive Director has authority over all divisions and offices, except the Office of the General Counsel, and directs activities, in part through a Deputy Executive Director.

A summary of the responsibilities of each office and division is provided below.

The **Division of the Commission Clerk and Administrative Services** is responsible for accepting official filings, maintaining the official case files, coordinating the Commission's records management program, and issuing all Commission orders and notices. The Director of the Division of the Commission Clerk and Administrative Services is designated as the Agency Clerk. The Division oversees all financial transactions and maintains the Commission's accounting records. Other responsibilities include administrative support services such as human resource programs, budget management, mail processing, computer network, hardware, and applications support, staff training, and purchasing.

The **Division of Competitive Markets and Enforcement** oversees the development of competitive markets and has responsibility for the issues associated with emerging competitive telecommunications markets. The division participates in formal and informal proceedings involving appropriate area code relief and number conservation plans and establishes policies and procedures governing intercompany contracts, arbitration of terms of intercompany contracts, and resolution of issues of contract interpretation. The division also resolves conflicts arising from changes in service providers. In addition, it evaluates the quality of service provided by telecommunications companies and conducts periodic on-site inspections of telecommunications facilities.

Issues involving conservation, tariff filings and territorial disputes in the natural gas industry are also the responsibility of this division. Finally, investigations are conducted to ensure compliance with applicable rules, tariffs, procedures, and laws and to identify and address anti-competitive activities.

The **Division of Economic Regulation** participates in formal and informal proceedings relating to the rates and earnings of rate base regulated companies in the electric, natural gas, water, wastewater, and telecommunications industries. The division has primary responsibility for processing rate changes and for conducting earnings surveillance to ensure that regulated utilities are not exceeding their authorized rates of return. The division is the official custodian for electric and water and wastewater tariffs, and administers tariff processing for the two industries. The division receives and maintains copies of annual financial reports and periodic surveillance reports for rate base regulated companies.

The division also participates in formal and informal proceedings relating to long-range electric utility bulk power supply operations and planning; electric utility territorial matters; power plant and transmission line siting, including the siting of power plants owned by nontraditional generating entities; service quality, including complaints, electric utility conservation goals and programs, emergencies due to operational events or weather; and fuel, conservation, and environmental cost recovery.

The **Division of Regulatory Compliance and Consumer Assistance** is responsible for evaluating electric and gas safety, conducting audits and reviews in all industries, responding to consumer complaints and conducting consumer outreach.

For auditing and safety purposes the division operates out of four district offices: Tallahassee, Orlando, Miami, and Tampa. The types of audits and reviews the division performs include financial, compliance, billing, and verification. The safety function involves safety evaluations of natural gas pipeline operations and new electric construction in the state of Florida. The safety function is also the lead contact for the Commission's participation in the State's Emergency Operations Center activities.

The consumer complaint bureau receives, processes, and resolves complaints and facilitates resolution of informal disputes between consumers and utilities. Customers may file complaints through a toll-free telephone number to the bureau's call center or by mail, facsimile, or E-mail.

The consumer outreach functions include compiling and relaying information about the Commission's regulatory decisions to utility customers and consumer groups. Outreach duties include informing utility customers of their rights, available assistance, and of how they can participate in customer service hearings and other forums to have their views heard by Commissioners.

The **Office of Federal and Legislative Liaison** serves as the Commission's liaison to the Legislature and to other state and federal agencies. This office provides the primary technical interface with federal agencies and the Legislature on regulatory matters, in coordination with and assistance from the technical divisions, the Office of the General Counsel, and the Office of the Chairman. This office is also responsible for facilitating collaborative working relationships with the federal agencies whose regulatory actions can affect Florida citizens and will respond to requests for information from federal agencies and Congress.

The **Office of Market Monitoring and Strategic Analysis** is responsible for monitoring and evaluating the impact of Commission decisions on market development in the energy, telecommunications, and water and wastewater industries. The office is also responsible for identifying and analyzing issues, strategies, and new technologies that will assist and enhance competitive market development. The office routinely reviews and assesses market activity in the affected industries and periodically reports their findings to the Commissioners. An annual report to the Legislature on the status of the development of competition in the telecommunications industry is prepared by this office.

The **Office of Public Information** functions as the Commission's liaison with the media and the public. The office monitors the daily reporting activities of dozens of state, regional and national media outlets to ensure that timely, accurate information regarding Commission decisions is disseminated to consumers. In this capacity, the office sustains a familiarity on a broad array of dockets and related activities affecting ratepayers or issues that have currency with the media.

The **Office of Standards Control and Reporting** provides oversight of Commission processes and reports in order to keep consistency of those processes and reports at a high level. The office assists in responding to surveys and questionnaires from governmental bodies and others and prepares periodic reports as needed. The office coordinates the content and format of the Commission's Web site. Duties also include production of the Commission's many informational brochures and other presentations.

III. OFFICE OF THE GENERAL COUNSEL

The **Office of the General Counsel** provides legal counsel to the Commission on all matters under the Commission's jurisdiction and, in coordination with the Office of the Executive Director, serves as the Commission's liaison with federal and state agencies as well as the Florida Legislature and political subdivisions of the state. In the course of evidentiary proceedings before the Commission, the Office of the General Counsel and its sections are responsible for presentations of staff positions in the proceedings including cross examination of witnesses and presentation of staff testimony where offered. In providing legal counsel to the Commission, the General Counsel's office employs three sections: an Appeals, Rules and Mediation Section, an Economic Regulation Section, and a Competitive Markets and Enforcement Section.

The **Appeals, Rules and Mediation Section** has responsibility for rulemaking, mediation, and defending Commission orders on appeal or otherwise challenged before state and federal courts. The section also provides legal counsel to the Commission and to the Commissioners including the preparation of notices, recommendations and orders. This section attends and conducts public hearings at the Commission's request; represents the Commission before state and federal courts; and advises in the promulgation of rules. The section reviews procurement contracts and provides counsel to the Commission on personnel, contracts and other administrative legal matters.

The *Economic Regulation Section* has responsibility for the procedural and legal aspects of rate cases and other formal proceedings before the Commission or the Division of Administrative Hearings and for proceedings in civil courts on behalf of the Commission. This section prepares recommendations to the Commission in conjunction with technical staff and prepares Commission orders with the assistance of technical staff.

The *Competitive Markets and Enforcement Section* has responsibility for the procedural and legal aspects of cases related to the development of competitive markets and other formal proceedings before the Commission or the Division of Administrative Hearings and for proceedings in civil courts on behalf of the Commission. This section prepares recommendations to the Commission in conjunction with technical staff and prepares Commission orders with the assistance of technical staff.

COMMISSION OPERATIONS

PRINCIPAL OFFICE AND CONTACT INFORMATION

The principal office of the Commission is located in Tallahassee, Florida. Its address is 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. Business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for legal holidays. The telephone number and Web site for information about how to obtain publications, documents, forms, applications for certificates, and other information are (850) 413-6100/SUNCOM 278-6100, <http://www.psc.state.fl.us/contact/>, respectively.

The Public Service Commission provides a staff of information specialists who are available to answer questions from Florida consumers. To reach a PSC consumer representative, please call 1-800-342-3552, send a fax to 1-800-511-0809 or send an E-mail to contact@psc.state.fl.us.

DESIGNATION OF AGENCY CLERK

Blanca S. Bayó, Director of the Division of the Commission Clerk and Administrative Services, located at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; telephone number (850) 413-6770; fax (850) 413-7118, is designated as the Agency Clerk. The Agency Clerk is responsible for accepting official filings.

CONFERENCES

Anyone desiring a conference with the Commissioners or Commission staff with respect to matters over which the Commission has jurisdiction may request such a conference through the Commission Chairman, a Commissioner, the Division of the Commission Clerk and Administrative Services, the Executive Director, or the particular staff member involved. A written request concerning the purpose and anticipated duration of the conference should be furnished in order to avoid conflicts and facilitate the availability of staff members and records, if needed. In an emergency, the foregoing may be communicated by telephone. Nothing in this statement obviates the prohibition against *ex parte* communications in pending cases to determine substantial interests.

AGENDA CONFERENCES

Except as regards internal affairs, the Commission makes decisions and votes at agenda conferences. Generally, agenda conferences take place on the first, third, and fifth Tuesdays of each month at the Commission's office in Tallahassee. They may take place at other times and in other places as necessary. Agenda conferences are noticed in the *Florida Administrative Weekly* approximately ten (10) days in advance of each agenda conference. Generally, the Commission conducts its public business at agenda conferences with advice, assistance, and recommendations of staff. With regard to proposed Commission action, the Commission may call upon others to answer questions or elicit information where such solicitation does not violate the prohibition against *ex parte* communications in adjudicatory proceedings.

INTERNAL AFFAIRS MEETINGS

Internal affairs meetings are held for the purpose of discussing matters that are not docketed and that relate to the Commission's organization, functions, management, operations, finances, intra- and intergovernmental affairs, and for special presentations. Notice of the meetings is published in the *Florida Administrative Weekly*.

COPIES OF AGENDAS AND STAFF RECOMMENDATIONS

(1) The agenda for meetings is prepared by the Commission in time to ensure that a copy may be received at least seven (7) days before the meeting by any person in the state who has requested a copy and who pays the reasonable cost of the copy.

(2) Copies of staff recommendations for items on the agenda may be obtained from the Division of the Commission Clerk and Administrative Services upon request and payment of the applicable copying fee. Parties to a proceeding are entitled to one copy of the staff recommendation filed in the proceeding at no cost.

(3) The agenda and staff recommendations may be viewed on the Internet at <http://www.floridapsc.com>. (Click on "Dockets & Filings" and then "Agendas.")

RECORD OF COMMISSION ACTIONS

All official actions of the Commission are recorded and maintained by the Division of the Commission Clerk and Administrative Services. The minutes are open to public inspection during regular office hours (8:00 a.m. to 5:00 p.m.) at the principal office of the Commission in Tallahassee, Florida.

COMMISSION ORDERS

All orders of the Commission are recorded and maintained by the Division of the Commission Clerk and Administrative Services. Commission orders are open to public inspection during regular office hours at the principal office of the Commission in Tallahassee, Florida. Orders may be viewed on the Internet by going to <http://www.floridapsc.com>, clicking on the "Dockets & Filings" link, and then clicking on "Orders."

NOTICING ADDRESS FILES

The Division of the Commission Clerk and Administrative Services maintains a main noticing address file for purposes of distributing Commission agendas, notices of workshops and rulemaking and, where appropriate, other notices and orders. The division also maintains an individual noticing address file for each docket for purposes of distributing Commission notices and orders issued in that docket.

(1) Main File. The main noticing address file shall contain a single name, address, and telephone number for each utility subject to Commission jurisdiction, the Public Counsel, the Clerk of each Board of County Commissioners, and the chief executive officer of each municipality. This file shall also contain a name, address, and telephone number for each person requesting in writing to be included in the file on one or more of the following lists:

- (A) Persons requesting the Commission agenda
(subject to payment of subscription fee);
- (B) Persons requesting the weekly report of new dockets
(subject to payment of subscription fee);
- (C) Persons requesting the weekly summary of Commission orders
(subject to payment of subscription fee);
- (D) Persons requesting notices of Commission workshops;
- (E) Persons requesting notices of proposed rulemaking, and
- (F) Persons requesting copies of Commission notices of hearings and orders initiating industry-wide nonrule proceedings. Any person seeking to be on this list shall state with specificity how his or her substantial interests may be affected by Commission action in the categories of interest. (For instance, a customer's rates or service may be affected, or a regulated utility's rates or service may be affected.) Absent such a showing, a person will not be included on this list

(2) Industry Categories. The three lists described in paragraphs (1)(D)-(F) are further subdivided into the following categories:

- ◆ Electric
- Natural Gas
- ◆ Telecommunications
- Water and Wastewater
- Practice and Procedure

(3) Noticing Any person seeking to be included in the main noticing address file shall file a written request with the Division of the Commission Clerk and Administrative Services. The request shall state the name, address, and telephone number the person seeks to have placed in the file, as well as the lists and categories in which the person desires to be included. Persons entitled to practice before the Commission under Rule 28-106.106, Florida Administrative Code, may request inclusion in the file as representatives of their client. A request for inclusion in the rulemaking list does not constitute a request for a notice of change to a proposed rule under Section 120.54(3)(d), Florida Statutes.

(4) Purge of Main File. During the first quarter of each calendar year, the Division of the Commission Clerk and Administrative Services shall transmit to all persons listed in the main file under the lists described in (1)(A)-(F) a written request to confirm the name, address, and telephone number on file and the types of notices to be received. Any person who fails to confirm the foregoing in writing within 30 days after the date of the division's request shall be stricken from the main noticing address file

(5) Addresses of Regulated Companies. Each regulated company, as defined in Section 350.113, Florida Statutes, shall, in writing, provide the division with a single official mailing address to be placed in the main noticing address file. Except in a docket where a company representative has previously provided an alternative address, the Commission is obliged only to transmit its orders, notices and other documents (such as regulatory assessment fee notices and annual report forms) to the official address. The Commission may, solely as a courtesy, transmit documents to additional addresses. Initial pleadings served by parties shall be transmitted to the official address on file. When a regulated company has filed a document in a docket and such document shows the name and address of counsel or other official representative and that name and address is different from the official mailing address, it shall be recorded in the docket mailing address file in lieu of the official address. All documents from that docket thereafter served on the regulated company shall be transmitted to that address

(6) Docket File. Individual docket mailing address files shall be maintained as part of each docket file and contain the name, address, and phone number of each party of record, or its representative, and each person requesting copies of notices and orders issued in that docket and qualifying under this subsection.

Any person, other than a party of record, seeking to be on an individual docket noticing address file shall file a written request with the division. Such request shall state the name, address, and telephone number the person seeks to have placed in the file and, except for rulemaking dockets, shall state with specificity how his or her substantial interests may be affected by Commission action in that docket. (For instance, the docket may affect a customer's rates or service, or may have a potential effect on other utilities in similar circumstances.) Absent such a showing, a person will not be included in the docket noticing address file. Persons entitled to represent other parties before the Commission under Rule 28-106.106, Florida Administrative Code, may request inclusion in the file as representatives of their client.

(7) Change of Name, Address, Telephone Number. Each person included in the main noticing address file or in any docket noticing address file shall, in writing, notify the division (and any parties of record in a docketed matter) of any change in name, address, or telephone number. Any notice, order, or other document served on the name and address on file prior to the date of receipt of such written notification shall be considered properly served.

STATEMENT OF AGENCY ORGANIZATION & OPERATIONS

(8) The Director of the Division of the Commission Clerk and Administrative Services may grant requests to be placed in the main file under (1)(F) or requests to be placed in a docket noticing address file. The Chairman will rule on all such requests that the Division Director recommends be denied.

PARTIES

The Commission staff may participate as a party in any proceeding. Their primary duty is to represent the public interest and see that all relevant facts and issues are clearly brought before the Commission for its consideration.

In cases assigned to the Division of Administrative Hearings, the Commission staff's role is to represent the public interest and be neither in favor of nor against any particular party, unless the Commission is enforcing rules or statutes through a show cause or similar proceeding, or unless the Commission is a respondent at the Division of Administrative Hearings. Staff is not a party in interest and has no substantial interests that may be affected by the proceeding. Commission staff's role shall be to assist in developing evidence to ensure a complete record so that all relevant facts and issues are presented to the fact finder. Any position that staff has prior to the hearing is preliminary; final positions are based upon review of the complete record.

When advocating a position, Commission staff may testify and offer exhibits, and such evidence shall be subject to cross-examination to the same extent as evidence offered by any other party.

ASSIGNMENT OF FORMAL PROCEEDINGS

(1) Formal proceedings may be assigned by the Chairman to panels of two, three or five Commissioners, to the Division of Administrative Hearings (DOAH), or to an individual Commissioner for hearings as provided in Section 350.01, Florida Statutes.

The assignment of proceedings shall be accomplished at the earliest practicable time, but not later than 45 days after a case is docketed in any event.

Assignment of cases to panels of two or three Commissioners shall be done randomly, unless the Chairman determines otherwise for good cause shown in a particular case. If a Commissioner becomes unavailable after assignment, he or she shall notify the Chairman, who shall make another assignment as soon as practicable.

(2) When a case is assigned for hearing to a panel of Commissioners, the hearing and deciding panels shall be identical. If a case is assigned to a DOAH Administrative Law Judge or individual Commissioner for a hearing, the case shall be assigned to the full Commission for decision.

(3) If a proceeding is assigned for hearing to a panel of two or three Commissioners or to a DOAH Administrative Law Judge or individual Commissioner, upon motion of a Commissioner or upon petition of those persons described in 350.01(6), a majority of the Commission may decide that the full Commission shall hear such a case.

(4) Petitions seeking to have the full Commission sit in a particular case may be filed as authorized by Section 350.01(6), Florida Statutes.

Applicants, petitioners, or eligible parties filing a pleading who desire a hearing before the full Commission shall so specify in their initial pleading.

Other persons eligible to make such a request shall do so within 15 days of notice of filing of the application or petition, or rendition of an order suspending proposed rates or of an order initiating a proceeding, whichever occurs first. In each case, these petitions or requests shall be disposed of by a majority of the Commission. Failure to file pleadings timely, and in the manner specified herein, may be considered just cause for denial of such pleadings.

(5) In cases filed pursuant to the provisions of Sections 364.05(5), 366.06(3), or 367.081(6), Florida Statutes, the initial decision whether to suspend all or part of the rates as filed shall be made by the full Commission, since whether a hearing will be required cannot be determined until that decision is made.

(6) Assignment of a proceeding to a panel does not preclude delegation of prehearing conferences or similar procedural matters to a single member of the panel.

COMMISSION NOTICE OF
PUBLIC UTILITY HEARINGS AND PROPOSED AGENCY ACTION

(1) Notice of public hearings other than rulemaking hearings shall be given by the Commission to the Clerk of the Board of County Commissioners of each county affected, the chief executive officer of each municipality in the area affected, all parties of record, and all persons who have requested notice of such proceedings.

(2) A summary of the subject matter and notice of hearing shall be published by the Commission in the *Florida Administrative Weekly*. The summary shall be drawn and notice given as required by the provisions of the statute under which relief is sought, if applicable, but shall not be published less than 14 days prior to the hearing.

(3) When the Commission determines that the health, safety, or welfare of the public requires an emergency hearing, notice may be accomplished by giving notice to those persons listed in Subsection 1 by any procedure that is fair under the circumstances and necessary to protect the public interest.

(4) The Commission may publish notice of its proposed agency action in the *Florida Administrative Weekly* or newspapers of general circulation in the area affected by its action. Any such publication may be used in establishing the date of receiving notice.

VARIANCES AND WAIVERS OF COMMISSION RULES

The person to be contacted to obtain information about variances and waivers of Commission rules is Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; telephone number (850) 413-6770.

Petitions seeking such variances or waivers must be filed with the Director of the Division of the Commission Clerk and Administrative Services in the manner set forth in Rule 28-104.002, Florida Administrative Code.

FILING DOCUMENTS ELECTRONICALLY

Filings by electronic transmission are accepted in accordance with the Commission's Electronic Filing Requirements.

Questions concerning the requirements and/or requests for a copy of the current requirements can be directed to the Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; telephone number (850) 413-6770. The current requirements can also be accessed on the Commission's Web site at <http://www.flondapsc.com/RandR/e-req.cfm>.

Special Conditions for e-filing, as stated in the requirements, include the following.

The party submitting a document for filing by electronic transmission acknowledges and agrees:

- a. That the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause, and that the party shall produce it upon request of the other parties or the Commission.
- b. That the party submitting the filing shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the Division as a result.
- c. That the filing date for an electronically transmitted document shall be the date the Division receives the complete document. If the document is received on a non-business day, or after 5:00 p.m. on a business day, it will be considered filed as of 8:00 a.m. on the following business day.
- d. That the Commission does not have the authority to grant an extension of time for certain jurisdictional filings, including motions for reconsideration and notices of appeal.
- e. That the official copy of an electronically filed document is the copy printed by the Division upon receipt, document-stamped, and filed in the docket.

STATEMENT OF AGENCY ORGANIZATION & OPERATIONS

- f. That all electronically filed documents are public records and will be published on the Commission's local area network and its Internet Web site. Confidentiality is waived for any information in documents submitted for e-filing

The Commission does not accept filings submitted by facsimile ("fax") transmission.

JUNE 2004

FILE COPY

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

**BELLSOUTH TELECOMMUNICATIONS,
INC.,**

Plaintiff,

vs.

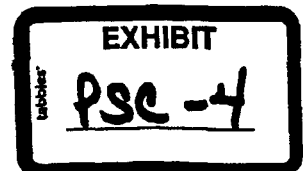
MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,
Defendant.

**MIAMI-DADE COUNTY'S ANSWER AND AFFIRMATIVE
DEFENSES TO SECOND AMENDED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND FOR ISSUANCE OF WRIT OF MANDAMUS**

Defendant, Miami-Dade County, by and through its undersigned counsel, hereby files its Answer and Affirmative Defenses, to the Second Amended Complaint for Declaratory and Injunctive Relief and for Issuance of Writ of Mandamus of Plaintiff, BellSouth Telecommunications, Inc. ("BellSouth") and states:

1. Miami-Dade County (the "County") admits the allegations contained in Paragraphs 3, 6, and 15.
2. The County denies the allegations contained in Paragraphs 7, 14, 21, 22, 24, 27, 28, 30, 31, 32, 33, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 55, 57, 58, 60, 61, 63, 65, 72, 73, and 74 and therefore demands strict proof thereof.
3. The County is without knowledge as to the allegations contained in Paragraphs 4, 5, 54, and 62, and therefore denies the same and demands strict proof thereof.
4. Regarding Paragraph 8, the Miami-Dade County Home Rule Charter (the "Charter") speaks for itself.

C:\Data\dsh\Pleadings\Airport\BellSouth Telecommunications (Second Amended Answer and Affirmative Defenses).doc
OFFICE OF COUNTY ATTORNEY, MIAMI-DADE COUNTY, FLORIDA



5. Regarding Paragraph 9, the definition of "telephone utility" as used in the Charter speaks for itself.
6. Regarding Paragraph 10, § 364.02(13), Florida Statutes speaks for itself.
7. Regarding Paragraph 11, the County denies operating a telecommunications company offering two-way telecommunications services to the public for hire.
8. Regarding Paragraph 12, Florida Administrative Code Rule 25-9.002 speaks for itself.
9. Regarding Paragraph 13, Florida Administrative Code Rule 25-4.003(10) speaks for itself.
10. Regarding Paragraph 16, the County admits that the authority of the Miami-Dade County Board of County Commissioners (the "Board") shall not conflict with applicable general laws related or applying to Miami-Dade County.
11. Regarding Paragraph 17, § 364.01(2), Florida Statutes speaks for itself.
12. Regarding Paragraph 18, the County admits providing shared airport tenant services to airport tenants at Miami International Airport ("MIA").
13. Regarding Paragraphs 19 and 20, § 364.339, Florida Statutes speaks for itself.
14. Regarding Paragraphs 23, Article VIII, Florida Constitution of 1985 speaks for itself.
15. Regarding Paragraph 25, on January 29, 2002, the Board passed and adopted Resolution No. R-31-02 related to telecommunications, data network,⁷ and shared network services at County airport system facilities. The resolution authorized the: (i) purchase of leased telecommunications, data network, and common use terminal equipment infrastructure, software, licenses, permits, and other assets; and (ii) approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with NextiraOne, LLC for an interim two (2) year period.

16. Regarding Paragraph 26, the Agreement speaks for itself.
17. Regarding Paragraph 29, on September 24, 2002, the Board passed and adopted Resolution No. R-1091-02 authorizing the County Manager or designee to negotiate and execute airport rental agreements with tenants for shared airport tenant services telecommunications and data network access.
18. Regarding Paragraph 34, the County admits it has not submitted an application to the Florida Public Service Commission to obtain a certificate of public convenience and necessity.
19. Regarding Paragraph 35, the County denies providing two-way telecommunications services for hire at the airports.
20. Regarding Paragraph 38, the County denies that BellSouth: (i) provides similar services, as such services are defined by the Charter, to tenants at Miami International Airport ("MIA"); and (ii) has been providing such services at all times relevant. The County has no knowledge of any other statements in this paragraph, not specifically denied above.
21. Regarding Paragraph 66, §§ 364.02(13) and 364.32(1)(a), Florida Statutes speak for themselves.
22. Regarding Paragraphs 67, § 364.33, Florida Statutes speaks for itself.
23. Regarding Paragraphs 68, § 364.339(2), Florida Statutes speaks for itself.
24. Regarding Paragraphs 69, §§ 364.33 and 364.335, Florida Statutes speak for themselves.
25. Regarding Paragraph 70, Florida Administrative Code Rule 25-24.567 speaks for itself.
26. Regarding Paragraph 71, Florida Administrative Code Rule 25-24.569 speaks for itself.
27. Any allegations of the complaint not specifically responded to above are hereby denied, and therefore the County demands strict proof thereof.

AFFIRMATIVE DEFENSES

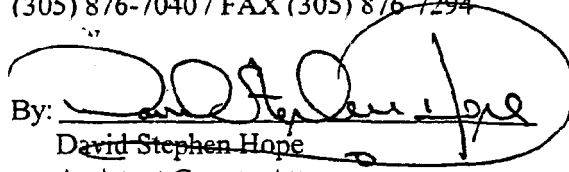
**FIRST DEFENSE
(Failure to State a Claim)**

1. For each cause of action of the Second Amended Complaint asserted against Defendant, Plaintiff has failed to state a claim for which relief can be granted.

**SECOND DEFENSE
(Laches)**

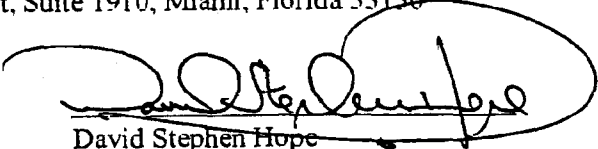
2. The County has operated a telecommunications, data network, and shared airport tenant services infrastructure and system, and provided such services at MIA since circa 1982. BellSouth has had knowledge of said infrastructure and system since its inception. The doctrine of laches is a bar to any and all claims of Plaintiff, given BellSouth's approximate twenty (20) year knowledge of the operation of the system and provision of services now challenged.

ROBERT A. GINSBURG
Miami-Dade County Attorney
Aviation Division
P.O. Box 592075 AMF
Miami, Florida 33159-2075
(305) 876-7040 / FAX (305) 876-7294

By: 
David Stephen Hope
Assistant County Attorney
Florida Bar No. 87718

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 19th day of July 2004, to *Martin B. Goldberg, Esq.*, Lash & Goldberg LLP, 1200 Bank of America Tower, 100 Southeast 2nd Street, Miami, Florida, 33131; *Dorian Denburg, Esq.*, BellSouth Corporation, 1155 Peachtree Street, Suite 1700, Atlanta, Georgia 30309-3610; *Sharon Liebman, Esq.*, BellSouth Telecommunications, Inc., 150 West Flagler Street, Suite 1910, Miami, Florida 33130



David Stephen Hope
Assistant County Attorney

**PLAINTIFF'S
EXHIBIT**

2
5-21-03 LWS

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

From: Pedro Garcia [mailto:PJGarcia@miami-airport.com]
Sent: Monday, March 17, 2003 5:18 PM
To: rmoses@psc.state.fl.us
Cc: Maurice Jenkins; Maria Perez; Anthony Brown
Subject: Mia STS List

Mr. Moses,

Attached is the list that you requested.

<<SATS Customer List.xls>>

Pedro J. Garcia
Chief, Telecommunications
Miami-Dade Aviation Department
Phone: 305 876-7523
Fax: 305 869-1413

> The Miami-Dade County Aviation Department is a public agency subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure. All e-mail sent and received is captured by our server and kept as a public record.

>
>
>

EXHIBIT
PSC-5

SATS CUSTOMER LIST AS OF 2/03

AIRLINES GOVERNMENT AGENCIES CONCESSIONS/OTHERS MANAGEMENT COMPANIES

ACES GROUP	CENTER FOR DISEASE CONTROL	ADT	AIRPORT PARKING ASSOCIATES (MEYERS)
AEROMEXICO	TRI-COUNTY COMMUTER RAIL	ASI BAGGAGE	AVIATION CLUB B
AEROPOSTAL	US CUSTOMS	ASIG, MIAMI INC	AVIATION CLUB F
AIR FRANCE	USDA, APHIS	AT&T WIRELESS	CLUB AMERICA TWOV
AIR JAMAICA		CAFÉ VERSAILLES	MIAMI INTERNATIONAL AIRPORT HOTEL
AIR TRAN		CARRIES ICE CREAM	N&K ENTERPRISES
ALASKAN AIRLINES		COMRUNITEL	NFL MANAGEMENT
AMERICAN AIRLINES		DATO ELECTRIC	QUALITY AIRCRAFT (SKYCAPS)
ASERCA AIRLINES		GLOBAL MIAMI JOINT VENTURE	SHUTTLE SERVICES
ATLAS AIR		GUAVA & JAVA	SIRGANY CENTURY
AVIANCA		HMS HOST	TERMINAL REXALL
BRITISH AIRWAYS		INTERMEDIA COMMUNICATIONS	TOP OF THE PORT
COMMODORE AVIATION		MATRIX SYSTEMS	UNICO
CONTINENTAL AIRLINES		MIAMI DUTY FREE	VISTA BLDG MANAGEMENT
COPA		SIRGANY BENCOMO	
CYBER EXPRESS		SITA	
DUTCH CARIBBEAN AIRLINES		SMARTE CARTE	
EVERGREEN AVIATION		UNDERGROUND CONSTRUCTION	
FLAGSHIP AIRLINES		WORLDWIDE CONCESSIONS	
GULFSTREAM AIRLINES		WORLDWIDE FLIGHT SERVICES	
LAN CHILE			
MARTIN AIR			
MEXICANA			
POLAR AIR CARGO			
SWISS AIR			
TACA INTL			
TAMPA AIRLINES			
UNITED AIRLINES			
VARIG			
VIRGIN ATLANTIC			

**PLAINTIFF'S
EXHIBIT**

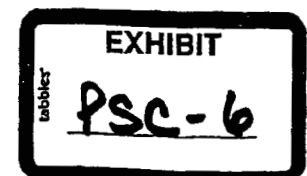
From: RMoses@PSC.STATE.FL.US
To: mjenkins@miami-airport.com
Subject: Certification Issues

3
5-21-03 LWS

I have been informed that the Miami Airport may be providing telephone service beyond its current authority. Pursuant to Rule 25-24.580, Florida Administrative Code, an airport is exempt from the certification requirements of this commission as long as it is only providing telephone service necessary to ensure the safe and efficient transportation of passengers and freight through the airport facility.

Therefore, any services provided to entities such as concession stands, restaurants, or hotels would be outside of the exemption and certification would be required before telephone service can be provided.

Please respond with a list of entities served by the Miami Airport by March 10, 2003. If you have questions, please contact me at 850/413-6582. Thank you.



12-10-01

Corporate
5-21-02 LWS

MGR
Telecom

Al Robinson - Orlando

407-825-3500

STS

Rent a Car, Shops, Insurance

Safety of
Passenger

POP Customers

PSC: APT is ONE IDdy

25.4

Public Law

Care

MTCE
Agreement

3 Telecom Analyst

1 " " (calling person)

Bell South - T. J. Mat.

They do their own M&E

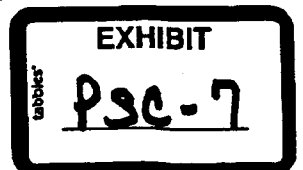
for ~~AT&T~~ Projects.

407-

825 Prefix. they own.

8500

6000 STAT 1093



BS V. MDC(5) 000001

Nextiva STS

Phones
Cute in its PC's
Dry Pairs
Dark Fiber.



④ Develop Turn-over requirements
General Items.

Manual Delivery
Training.
Overlap

On site Equipment
20 Trucks veh.
Office Eqpt

12 no +

ARINC → CUTB
SITA →

④ STS Do we need to apply?
Call PSC

Miami International Airport
P O Box 592075
Miami, Florida 33159

**Miami-Dade County
Attorney's Office**

Fax

To: *Myra Bustamante* From: *Pedro Garcia* +
David Stephen Hope
Assistant County Attorney

Fax: *7736* Pages: *2*

Phone: Date: *12-7-01*

Re: CC:

Urgent For Review Please Comment Please Reply Please Recycle

• Comments:

Myra,

as we discussed.

Thanks,

Pedro

X-7523

BS V. MDC(5) 00003

From: Leonard Stout
To: David Hope; Pedro Garcia; Susan Pascul
Date: 12/7/01 2:01PM
Subject: Operation Next Step Contacts

Florida PSC
<http://www.flordapsc.com/industry/telecomm/index.cfm>

Denver Contact.
James Winston
Asst. Deputy Manager of Aviation, Telecommunications
303-342-2002
jim_winston@diadenver.net

Tampa Contact.
Sharon Weaver, Director of Administration
813-875-6670
sweaver@TampaAirport.com

Hillsborough County Aviation Authority (813) 870-8700

**** IMPORTANT NOTICE ****

The Miami-Dade County Aviation Department is a public agency subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure. All e-mail sent and received is captured by our server and kept as a public record.

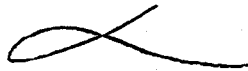
CC: Bobbie Phillips; Maurice Jenkins

Orlando APT.

Al Robinson

Mgr. •
Telecom

407-825-3500
arobinson@goaa.org



Sid. -

12-7-01

7.5
Therm

6.5
US

****FLORIDA PUBLIC SERVICE COMMISSION****

**DIVISION OF REGULATORY OVERSIGHT
CERTIFICATION SECTION**

**APPLICATION FORM FOR AUTHORITY TO PROVIDE
SHARED TENANT SERVICE
WITHIN THE STATE OF FLORIDA**

INSTRUCTIONS

-
- ◆ This form is used as an application for an original certificate or for approval of the assignment or transfer of an existing certificate. In the case of an assignment or transfer, the information provided shall be for the assignee or transferee. No fee applies for approval of the assignment or transfer of an existing certificate to another certificated company.
 - ◆ Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
 - ◆ Use a separate sheet for each answer which will not fit within the allotted space.
 - ◆ Once completed, submit the original and six (6) copies of this form and a non-refundable application fee of \$100.00 to:

Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0050
(850) 413-6770

NOTE: No filing fee is required for an assignment or transfer of an existing certificate to another company

- ◆ If you have questions about completing the form, contact:

Florida Public Service Commission
Division of Regulatory Oversight
Certification Section
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0050
(850) 413-6480

1. This is an application for (Check One):

Original Certificate

Approval of Transfer of Existing Certificate

Example: a non-certificated company purchases a certificated company and desires to retain the original certificate of authority

Approval of Assignment of Existing Certificate

Example: a certificated company purchases a certificated company and desires to retain the certificate of authority of that company

Approval of transfer of control

Example: a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company or name of individual (not fictitious name or d/b/a).

MIAMI-DADE AVIATION DEPARTMENT County

3. Name under which applicant will do business (fictitious name, etc.):

MIAMI-DADE AVIATION DEPARTMENT County

4. Official mailing address (including street name & number, Post Office Box, City, State, and Zip code):

MIAMI-DADE AVIATION DEPARTMENT
INFORMATION DIVISION IS/T DIVISION
P. O. BOX 592075
MIAMI, FLORIDA 33159

Spelling

5. Florida address (including street name & number, Post Office Box, City, State, and Zip code):

MIAMI - ORDE AVIATION DEPARTMENT
INFORMATION SYSTEMS DIVISION
P.O. BOX 592075
MIAMI, FLORIDA 33159

Spell out

6. Structure of organization:

- Individual Corporation
 Foreign Corporation Foreign Partnership
 General Partnership Limited Partnership
 Other: COUNTY AIRPORT POLITICAL SUBDIVISION (COUNTY)

7. If individual, provide:

Name: _____
Title: _____
Address: _____
City/State/Zip: _____
Telephone No.: _____ Fax No.: _____
Internet E-Mail Address: _____
Internet Website Address: _____

8. If incorporated in Florida, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration Number: _____ (TAX ID NO.)

9. If a foreign corporation, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration Number: _____

10. If using fictitious name d/b/a, provide proof of compliance with the fictitious name statute (Chapter 865.09, Florida Statutes) to operate in Florida:

(a) Florida Secretary of State Fictitious Name Registration
Number: _____

11. If a limited liability partnership, provide proof of registration to operate in Florida:

(a) Florida Secretary of State Registration
Number: _____

12. If partnership, provide name, title and address of all partners and a copy of the partnership agreement:

(a) Name: _____
Title: _____
Address: _____
City/State/Zip: _____
Telephone No.: _____ Fax No.: _____
Internet E-Mail Address: _____
Internet Website Address: _____

(b) Name: _____
Title: _____
Address: _____
City/State/Zip: _____
Telephone No.: _____ Fax No.: _____
Internet E-Mail Address: _____
Internet Website Address: _____

13. If a foreign limited partnership, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, Florida Statutes):

(a) The Florida Registration Number: _____

14. Provide F.E.I. Number (if applicable): _____

15. Who will bill for your services?

Name: MIAMI-DADE AVIATION DEPT. - FINANCE

Address: P.O. Box 592616

City/State/Zip: MIAMI, FLORIDA 33159

Telephone No.: _____

16. Who will serve as liaison to the Commission with regard to the following?

(a) The application:

Name: MAURICE JENKINS

Title: MANAGER - INFORMATION SYSTEMS DIV.

Address: MIAMI-DADE AVIATION DEPT. - P.O. Box 592075
MIAMI INTERNATIONAL AIRPORT

City/State/Zip: MIAMI, FLORIDA 33159

Telephone No.: (305) 876-0934 Fax No.: (305) 876-0134

Internet E-Mail Address: MJENKINS@MIAMI-AIRPORT.COM

Internet Website Address: WWW.MIAMI-AIRPORT.COM

(h) Official Point of Contact for ongoing company operations including complaints and inquiries:

x Name: MARIA PEREZ MEDIZO J. GARCIA

Title: TEL SYSTEMS SUPERVISOR Chief of Telecommunications

Address: MIAMI-DADE AVIATION DEPT. - P.O. Box 592075
MIAMI INTERNATIONAL AIRPORT

City/State/Zip: MIAMI, FLORIDA 33159

Telephone No.: (305) 876-9092 Fax No.: (305) 876-0993

Internet E-Mail Address: MPEREZ@MIAMI-AIRPORT.COM

Internet Website Address: WWW.MIAMI-AIRPORT.COM

(c) Complaint/Inquiries from Customers:

17. List the states in which the applicant:
- (a) has applications pending to be certified as a shared tenant service provider.

 NONE
 - (b) is certified to operate as a shared tenant service provider.

 NONE
 - (c) has been denied authority to operate as a shared tenant service provider and the circumstances involved.

 NONE
 - (d) has had regulatory penalties imposed for violations of telecommunications statutes, rules, or orders and the circumstances involved.

 NONE

Name: LORRAINE JONES
 Title: CUSTOMER SERVICE REP.
 Address: MIAMI-GRAND AVIATION DEPT. - MIAMI INTERNATIONAL AIRPORT
 City/State/Zip: P.O. Box 592005, MIAMI, FLORIDA 33159
 Telephone No.: (305) 876-0932 Fax No.: (305) 876-0993
 Internet E-Mail Address: LJONES@MIAMI-AIRPORT.COM
 Internet Website Address: WWW.MIAMI-AIRPORT.COM

(e) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

_____ N/A _____

18. Indicate if any officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, provide explanation: _____

_____ N/A _____

(b) Officer, director, partner or stockholder and any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not

_____ N/A _____

19.

Submit the following:

A. Managerial Capability

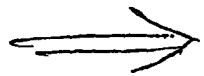
Give resumes of employees and officers of the company that would indicate sufficient managerial experiences of each

TOO + RESUMES

B. Technical Capability

Give resumes of employees and officers of the company that would indicate sufficient technical experience or indicate what company has been contracted to perform technical service.

?



C. Financial Capability

The application must contain the applicant's audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall so be stated.

The unaudited financial statements must be signed by the applicant's chief executive officer and chief financial officers affirming that the financial statements are true and correct and must include:

FIN

1. the balance sheet,
2. income statement, and
3. statement of retained earnings.

NOTE: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

Further, the following (which includes supporting documentations) must be provided:

1. A written explanation that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.
2. A written explanation that the applicant has sufficient financial capability to maintain the requested service.
3. A written explanation that the applicant has sufficient financial capability to meet its lease or ownership obligations.

Finance

AFFIDAVIT

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide shared tenant service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

I will comply with all current and future Commission requirements regarding shared tenant services. I understand that I am required to pay a regulatory assessment fee (minimum of \$50.00 per calendar year) and pay gross receipts tax. Furthermore, I agree to keep the Commission advised of any changes in the names or addresses listed in the application within 10 days of the change.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

UTILITY OFFICIAL:

Print Name

Signature

Title

Date

Telephone No.

Fax No.

Address: _____

CERTIFICATE TRANSFER OR ASSIGNMENT STATEMENT

I, (Name) _____
(Title) _____
of (Name of Company) _____
and current holder of Florida Public Service Commission Certificate Number # _____
have reviewed this application and join in the petitioner's request for a:
 () transfer
 () assignment
of the above-mentioned certificate.

UTILITY OFFICIAL:

Print Name

Signature

Title

Date

Telephone No.

Fax No.

Address: _____

****APPLICANT ACKNOWLEDGMENT STATEMENT****

1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of 0.15 of one percent of the gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
2. **GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra- and interstate business.
3. **SALES TAX:** I understand that a seven percent sales tax must be paid on intra- and interstate revenues.
4. **APPLICATION FEE:** I understand that a non-refundable application fee of **\$100.00** must be submitted with the application.

UTILITY OFFICIAL:

Print Name

Signature

Title

Date

Telephone No.

Fax No.

Address: _____

10-26-01

PSC on STS

MAIN Number: (850) 413-6600

Jackie Gilcrest (boss)
Tom Williams 850 413-6586
Richard Moses 850 413-6582

He was at
MIA 5-6 years
ago looking at this
issue.

If MIA is going to provide service not
related to public transportation (Hotels, shops etc.)
we need to file an application

In any event, trucks will have to be partitioned

—

It takes 2 months once
they receive the application.

12 days before the next commission
meeting.

For 7736 Myra Bustamante

BS V. MDC(5) 000017

PSC 5603



F.P.S.C. Alphabetic Listing of Regulated Telecommunications Companies: Shared Tenant Service

Last Updated on 12/06/2001

Name	Company Code
Access Network Services, Inc.	TS171
Apex Professional Services, Inc.	TS151
Bayfront Health System, Inc.	TS156
Byron Financial & Management Corp. d/b/a Crown Suites & Message Center	TS080
Chicago Suites, Inc. d/b/a HQ Global Workplaces	TS190
City of Tallahassee	TS186
Corporate Offices At Phillips Point, Inc.	TS117
Cypress Communications, Inc. d/b/a Cypress Communications of South Florida, Inc.	TS187
Executive Business Centers, Inc.	TS183
Florida Tax Deeds, Inc. d/b/a Senator Building	TS142
Gaedeke Holdings Ltd.	TS181
Hillsborough County Aviation Authority	TS175
HTG Services, L.L.C.	TS191
Interlink Communications Partnership, LLC d/b/a Charter Communications	TS182
Intermedia Communications, Inc.	TS173
J F G Associates, Inc.	TS169
JABS Real Estate Management Corp. d/b/a One Park Place Executive Suites	TS184
Sarasota Memorial Hospital	TS146
St. Vincent's Medical Center, Inc.	TS100
Suite Partners, Inc. d/b/a Summit Executive Suites	TS159
The Amara Corporation d/b/a Pathway Communications	TS150
Travelers Media, Inc.	TS189
TYMAX Telecommunications, Inc. d/b/a OpTel	TS176
UniversalCom, Inc.	TS166
Vantas Management Virginia, Inc.	TS128
World Trade Center TPA, LTD.	TS188
WorldCom Technologies, Inc.	TS185

<http://www.floridapsc.com/mcd/TSTS.html>

12/7/01

BS V. MDC(5) 000018

10-20-01

MALCOLM
D. HOFFER

STS INTER

FINANCE WILL BILL FOR SERVICES -- CHECK R.I.

BCC Approval Required (Liability)

OKLAHOMA TAMPA

STS Bus Plan: Should we do it?

STS Certificate in the name of Miami-Dade City

****FLORIDA PUBLIC SERVICE COMMISSION****

**DIVISION OF REGULATORY OVERSIGHT
CERTIFICATION SECTION**

**APPLICATION FORM FOR AUTHORITY TO PROVIDE
SHARED TENANT SERVICE
WITHIN THE STATE OF FLORIDA**

INSTRUCTIONS

-
- ◆ This form is used as an application for an original certificate or for approval of the assignment or transfer of an existing certificate. In the case of an assignment or transfer, the information provided shall be for the assignee or transferee. No fee applies for approval of the assignment or transfer of an existing certificate to another certificated company.
 - ◆ Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
 - ◆ Use a separate sheet for each answer which will not fit within the allotted space.
 - ◆ Once completed, submit the original and six (6) copies of this form and a non-refundable application fee of \$100.00 to:

Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Blvd.
Tallahassee, Florida 32309-0850
(850) 413-6770

NOTE: No filing fee is required for an assignment or transfer of an existing certificate to another company.

- ◆ If you have questions about completing the form, contact:

Florida Public Service Commission
Division of Regulatory Oversight
Certification Section
2540 Shumard Oak Blvd.
Tallahassee, Florida 32309-0850
(850) 413-6480

1. This is an application for (Check One):

Original Certificate

Approval of Transfer of Existing Certificate

Example: a non-certificated company purchases a certificated company and desires to retain the original certificate of authority.

Approval of Assignment of Existing Certificate

Example: a certificated company purchases a certificated company and desires to retain the certificate of authority of that company.

Approval of transfer of control

Example: a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company or name of individual (not fictitious name or d/b/a):

Miami-Dade County

3. Name under which applicant will do business (fictitious name, etc.):

Miami-Dade County

4. Official mailing address (including street name & number, Post Office Box, City, State, and Zip code):

Miami-Dade Aviation Department

Information Systems/Telecommunications Division

P.O. Box 592075

Miami, Florida 33159

5. Florida address (including street name & number, Post Office Box, City, State, and Zip code):

Miami-Dade Aviation Department
Information Systems/Telecommunications Division
P.O. Box 592075
Miami, Florida 33159

6. Structure of organization:

() Individual () Corporation
() Foreign Corporation () Foreign Partnership
() General Partnership () Limited Partnership
(X) Other. Political Subdivision (County)

7. If individual, provide:

Name: _____
Title: _____
Address: _____
City/State/Zip: _____
Telephone No.: _____ Fax No: _____
Internet E-Mail Address: _____
Internet Website Address: _____

8. If incorporated in Florida, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration
Number: _____

9. If a foreign corporation, provide proof of authority to operate in Florida:

(a) Florida Secretary of State Corporate Registration
Number: _____

10. If using fictitious name d/b/a, provide proof of compliance with the fictitious name statute (Chapter 865.09, Florida Statutes) to operate in Florida:

(a) Florida Secretary of State Fictitious Name Registration
Number: _____

11. If a limited liability partnership, provide proof of registration to operate in Florida:

(a) Florida Secretary of State Registration
Number: _____

12. If partnership, provide name, title and address of all partners and a copy of the partnership agreement:

(a) Name: _____
Title: _____
Address: _____
City/State/Zip: _____
Telephone No.: _____ Fax No.: _____
Internet E-Mail Address: _____
Internet Website Address: _____

(b) Name: _____
Title: _____
Address: _____
City/State/Zip: _____
Telephone No.: _____ Fax No.: _____
Internet E-Mail Address: _____
Internet Website Address: _____

13. If a foreign limited partnership, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, Florida Statutes)

(a) The Florida Registration

Number: _____

14. Provide F.E.I. Number (if applicable): _____

15. Who will bill for your services?

Name: Miami-Dade Aviation Dept. Finance

Address: P.O. Box 592616

City/State/Zip: Miami, Florida 33159

Telephone No.: _____

16. Who will serve as liaison to the Commission with regard to the following?

(a) The application:

Name: Maurice Jenkins

Title: Manager-Information Systems/Telecommunications Division

Address: Miami-Dade Aviation Dept. Miami Int'l Airport P.O. Box 592075

City/State/Zip: Miami, Florida 33159

Telephone No.: (305) 869-0934 Fax No.: (305) 876-0134

Internet E-Mail Address: mjenkins@miami-airport.com

Internet Website Address: www.miami-airport.com

(b) Official Point of Contact for ongoing company operations including complaints and inquiries:

Name: Pedro J. Garcia

Title: Chief of Telecommunications

Address: Miami-Dade Aviation Dept. Miami Int'l Airport P.O. Box 592075

City/State/Zip: Miami, Florida 33159

Telephone No.: (305) 876-7523 Fax No.: (305) 869-1413

Internet E-Mail Address: pjgarcia@miami-airport.com

Internet Website Address: www.miami-airport.com

(c) Complaint/Inquiries from Customers:

Name: Lorraine Jones

Title: Customer Service Rep.

Address: Miami-Dade Aviation Dept. Miami Int'l Airport P.O. Box 592075

City/State/Zip: Miami, Florida 33159

Telephone No.: (305) 876-0932 Fax No.: (305) 876-0993

Internet E-Mail Address: ljones@miami-airport.com

Internet Website Address: www.miami-airport.com

17. List the states in which the applicant:

(a) has applications pending to be certificated as a shared tenant service provider.

None

(b) is certificated to operate as a shared tenant service provider.

None

(c) has been denied authority to operate as a shared tenant service provider and the circumstances involved.

None

(d) has had regulatory penalties imposed for violations of telecommunications statutes, rules, or orders and the circumstances involved.

None

(a) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

None

10. Indicate if any officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, provide explanation: _____

N/A

(b) Officer, director, partner or stockholder and any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

N/A

19. Submit the following:

A. Managerial Capability

Give resumes of employees and officers of the company that would indicate sufficient managerial experiences of each.

B. Technical Capability

Give resumes of employees and officers of the company that would indicate sufficient technical experience or indicate what company has been contracted to perform technical service.

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The application must contain the applicant's audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall so be stated.

The unaudited financial statements must be signed by the applicant's chief executive officer and chief financial officers affirming that the financial statements are true and correct and must include:

1. the balance sheet,
2. income statement, and
3. statement of retained earnings.

NOTE: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions

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2. A written explanation that the applicant has sufficient financial capability to maintain the requested service
3. A written explanation that the applicant has sufficient financial capability to meet its lease or ownership obligations

****APPLICANT ACKNOWLEDGMENT STATEMENT****

1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of 0.15 of one percent of the gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
2. **GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra- and interstate business.
3. **SALES TAX:** I understand that a seven percent sales tax must be paid on intra- and interstate revenues.
4. **APPLICATION FEE:** I understand that a non-refundable application fee of **\$100.00** must be submitted with the application.

UTILITY OFFICIAL:

Print Name

Signature

Title

Date

Telephone No.

Fax No.

Address: _____

AFFIDAVIT

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide shared tenant service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

I will comply with all current and future Commission requirements regarding shared tenant services. I understand that I am required to pay a regulatory assessment fee (minimum of \$50.00 per calendar year) and pay gross receipts tax. Furthermore, I agree to keep the Commission advised of any changes in the names or addresses listed in the application within 10 days of the change.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

UTILITY OFFICIAL:

Print Name	Signature
Title	Date
Telephone No.	Fax No.
Address:	

CERTIFICATE TRANSFER OR ASSIGNMENT STATEMENT

I, (Name) _____
(Title) _____
of (Name of Company) _____
and current holder of Florida Public Service Commission Certificate Number # _____
have reviewed this application and join in the petitioner's request for a:
 () transfer
 () assignment
of the above-mentioned certificate.

UTILITY OFFICIAL:

Print Name _____

Signature _____

Title _____

Date _____

Telephone No. _____

Fax No. _____

Address:



Hillsborough County Aviation Authority

Mailing Address

P. O. Box 22287
Tampa, FL 33622-2287

Location

Tampa International Airport
Tampa, FL 33607

Contact Information

Sharon Weaver, Director of Administration. (813) 870-8717
Fax: (813) 875-6670
Internet Email: sweaver@TampaAirport.com
Internet WWW Home Page: <http://www.TampaAirport.com>

Regulation Information

Company Code: TS175
Certificate(s): 4680



Have license since 1995.
Are not using it.
Have 700 phones in the Airport Authority
Have 2 switches, NEC + Perigon.
Have 2 Technicians for MAC
Have Contract Agreement.

Westlaw.

West's F S A § 364.02

C

West's Florida Statutes Annotated Currentness
Title XXVII. Railroads and Other Regulated Utilities
 * Chapter 364. Telecommunications Companies (Refs & Annos)
 * Part I. General Provisions

→ 364.02. Definitions

As used in this chapter:

(1) "Basic local telecommunications service" means voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, such term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

(2) "Commercial mobile radio service provider" means a commercial mobile radio service provider as defined by and pursuant to 47 U S C ss 153(n) and 332(d)

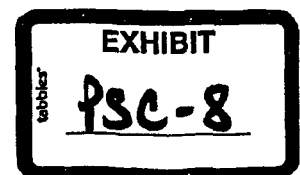
(3) "Commission" means the Florida Public Service Commission.

(4) "Competitive local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications services in this state on or after July 1, 1995.

(5) "Corporation" includes a corporation, company, association, or joint stock association

(6) "Intrastate interexchange telecommunications company" means any entity that provides intrastate interexchange telecommunications services.

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(7) "Local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

(8) "Monopoly service" means a telecommunications service for which there is no effective competition, either in fact or by operation of law.

(9) "Nonbasic service" means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement described in s. 364.16, or a network access service described in s. 364.163.

(10) "Operator service" includes, but is not limited to, billing or completion of third-party, person-to-person, collect, or calling card or credit card calls through the use of a live operator or automated equipment.

(11) "Operator service provider" means a person who furnishes operator service through a call aggregator.

(12) "Service" is to be construed in its broadest and most inclusive sense. The term "service" does not include voice-over-Internet protocol service for purposes of regulation by the commission. Nothing herein shall affect the rights and obligations of any entity related to the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service.

(13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include.

(a) An entity which provides a telecommunications facility exclusively to a certificated telecommunications company;

(b) An entity which provides a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;

(c) A commercial mobile radio service provider,

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West's F.S.A. § 364.02

(d) A facsimile transmission service;

(e) A private computer data network company not offering service to the public for hire;

(f) A cable television company providing cable service as defined in 47 U.S.C. s. 522; or

(g) An intrastate interexchange telecommunications company.

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for any taxes imposed pursuant to chapters 202, 203 and 212 and any fees assessed pursuant to ss 364 025 and 364 336. Each intrastate interexchange telecommunications company shall continue to be subject to ss 364 04, 364 10(3)(a) and (d), 364 163, 364 285, 364 501, 364 603, and 364 604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company, shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service, and shall reduce its intrastate long distance toll rates in accordance with s. 364.163(2).

(14) "Telecommunications facility" includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

CREDIT(S)

Amended by Laws 1980, c. 80-36, § 2, eff. July 1, 1980; Laws 1984, c. 84- 215, § 1, eff. Oct. 1, 1984; Laws 1990, c. 90-244, § 2, eff. Oct. 1, 1990; Laws 1995, c. 95-403, § 6, eff. July 1, 1995; Laws 1998, c. 98- 277, § 12, eff. May 28, 1998; Laws 2003, c. 2003-32, § 3, eff. May 23, 2003.

HISTORICAL AND STATUTORY NOTES

Derivation:

Laws 1965, c 65-451, § 1
Laws 1965, c 65-52, § 1
Laws 1963, c 63-279, § 1
Comp.Gen.Laws 1927, § 6358.
Rev.Gen.St.1920, § 4394.
Laws 1913, c. 6525, § 2.

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West's F.S.A. § 364.02

LIBRARY REFERENCES

1998 Main Volume

Statutes 179
Telecommunications 1, 4.
Westlaw Topic Nos. 361, 372.
C.J.S. Statutes § 315.
C.J.S. Telegraphs, Telephones, Radio, and Television §§ 8, 74 to 82.

RESEARCH REFERENCES

2004 Electronic Pocket Part Update

Encyclopedia

FL Jur. 2d Business Relationships, § 476 CORPORATIONS DISTINGUISHED.

FL Jur. 2d Business Relationships, § 478 LEGALITY; PUBLIC REGULATION AND CONTROL.

FL Jur. 2d Highways, Streets, & Bridges, § 248 TURNPIKE SERVICES AND FACILITIES.

FL Jur. 2d Public Service Commission, § 30 PROHIBITED ACTIVITY.

FL Jur. 2d Taxation, § 1640 TELECOMMUNICATIONS SERVICES.

FL Jur. 2d Taxation, § 2179 TELECOMMUNICATIONS SERVICES TO THE PUBLIC FOR HIRE.

FL Jur. 2d Taxation, § 2381 DEFINITIONS; "GROSS RECEIPTS".

FL Jur. 2d Telecommunications, § 2 DEFINITIONS AND CONSTRUCTION OF "SERVICE," AND GENERAL TYPES OF SERVICE

FL Jur. 2d Telecommunications, § 32 OPERATOR SERVICES.

FL Jur. 2d Telecommunications, § 57 LIABILITY ARISING FROM USE OF 911 SYSTEMS.

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West's F.S.A. § 364.02

UNITED STATES CODE ANNOTATED

Definitions under Communications Commission, see 47 U.S.C.A. § 153

NOTES OF DECISIONS

Construction and application 1
Operator costs 3
Telecommunications company 2

1. Construction and application

Where municipality levied tax on charges made for telephone service, charges made against hotel for use of switchboard, individual hand sets, and wiring connected with trunk line, although classified as rent by telephone company, were charges for "telephone service", subject to the tax. *Alabama Operating Co v City of Winter Park*, 68 So.2d 601 (1953). Telecommunications ⇨ 89

"Person or corporation." *State v. Peninsular Tel. Co.*, 73 Fla. 913, 75 So. 201 (1917).

2. Telecommunications company

Operating telephone company, enfranchised by State of Florida, properly took dispute with manufacturer and distributor of telephone equipment, proposing to sell equipment to real estate development, to Public Service Commission with respect to claim that proposed telephone system would violate § 364.33 and equipment manufacturer which did not appeal determinations of Commission was estopped from raising any factual matters it failed to raise before Public Service Commission in federal suit based on alleged unlawful use of monopoly power by operating company. *International Tel. & Tel. Corp. v. United Tel. Co. of Florida*, 1977, 550 F.2d 287 Judgment ⇨ 828.7

Requiring incumbent local exchange carrier (ILEC) to pay regulatory assessment fee on revenue derived from collocation for connections by alternative local exchange telecommunications companies (ALECs) did not violate equal protection, even though competitors did not have to pay an assessment fee if they only provided collocation facilities; the ILEC was also an ALEC and was not similarly situated to companies providing no telecommunications services *Level 3 Communications, LLC v Jacobs*, 841 So.2d 447 (2003). Constitutional Law ⇨ 241

Competent substantial evidence supported Public Service Commission's (PSC) determination under law in effect prior to 1995 statutory amendments that telecommunications inside wire maintenance company was "telecommunications company" within meaning of governing statute so as to require company to obtain certificate of necessity, company, which was responsible for maintaining condominium owners association's switchboard equipment used to provide telecommunications services to condominium rental units, acquired telephone local exchange carrier's (LEC) inside wire for condominium units, and association was to make monthly payments to

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West's F.S.A. § 364.02

company for lease and maintenance of wire. *Telco Communications Co. v. Clark*, 695 So.2d 304 (1997). Telecommunications ⇐ 75.1

Amendments in 1995 to statutory chapter governing telecommunications companies, creating "alternative local exchange telecommunications companies" and authorizing them to provide local exchange telecommunication service to general public, were inapplicable to present proceeding and did not moot Public Service Commission's order in present proceeding determining that telecommunications inside wire maintenance company was "telecommunications company" required to obtain certificate of necessity, even assuming that law as amended would permit company to acquire and own inside wire for condominium units without certificate of necessity, where Commission's final order was issued well before date after which new proceedings were to be governed by statutes as amended. *Telco Communications Co. v. Clark*, 695 So.2d 304 (1997). Telecommunications ⇐ 75.1

Corporation engaged in furnishing radio communication service was not a "telephone company" over which Utilities Commission had jurisdiction, notwithstanding interconnection of its radio services with regulated utility's telephone land line. *Radio Tel Communications, Inc. v. Southeastern Telephone Co.*, 170 So.2d 577 (1964). Telecommunications ⇐ 383

3. Operator costs

Incumbent local exchange carrier (ILEC) which was statutorily precluded from offering local service without operators to consumers was not required to eliminate its cost of operator services from wholesale rate it charged competitor local exchange carrier (CLEC), which sought to obtain local service from ILEC for resale but wanted to provide its own operator services. *AT&T Communications of Southern States, Inc. v. BellSouth Telecommunications, Inc.*, C.A.11 (Fla.)2001, 268 F.3d 1294. Telecommunications ⇐ 267

West's F. S. A § 364.02, FL ST § 364.02

Current through Chapter 472 and H.J.R. No. 1 and S.J.R. No. 2394 (End) of the Eighteenth Legislature

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West's F.S.A. § 364.339

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West's Florida Statutes Annotated Currentness
Title XXVII. Railroads and Other Regulated Utilities
Chapter 364. Telecommunications Companies (Refs & Annos)
Part I. General Provisions

→364.339. Shared tenant service; regulation by commission; certification; limitation as to designated carriers

(1) The commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which

(a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and

(b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

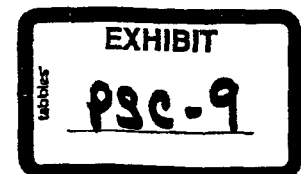
(2) No person shall provide shared tenant service without first obtaining from the commission a certificate of public convenience and necessity to provide such service. The commission shall grant certificates to telecommunications companies upon showings that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services. The commission may require such service to be offered and priced differently to residential and commercial tenants if deemed to be in the public interest.

(3)(a) Shared tenant services provided to government entities pursuant to this section are exempt from paragraph (1)(b), and the commission may exempt such entities from any certification requirements imposed by this chapter.

(b) As provided in subsection (4), the commission may authorize such service notwithstanding the provisions of s. 364.335. The commission may prescribe the type, extent, and conditions under which such service may be provided and may exempt such service, except appropriate certification, from commission regulation

(4) In determining whether the actions authorized by subsections (1) and (2) are consistent with the public interest, the commission shall consider the following:

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West's F S A. § 364.339

- (a) The number of firms providing the service.
 - (b) The availability of the service from other firms or the local exchange telecommunications company.
 - (c) The quality of service available from alternative suppliers.
 - (d) The effect on telecommunications service rates charged to customers of the local telecommunications company.
 - (e) The geographic extent of the service to be provided
 - (f) Any other factors which the commission deems relevant.
- (5) The offering of shared tenant service shall not interfere with or preclude a residential or commercial tenant's right to obtain direct access to the lines and services of the telecommunications company or the right of the telecommunications company to serve the residential or commercial tenant directly under the terms and conditions of the commission-approved tariffs.

CREDIT(S)

Added by Laws 1986, c. 86-270, § 1, eff. July 9, 1986. Amended by Laws 1990, c. 90-244, § 40, eff. Oct 1, 1990; Laws 1995, c. 95-403, § 27, eff. July 1, 1995, Laws 1998, c. 98-277, § 15, eff. May 28, 1998.

HISTORICAL AND STATUTORY NOTES

Prior Provisions for Legislative Review of Regulatory Statutes:

Laws 1986, c. 86-270, § 2, provided for repeal of this section October 1, 1989, and review pursuant to § 11.61, the Regulatory Sunset Act.

LIBRARY REFERENCES

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West's F.S.A. § 364.339

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FL Jur. 2d Telecommunications, § 23 AUTHORITY OF COMMISSION TO EXEMPT GOVERNMENT ENTITIES FROM CERTIFICATION REQUIREMENTS.

FL Jur. 2d Telecommunications, § 30 SHARED TENANT SERVICE.

West's F. S. A. § 364.339, FL ST § 364.339

Current through Chapter 472 and H.J.R. No. 1 and S.J.R. No. 2394 (End) of the Eighteenth Legislature

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25 FL ADC 25-24.580
Rule 25-24.580, F.A.C.
Fla. Admin. Code Ann. r. 25-24.580

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**FLORIDA ADMINISTRATIVE CODE
ANNOTATED
TITLE 25. PUBLIC SERVICE COMMISSION
CHAPTER 25-24. TELEPHONE COMPANIES
PART XII. SHARED TENANT SERVICES
Current through August 1, 2004**

25-24.580. Airport Exemption.

Airports shall be exempt from the other STS rules due to the necessity to ensure the safe and efficient transportation of passengers and freight through the airport facility. The airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks. However, if the airport partitions its trunks, it shall be exempt from the other STS rules for service provided only to the airport facility.

Specific Authority 350.127(2) FS. Law
Implemented 364.337, 364.339, 364.345 FS.
History--New 1-28-91, Amended 3-11-92.

25 FL ADC 25-24.580
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