

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of Funding ) DOCKET NO. 950696-TP  
for Universal Service and ) ORDER NO. PSC-95-1233-PHO-TP  
Carrier of Last Resort ) ISSUED: 10/05/95  
Responsibilities. )  
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Pursuant to Notice, a Prehearing Conference was held on September 27, 1995, before Chairman Susan F. Clark, as Prehearing Officer.

APPEARANCES:

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On behalf of ALLTEL Mobile Communications of Florida, Inc. (AMC), GTE Mobilnet Incorporated, GTE Mobilnet of Tampa Incorporated and Contel Cellular of the South (GTEM)

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On behalf of AT&T Communications of the Southern States, Inc. (AT&T)

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On behalf of BellSouth Mobility Inc. (BMI)

Laura L. Wilson, Esquire, Charles F. Dudley, Esquire, Florida Cable Telecommunications Association, Inc., 310 North Monroe Street, Tallahassee, Florida 32301 and William B. Graham, Esquire, Bateman Graham, 300 East Park Avenue, Tallahassee, Florida 32301  
On behalf of the Florida Cable Telecommunications Association, Inc. (FCTA)

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On behalf of Florida Interexchange Carriers Association (FIXCA)

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FPSC-RECORDS/REPORTING

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On behalf of GTE Florida Incorporated (GTEFL)

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On behalf of Intermedia Communications of Florida, Inc. (ICI)

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

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On behalf of MCI Telecommunications Corporation, Inc. and MCI Metro Access Transmission Services, Inc. (MCI)

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On behalf of Metropolitan Fiber Systems of Florida, Inc. (MFS)

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On behalf of the Citizens of the State of Florida (OPC)

Robert G. Beatty, Esquire, J. Phillip Carver, Esquire, c/o Nancy H. Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32302 and R. Douglas Lackey, Esquire, Nancy B. White, Esquire, 675 W. Peachtree Street, Suite 4300, Atlanta, Georgia 30375.  
On behalf of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (SBT)

David B. Erwin, Esquire, Young, van Assenderp & Varnadoe, P.A., Post Office Box 1833, Tallahassee, Florida 32302-1833.

On behalf of the Small Company Committee of the Florida Telephone Association (SCC)

C. Everett Boyd, Jr., Esquire, Ervin, Varn, Jacobs, Odom & Ervin, P.O. Drawer 1170, Tallahassee, Florida 32302

On Behalf of Sprint Communications Company, L.P.

Lee L. Willis, Esquire, J. Jeffry Wahlen, Esquire, Macfarlane, Ausley, Ferguson & McMullen, P. O. Box 391, Tallahassee, Florida 32302.

On behalf of Sprint Communications Company, L.P., Central Telephone Company of Florida and United Telephone Company of Florida (S/C/U)

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On Behalf of Teleport Communications Group, Inc. (TCG)

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On behalf of Time Warner AxS of Florida, L.P. and Digital Media Partners (TW/DMP)

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On behalf of the Commission Staff (Staff)

### PREHEARING ORDER

#### I. CASE BACKGROUND

Pursuant to Section 364.025(2), Florida Statutes, this Commission is required to implement an interim mechanism, by no later than January 1, 1996, for maintaining universal service (US) objectives and funding carrier of last resort (COLR) obligations. The purpose of this proceeding is to determine the appropriate interim mechanism.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Any information provided pursuant to a discovery request for which confidential classification has been requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on the request, or upon return of the information to the owner of the information. If no ruling has been made on the request for confidential classification, and the information has not been used in the proceeding, the material shall be returned expeditiously to its owner. If the material has been determined to be confidential, and was not entered into the record of the proceeding, it shall be returned to its owner within the time periods set forth in Section 364.183, Florida Statutes.

If it becomes necessary to use confidential information during the hearing, the following procedures shall be observed:

- A. Any party wishing to use proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- B. Failure to comply with the above requirement shall constitute grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- C. When confidential information is used in the hearing, parties shall have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine confidential material that is not subject to an order granting confidential classification may be provided a copy, subject to a protective agreement with the owner of the material.
- D. Counsel and witnesses shall avoid verbalizing confidential information in any way which would compromise its confidential nature. Therefore, confidential information should be presented by written exhibit when reasonably practicable.
- E. At the conclusion of that portion of the hearing that involves confidential information, all confidential materials shall be returned to their owner. If confidential material has been admitted into evidence, the copy provided to the Court

Reporter shall be retained in the Commission Clerk's confidential files.

### III. POST-HEARING PROCEDURE

Under Rule 25-22.056(3), Florida Administrative Code, each party must file a post-hearing statement of issues and positions, which shall clearly state the party's position on each issue, in no more than fifty words per issue, set off with asterisks. If a party's position has not changed since issuance of the prehearing order, that party may restate its prehearing position; however, if its prehearing position is longer than fifty words, it must reduce it to no more than fifty words.

A party's statement of issues and positions, brief, and proposed findings of fact and conclusions of law, if any, shall together total no more than sixty pages. A copy of each of these documents must also be filed on a computer diskette in word-processing format. See Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

### IV. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. After a witness has taken the stand and affirmed the correctness of his or her prefiled testimony, it shall be inserted into the record, subject to objection. All exhibits attached to a witness' testimony shall also be identified at that time. Cross examination exhibits may be identified at the proper time. After all parties and Staff have had the opportunity to object to an exhibit, it may be moved into the record. Witnesses are reminded that, during cross-examination, questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

V. ORDER OF WITNESSES

Due to the extreme time constraints for this proceeding, direct and rebuttal testimony shall be presented at the same time, where practicable.

<u>Witness</u>	<u>Appearing For</u>	<u>Issues Nos.</u>
<b><u>DIRECT</u></b>		
L. G. Sather	AT&T	1 - 22
Joseph Gillan	AT&T & FIXCA	1 - 22
Dr. Lee L. Selwyn <sup>1</sup>	TW/DMP	1, 2, 4-20
Dr. Patricia Pacey	FCTA	1, 2, 5 - 9, 12 - 16, 19 - 21
Lance C. Norris <sup>2</sup>	FPTA	1 - 5
Mansel W. Williams	GTEFL	1 - 22
Joseph P. Cresse	ICI & McCAW	1 - 22
Don Price	MCI	1 - 22
Timothy T. Devine	MFS	1 - 22
Alphonso J. Varner	SBT	1 - 6, 9, 10, 14b, 16, 17, and 22
Peter F. Martin	SBT	7 - 9, 11 - 16, 18 - 21
Jeff L. McGehee <sup>3</sup>	SCC	1 - 22
Daniel V. Gregory <sup>3</sup>	SCC	1 - 22
Harriet Eudy <sup>3</sup>	SCC	1 - 22
Thomas M. Beard <sup>3</sup>	SCC	1 - 22
F. Ben Poag	S/C/U	1 - 22
Dr. Lee L. Selwyn	TW/DMP	1, 2, 4 - 20

<u>Witness</u>	<u>Appearing For</u>	<u>Issues Nos.</u>
Paul Cain	TCG	1 - 5, 8 - 13, 15 - 22

**REBUTTAL**

Joseph Gillan	AT&T & FIXCA	1 - 22
Dr. Patricia Pacey	FCTA	1, 2, 5 - 9, 12 - 16, 19 - 21
Mansel W. Williams	GTEFL	1 - 22
Joseph P. Cresse	ICI & McCAW	1 - 22
Don Price	MCI	1 - 22
Timothy T. Devine	MFS	1 - 22
Alphonso J. Varner	SBT	1 - 22
Richard D. Emmerson	SBT	1 - 22
Thomas M. Beard <sup>3</sup>	SCC	1 - 22
Paul Cain	TCG	1 - 5, 8 - 13, 15 - 22
Dr. Lee Selwyn	TW/DMP	4 - 10, 12 - 17, 19, 20
Ms. Carolyn Marek	TW/DMP	5

- <sup>1</sup> Dr. Selwyn is only available on October 17, 1995.  
<sup>2</sup> Mr. Norris is only available on October 16 and 17, 1995.  
<sup>3</sup> Messrs. McGehee, Gregory and Beard, and Ms. Eudy, are appearing as a panel. The panel is only available on October 18 and 19, 1995. Mr. Beard will present testimony from the perspective of a small LEC that elects price regulation. The remainder of the panel will present testimony from the perspective of a small LEC that remains under rate base, rate of return regulation.

VI. BASIC POSITIONS

**AMC:** Commercial mobile radio service (CMRS) providers are not subject to fees or other obligations assessed pursuant to

Section 364.025, Florida Statutes. Further, the Florida Legislature and the Commission have been preempted by Congress from imposing US requirements on CMRS providers until such time as commercial mobile services are a substitute for landline telephone exchange service for a substantial portion of the communications within Florida. In addition, CMRS interconnection charges are substantially above costs, and thus, CMRS providers already are making a significant contribution to US. If the Commission obtains the legal authority to subject CMRS providers to US/COLR fees or obligations, then CMRS interconnection rates should be decreased to cost.

**AT&T:** AT&T's basic position in this proceeding is that the Commission should require no funds to be paid into an interim US mechanism absent a determination by the Commission, upon a showing by a LEC, that such company is not recovering its reasonable costs with respect to basic services, considering all revenues supporting local service. Any interim mechanism established by the Commission in this docket should include a requirement that a LEC satisfy basic criteria before qualifying for fund reimbursement. The fund should only compensate the LEC for costs to serve customers whose revenues are insufficient to cover costs. The LEC should be required to demonstrate that preexisting revenue sources have been disrupted as a result of the local entry permitted by the recent revisions to Chapter 364. Moreover, interexchange carriers (IXCs) should not be required to contribute to the interim fund if it is activated during the interim period. Finally, the Commission should turn its attention to investigating a permanent US/COLR mechanism which includes a reform of traditional funding sources.

**BMI:** The statute is clear that the Commission must establish an interim mechanism for US/COLR support, and that this mechanism is to be shouldered by alternative local exchange companies (ALECs) but not other providers of telecommunications services. Moreover, under any interpretation of Section 364.025, it would be inappropriate to assess a US/COLR fee against commercial radio service providers. It is well established that the interconnection rate paid by such providers produces ample contribution toward US goals, and that commercial radio service providers stimulate additional use of LEC networks. Thus, none of the policy justifications for imposing a US/COLR fee on non-LEC providers apply to commercial radio service providers. BMI takes no

position on whether the interim mechanism needs to be currently funded.

**FCTA:** The new telecommunications law that became effective on July 1, 1995 reflects the Legislature's understanding of sound economic principles and of the consumer benefits derived from a competitive marketplace. In the new law, the Legislature recognizes the sensitive balance between allowing the incumbent local exchange telecommunications company (LEC) immediate and significant price flexibility on day one of competition - January 1, 1996 - in return for establishing procedures to stimulate rapid local exchange competition among the widest possible range of providers on an expedited basis. Without competition, the economic underpinnings of the new law are rendered meaningless.

The Legislature established procedures to both stimulate competition and allow LEC price flexibility. Procedures to stimulate competition include an express finding that competition is in the public interest and condensed time schedules for dealing with the essential elements of competition including interim number portability, interconnection, unbundled services. But, clearly, competition, unlike price flexibility, cannot be automatically legislated. Numerous issues may well create impediments to competition if not resolved expeditiously. Moreover, the market will not and can not change overnight. It just simply takes time to transition to full competition. Eliminating any unnecessary barriers to entry will allow competition to begin to emerge in 1996.

The existence of the "interim mechanism" illustrates that the interests of Florida's consumers are paramount in the transition to competition. An unspecified "interim mechanism" provides a flexible way for the Commission to protect the public while competition emerges and while the Commission evaluates the effect of the new law, as a whole, on each LEC's continued ability to maintain US as a COLR. This evaluation will culminate in the Commission's January 1, 1997 recommendation to the Legislature on such issues as whether a US/COLR is even necessary. The "interim mechanism" should be viewed as a means of protecting the public from any adverse impact on the continued availability of US as a consequence of local competition rather than a means of keeping the LECs "whole" in the face of emerging competition. In this

context, the "interim mechanism" will benefit consumers if it (1) ensures US during the transition to competition, and (2) does not create unnecessary obstacles as competition emerges, providing a wider array of consumer choice.

The interim US assurance system proposed by FCTA would contain two main components. Consistent with Section 364.386(1), Florida Statutes, the first component consists of quarterly reports to the Commission for the purpose of tracking the overall impact of local competition on the continued availability of US and the overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services. The second component provides a fair transition mechanism that would trigger contribution for any LEC that demonstrates, explicitly identifies and quantifies subsidy needed on a case-by-case-basis.

In contrast, there are three major reasons why the LECs' immediate funding and distribution approach beginning January 1, 1996 is inappropriate: (1) the amount of any subsidy required to maintain US through a COLR cannot be determined today, (2) it is price inefficient in that the approach is "non-targeted" rather than "targeted," (3) it is based upon faulty and unverifiable assumptions, and (4) the approach will likely impede the development of consumer choice.

The Commission should be sensitive to public policy concerns in implementing the "interim US/COLR mechanism." It should be guided by the principle that, without promoting competition, the LEC price flexibility provisions of the new law create a huge giveaway to the incumbent monopolist without extending the benefits of price, quality and service choices to the consumer. The expectation of the Legislature is that full competition is ultimately the best consumer protection device. In the interim, US is still guaranteed to consumers. The "interim mechanism" must be capable of sustaining this goal without creating "entry fees" that act as unreasonable barriers to full consumer choice. Basing the "interim mechanism" on the monopolist's predictable and unsustainable forecasts of disaster guarantees obstacles to entry that will delay or deter consumer choices.

The Commission has a difficult balance to achieve in implementing the interim mechanism. But, it can be done in a manner that ensures fairness for LECs and competitors while also protecting consumers during the next few years from unintended consequences while the Commission researches the issues surrounding any permanent US solution.

**FIXCA:** The Commission should adopt a petitioning process whereby LECs may request interim funding. Since FIXCA does not anticipate any such requests during the interim period, answering detailed questions about the collection and distribution of funds is unnecessary. The Commission should wait until a problem arises before it constructs a complex solution.

**FPTA:** FPTA believes that independent public payphone (IPP) providers already make sufficient contributions toward funding US objectives and COLR obligations. There is nothing in the statute that requires or even suggests that a new rate element should be created and applied to IPP providers. What the statute does say is that "each telecommunications company should contribute its fair share to the support of the US objectives and funding of COLR obligations." IPP providers are already doing so today and have been since their initial entry into the marketplace. Beyond this threshold position, FPTA wishes to hear and consider all of the evidence that is obtained during this proceeding before finalizing its overall position in this docket.

**GTEFL:** GTEFL has proposed two alternatives for the Commission to consider in implementing an interim US mechanism as required under the new legislation. Section 364.025(2), Florida Statutes. Each of the alternatives would be applicable only to ALECs. Alternative 1 consists of applying a flat monthly rate per business or residence customer served by an ALEC in order to provide interim support to the incumbent LEC with its ongoing US/COLR responsibilities. Alternative 2 would apply a US/COLR charge per minute-of-use terminated from an ALEC. GTEFL believes that Alternative 1 is the best choice for the interim mechanism.

On an interim basis, GTEFL does not propose to change existing universal support levels provided to the COLR through access charges, toll rates and other services. The alternatives proposed by GTEFL are designed to offset

the average LEC support which will be lost as customers transfer their service to ALECs.

Viewing both alternatives as interim in nature, GTEFL recommends that the Commission investigate all universal support levels provided by all telecommunications carriers in the state in an effort to develop a permanent mechanism. GTEFL believes that a sustainable US mechanism must compliment a national US program and be specifically targeted to low-income support, the availability of COLR support where required, and recovery of incumbent COLR investment. The permanent mechanism should be broadly funded and administered in a competitively neutral manner. A market-approach should be adopted to the extent possible. However, until that permanent mechanism is implemented, GTEFL has afforded the Commission with two interim measures which will protect the LECs from lost universal support, set up a mechanism for ALECs to contribute and avoid barriers to competition and limitations on consumer choice.

**GTEM:** CMRS providers already are making a significant contribution to US through the interconnection charges paid to the LECs, which are substantially above the costs of providing that service. No further contribution by CMRS providers should be required. If the Commission determines that it has the legal authority to subject CMRS providers to US/COLR fees, then CMRS interconnection rates should be decreased to cost. In no case does the Commission have the legal authority to subject CMRS providers to US/COLR obligations.

**ICI:** Although the statute requires the Commission to establish an interim US/COLR mechanism, there is no basis for the Commission to go beyond this step. No LEC has established any need for any subsidy. Moreover, the requirement of any payment by ALECS absent this proof of need would impede competition and thus would be antithetical to the very purpose of the recent statutory provisions.

**McCAW:** A subsidy to support US/COLR requirements should be implemented only when it has been proven that the economic costs for a COLR to serve a specific exchange exceed the economic benefits from serving that area. A LEC requesting a subsidy should also demonstrate that no other provider would be willing to become the COLR in the affected area at a lesser subsidy.

In this docket, no LEC has demonstrated a need for a subsidy and the Commission should decline to implement one. Should any LEC desire a subsidy in the future, they can file a petition with the Commission and prove the need.

**MCI:** The Commission should establish an interim US mechanism under which a LEC is permitted to demonstrate that (a) the economic cost of providing basic local telecommunications services exceeds the revenues generated by monthly recurring charges for those services (including the federal SLC), and (b) the contribution from other services is insufficient to cover the difference between economic costs and revenues. No funding should be required unless and until a LEC makes the foregoing demonstrations. If those demonstrations are made, funding should be on a LEC-specific basis, and all telecommunications providers (including the incumbent LEC) should participate in the funding on an equitable basis.

There is no need to establish a separate mechanism to address the funding of COLR investments. First, there are no specific investments that have been made to support COLR obligations. Second, the availability of an interim US funding mechanism is sufficient to address any economic consequences to a LEC of its obligation to serve as COLR.

**MFS:** MFS believes that LECs have not proven that local exchange residential rates require subsidization in order to ensure US. To the extent any COLR obligation exists, the LECs have not demonstrated that service to such customers is unprofitable to the LECs. Until such showings are made, no interim US or COLR funding mechanism is needed. The Commission should reject the proposals by the LECs to use the US obligation as a means of imposing artificial costs on new entrants. The proposals by BellSouth and GTEFL in this proceeding would impose such artificial costs, create a price squeeze, prevent the introduction of economically viable competition and deny Florida consumers of the benefits of price competition.

There is no reason to believe that the minimal competition that may develop during the interim period at issue will in any way threaten the incumbent LECs' ability to meet their US and COLR obligations. To remove

any doubt concerning this, MFS recommends that the Commission move expeditiously to develop the necessary cost and revenue information necessary to make an informed recommendation to the Legislature with respect to a permanent US solution as soon as possible.

**OPC:** The Citizens have no basic position at this time pending the cross-examination of witnesses at hearing.

**SBT:** US and COLR obligations currently require LECs to provide basic local service to all customers who desire it. All of the sources of contribution that currently exist to sustain these obligations is needed by the incumbent LEC. Therefore, the loss of any of this contribution would create a need for additional US/COLR support. Southern Bell has proposed three alternatives for an interim support mechanism to ensure that ALECs pay their fair share of universal support and COLR as their provision of services reduces the contribution that has historically been available to LECs to support US.

Under Alternative 1, all carriers would contribute to meeting the US requirement in an amount that is proportionate to their retail revenues. Also, the price of certain services that provide implicit support would be reduced. Southern Bell believes that Alternative 1 is the best choice. Alternative 2 is similar to Alternative 1, except that the support would be paid only by ALECs, and there would be no reduction to access charges or the price of other services. Alternative 3 would use the Carrier Common Line and interconnection rate elements as a surrogate to determine the amount to be paid by the ALECs.

Each of these alternatives will ensure that ALECs contribute their fair share of support for costs arising from LEC US and COLR obligations. Also, these mechanisms will not impede the development of residential customer choice, nor will they create an unreasonable barrier to competition.

**SCC:** The Commission must adopt a temporary US mechanism that operates in a competitively neutral manner and assures the provision of just, reasonable and affordable rates for basic local exchange telecommunications services to all subscribers throughout Florida. Due to the sheer difficulty of developing an interim US funding mechanism for rate of return telecommunications companies, a

permanent mechanism should be developed as soon as possible.

**S/C/U:** The Commission should adopt a case-by-case, LEC-specific process so that the Commission can craft an appropriate US/COLR mechanism when a LEC actually faces competition based on the specific facts and circumstances at the time competition arises.

**TCG:** State law requires the incumbent LECs to retain US and COLR obligations within their service territories. The LECs have asserted that they have met these obligations by subsidizing basic service with revenue from other services. TCG suggests, therefore, that the incumbents' existing switched access charge structure for the termination of interLATA and intraLATA traffic (not for the termination of local traffic) continue to function as a US support mechanism. TCG proposes this in light of the insignificant amount of competition that will develop prior to the establishment of a permanent US mechanism. During the interim period, ALECs will contribute their fair share via network investments that will enable them to assume US and COLR obligations under a permanent US mechanism in the future.

Proposals that would establish an explicit mechanism to fund LEC revenue streams via "contributions" from ALECs would delay and inhibit the development of competition in local telecommunications services, including local residential services. The proposal put forth by TCG allows the LECs to continue to recover the costs associated with their COLR/US obligations during the interim period without creating unreasonable barriers to entry.

**TW/DMP:** Time Warner believes that there is no need for broad general support funding for US, either in the interim or long term, as claimed by some LECs in this docket. In a permanent mechanism, there should be support for service to qualified high cost exchanges and to low income customers (such as through Lifeline and Linkup programs). In a permanent mechanism, Lifeline and Linkup support should be available to all local service providers serving such customers. In the interim, however, there is no need for funding. All local service providers should offer Lifeline and Linkup as part of their certification obligation, and this should be internally funded until a permanent mechanism is funded. Targeted

high cost support should not be needed in the short term because the incumbent LECs are earning an adequate return at this time (or else they should have filed a rate request with the Commission), and they will have adequate time to adjust to the impact of competition. In addition, price cap LECs have the ability to raise prices for some services.

On January 1, 1996, alternative local providers will be authorized by law to also provide local exchange service in competition with the LECs. However, competition will not develop overnight. The LEC's tremendous advantage of its ubiquitous network with available economies of scale and scope, 100% customer share with accompanying customer inertia, plus the sheer effort and resources it will take to build and operate a telephone network to compete with the LECs indicate that it will take years for competition to develop to any significant degree. During this time, the LECs will be able to adjust capital budgeting, planning, and marketing to accommodate the changes in the marketplace. In addition, rate cap LECs have the ability, per the statute, to raise rates for some services. Time Warner believes that these tools will assure the adequate funding of US. By the time meaningful competition exists, it will be time for the Legislature to implement a permanent US funding solution. Until that time, there is no need to actually fund the interim US mechanism.

Although Time Warner does not believe funding is needed during the interim, if the Commission does believe that interim US funding is necessary, it should be targeted at high cost areas and low income customers. High cost funding should only be available to rate of return LECs on an exchange-by-exchange basis, through a two-step bidding process. Lifeline/Linkup funding should be available to all local service providers based on revenues foregone. If funding is required, it should be achieved through the use of a "value added" surcharge to be assessed upon all telecommunications providers and CMRS providers based on the net of all telephone revenues less common carrier service payments to other telecommunications providers. Any such fund should be administered in a competitively neutral manner by a neutral third party such as the Florida Public Service Commission.

**STAFF:** No position at this time.

VII. ISSUES AND POSITIONS

ISSUE 1: What constitutes US under Section 364.025(1), Florida Statutes?

**AMC:** No position at this time.

**AT&T:** Under Section 364.025(1), Florida Statutes, US consists of the ability to connect to the network at reasonable prices. Additionally, under the broad umbrella of US it is necessary to address those services or facilities necessary to address those service or facilities necessary to meet the objective of being effectively connected to the network.

**BMI:** No position.

**FCTA:** Consistent with Section 364.02(4)(a), Florida Statutes, the term refers to the goal that "basic local telecommunications services" are made available to all consumers in the state at reasonable and affordable prices. "Basic local telecommunications services" are defined by statute. Those services constitute the initial package of services that should be made universally available.

**FIXCA:** See Issue 2.

**FPTA:** US includes at least "basic local telecommunications service" as that term is defined in Section 364.02(2). It may include more than just basic service, since US is defined as "an evolving level of access" that takes into account "advances in technologies, services, and market demand for essential services," whereas basic service is a fixed, statutory definition.

**GTEFL:** US means an evolving level of access to essential services that the Commission determines should be provided at affordable rates to all customers. As set forth in the new legislation, US is defined as:

an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in

rural, economically disadvantaged, and high-cost areas.

Section 364.025(1), Florida Statutes. (Emphasis added.) The legislature has defined US on the basis of providing essential services to all areas of the state at rates that are just, reasonable, and affordable to customers.

The term "essential services" is not specifically defined and the Commission has the liberty to determine which services are considered essential for purposes of US. The Commission should define the set of basic services that it considers to be essential for purposes of Section 364.025(1), Florida Statutes. Once defined, this set of basic services (basic service package) will become the initial list of basic services that constitutes US in Florida. The basic service package should be made up of only those services for which the Commission would intervene in the marketplace, if necessary, to ensure that they are available to all consumers at affordable prices.

**GTEM:** No position at this time.

**ICI:** US is defined generally under that section as "an evolving level of access to telecommunications services that taking into account advances in technologies services and market demand for central services, the Commission determined should be provided at just, reasonable and affordable rates to customers including those in rural, economically disadvantaged and high-cost areas." Within this context, US is the general availability of basic local exchange services at affordable rates. Current market penetration rates are reasonable indicia of the existence of US.

**McCAW:** US is the objective to have basic service as defined in Chapter 364 available to all Floridians, including those in high cost areas, at reasonable and affordable rates.

**MCI:** For purposes of this proceeding to establish an interim US funding mechanism, the appropriate definition of US is the statutory definition of "basic local telecommunications service."

**MFS:** For purposes of this proceeding, the appropriate definition of US is the statutory definition of basic local telecommunications service.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** US is defined in Section 364.025(1) to mean the widespread availability of certain essential service (i.e., basic local service) at rates that are "just, reasonable, and affordable."

**SCC:** Note: The SCC's positions herein are presented from two perspectives, one from the perspective of a small company under rate of return regulation (Part A), the other from the perspective of a small company under price cap regulation (Part B).

A. According to CS/SB 1554 (Section 364.025(1)) "universal service mean an evolving level access to telecommunications services that, taking into account advances in technologies, services and market demand for essential services, the Commission determined should be provided at just, reasonable and affordable rates to customers, including those is rural, economically disadvantaged and high cost areas".

Basically, universal service can be split between two key areas. The first is the provision of universal service to economically disadvantaged, low income customers. In Section 13. Section 364.10(2), the legislation provides for "a telecommunication company serving as carrier of last resort, shall provide a Lifeline Assistance Plan to qualified residential subscribers". Each company servicing as a carrier of last resort would be required to establish a Lifeline rate which would be lower than the normal residential rate charged by the company for that serving area. Any funding for the Lifeline Assistance Plan should be calculated as the difference between the tariffed Lifeline rate and the company's normal residential price.

The second key area of universal service as defined by the legislation is the provision of just, reasonable and affordable rates to customers in rural and high cost areas. Rural exchanges generally contain few customers per square mile and route mile of plant. Because of this low customer density, the cost for a telecommunications company to serve these exchanges requires a greater amount of capital expenditures and ongoing operating expenses per access line than is required to provide service in more densely populated exchanges.

Historically, in order to maintain rates at affordable levels in these rural density, high cost exchanges, implicit subsidies are not substantial in the emerging competitive environment.

Universal service is a composite of Lifeline service to low income, economically disadvantaged customers and a mechanism to maintain affordable service in rural, low density, high cost areas.

Based on the definition posited above, the SCC concludes the services that should be available to all customers should encompass the following:

- (1) A voice grade, flat-rate residential access line which provides dial tone to the local calling area.
- (2) Dual tone multi-frequency dialing.
- (3) Access to emergency numbers (911/E-911).
- (4) Access to locally available interexchange companies.
- (5) Access to directory assistance.
- (6) Access to operator services.
- (7) Access to telecommunications relay service.
- (8) An alphabetical White Pages directory listing.

B. See Part A response.

**S/C/U:** As defined in s. 364.025(1), US is "an evolving level of access to telecommunications services that, taking into account advances in technologies, services and market demand for essential services, the commission determines should be provisioned at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged and high cost areas."

**TCG:** US means the availability of basic local telecommunications service to all residential customers throughout the State of Florida at reasonable rates.

**TW/DMP:** US generally should be defined to be broad enough to provide basic telecommunications services for high cost

areas and low income customers, but narrowly enough to preclude inflated subsidies which must be borne by all customers, and which would create an unreasonable barrier to competition. This should include services for which there is customer need or demand, and which would not be generally available and affordable without government action. Currently, US should be defined to include the provision of residential and single line business dial tone, touch tone, some reasonable amount of local usage, access to emergency services such as 911 or E911, where available, locally available interexchange companies, directory assistance, operator service, relay service, and an alphabetical directory listing. US support is to ensure that customers have US, not to ensure that LECs are made whole.

**STAFF:** US pertains to the widespread availability of a set of services at affordable rates.

**ISSUE 2:** What are the COLR obligations referred to in Section 364.025, Florida Statutes? How does this differ from the US obligation?

**AMC:** No position at this time.

**AT&T:** COLR obligations appear to consist of that which would normally be deemed a common carrier obligation; that is, common carriers have traditionally been obligated to provide service to all consumers willing to pay the tariffed rate for that service under the service provider's terms and conditions. COLR obligations are not related in a definitional sense to US obligations.

**BMI:** No position.

**FCTA:** The COLR is the provider who is required to furnish "basic local telecommunications services" within a reasonable time period to any person requesting such service within the company's service territory. The incumbent LEC is required to be a COLR for 4 years.

**FIXCA:** The COLR obligations referred to in s.364.025 are a company's obligations to furnish service depending upon its ability to secure and retain, without unreasonable expense, suitable facilities and rights for the provision of service. COLR and US obligations are not materially different in the context of s.364.025.

- FPTA:** COLR obligations include the responsibility "for providing to the greatest number of customers basic local exchange telecommunications service at an affordable price." This could mean being required to provide the service at a price that does not cover its costs.
- GTEFL:** The objective of US is to make a package of essential telecommunications services available to all customers in Florida at affordable rates. A COLR has assumed the responsibilities and obligations of meeting that objective and therefore should be eligible for US funding.
- GTEM:** No position at this time.
- ICI:** COLR obligations are the obligations of a designated carrier to continue to provide basic service to persons within the company's service territory at rates authorized by the Legislature consistent with the company's current line extension tariff. The phrase, "carrier of last resort obligation" implies that as a last resort a consumer can turn to a specific carrier that is obligated to provide service within a specific area regardless of whether it is urban or rural, low cost or high cost. Thus, where there are no competitive alternatives for the consumer, a monopoly provider will be the COLR. Although the notion of a COLR obligation may be useful from a policy perspective to ensure that consumers have access to a carrier in high cost areas, the "obligation" has neither functional nor economic significance in evaluating the delivery of telecommunications services.
- McCAW:** The obligation of the COLR is to continue to provide US to persons residing in its geographic service territory as it existed on July 1, 1995.
- MCI:** The COLR obligation is the common carrier obligation to provide basic voice-grade service if a customer asks, is creditworthy, and is willing to pay the tariffed rate. It is a subset of the US obligation to ensure that customers have access to basic service at reasonable and affordable rates.
- MFS:** No position stated.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** The COLR obligation has been historically treated as the obligation of each local exchange company to make a certain level of service (i.e., basic local service) available to every customer who desires it. Although US and COLR obligations are distinguishable, they are so closely related that any mechanism that provides financial support to one must necessarily support the other.

**SCC:** A. Carriers of last resort are providers who are required under regulation to provide facilities-based local telecommunications services to all qualified entities within their service area who request such services. These carriers have, in good faith, placed enormous investments based on regulatory considerations, as opposed to pure economic analysis, in order to serve all qualified customers at affordable prices. These are the carriers who will continue to provide the facilities necessary to maintain universal service. Basically, the carrier of last resort obligation requires the local exchange telecommunications company to serve anyone, anywhere within their service area, anytime regardless of economics or sound business judgement.

As carriers of last resort, Florida's local exchange telecommunications companies currently maintain a ubiquitous network, provide stand-by network capacity as needed, stand ready to serve all qualified applicants, meet or exceed the Commission's service quality and reporting requirements, provide interconnection to the ubiquitous network that was built pursuant to traditional telephone regulation, and make available to the public numerous other services deemed necessary by the Commission.

The carrier of last resort is obligated to provide those telecommunications services defined as universal service upon a reasonable request from any individual requesting service. The carrier of last resort must always be ready, willing and able to serve and simultaneously meet Commission rules and standards. Carriers of last resort have historically updated their networks to provide services deemed necessary by the public. In addition, services such as repair services, operator services and directory services have been provided by the carrier of last resort to meet the customers' needs.

Generally the universal service objectives and the carrier of last resort obligations are strongly interwoven and do not allow for differentiation.

B. See Part A response.

**S/C/U:** In general, a COLR has the duty to serve on reasonable terms all those who desire the service it renders. A COLR must serve all who request service whether or not doing so in that instance is profitable.

**TCG:** COLR refers to the local telecommunications providers which the state has determined to be in the best position to maintain US. For the interim period, the incumbent local exchange carriers have been designated as the COLR.

**TW/DMP:** The COLR obligation means the provision of US on a ubiquitous basis in an exchange. Time Warner believes there is no funding requirement specifically associated with COLR obligations. Any funding needs come from US obligations of serving qualified high cost areas or low income customers.

**STAFF:** COLR pertains to the obligation of a carrier to provide service to all consumers in its service area within a reasonable time after a request is received. US and COLR are intimately related. While US focuses on the affordability aspect of a set of telecommunications services, COLR focuses instead on their availability -- i.e., providing assurance that someone will be available to offer them service.

**ISSUE 3:** What telecommunications and other companies are subject to any fees or other obligations assessed pursuant to Chapter 364.025, Florida Statutes?

**AMC:** CMRS providers are not subject to any such fees or other obligations due and may not become subject to any such fees or obligations until commercial mobile services are a substitute for landline telephone exchange service for a substantial portion of the communications within Florida.

**AT&T:** The interim mechanism which is the subject of this proceeding is intended to ensure that each ALEC "contributes its fair share to the support of universal service and carrier-of-last-resort obligations."

- BMI:** Under the language of section 364.025 and the definition section of section 364.02(12), it would appear that all providers of telecommunications service (including commercial radio service providers) potentially are subject to fees assessed for US and COLR support.
- FCTA:** Each telecommunications company is subject to contributing a "fair share" to obligations, if any, determined to be necessary, and assessed pursuant to Section 364.025, Florida Statutes. The law also provides that cellular companies may be assessed "fees" pursuant to Section 364.025, Florida Statutes.
- FIXCA:** IXCs should not be required to contribute to an interim fund due to the excessive access charges they now pay to the LECs.
- FPTA:** FPTA does not believe that IPP providers are subject to any fees or other obligations under Section 364.025.
- GTEFL:** On an interim basis, only ALECs should be required to contribute to US because their market entry will erode the COLR's existing support levels and there is no existing mechanism for these companies to contribute to US presently. On a permanent basis, all telecommunications companies, LECs, ALECs, interexchange carriers (IXCs), CMRS, and alternative access vendors (AAVs) that are providing two-way telecommunications services to the public for hire must contribute to US support. Many of these companies already support US under current LEC rate structures.
- GTEM:** CMRS providers already make a significant contribution to US through interconnection charges paid to the LECs. If the Commission determines that it has authority to impose additional US/COLR fees on CMRS providers, interconnection charges should be decreased proportionately to cost.
- ICI:** All providers of telecommunications services are potentially subject to the fees and obligations that may be assessed pursuant to Chapter 364.025. For example, in section 364.025(12), it is expressly provided that commercial radio service providers, which are exempted from Commission regulation, are nonetheless liable for any fees assessed pursuant to Section 364.025.

- McCAW:** The statute purports to subject all telecommunication companies certificated by the Commission plus CMRS providers to any fees assessed pursuant to 364.025. However, the Commission is not required to assess any fees on those providers who are presently contributing their fair share to US needs. Thus, since CMRS providers are already making a significant contribution to US through rates greatly in excess of cost, they should be exempt from the assessment of any additional fees. Moreover, there is an issue under the federal Omnibus Budget Reconciliation Act of 1993 (OBRA) as to authority to impose mandatory contributions to US funds by CMRS providers unless the CMRS provider is a substitute for landline telephone exchange services over a substantial portion of the state. See 47 U.S.C. §332(c)(3). Since CMRS is not such a substitute, the Commission cannot subject CMRS providers to any fees or charges under section 364.025.
- MCI:** For purposes of this proceeding to establish an interim US funding mechanism, in the unlikely event that such funding is required, all telecommunications companies should contribute on an equitable basis.
- MFS:** If a need for a subsidy is demonstrated, quantified and the Commission determines the desirability of continuing such a subsidy, all providers should contribute.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** At a minimum, the interim US support mechanism must assure that each alternate local exchange carrier pays its fair share to support the mechanism. At the same time, an interim mechanism that ensures that all entities pay their fair share, including ALECs, would also meet the statutory requirement.
- SCC:** A. Section 364.025(2) mandates that each telecommunications company should contribute its "fair share" to the support to of the universal service objectives and the carrier of last resort obligations. With the passage of the competition legislation, the list of contributors to universal service expanded to include, not on LECs, but also all providers of intrastate communications services, including ALECs, IXCs, commercial mobile radio service providers (Cellular), and resellers.

"Telecommunications company" as defined in Section 364.02, F.S. "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." Later in the same section "each commercial mobile radio service provider shall continue to be liable for any taxes imposed pursuant to Chapters 203 and 212 and any fees assessed pursuant to s.364.025."

B. The statute is clear that all telecommunications companies should pay their fair share into a US "Fund". That is well covered in the Part A response. However, for the purposes of an interim "mechanism" it appears that the ALEC will be responsible for direct funding. All implicit subsidies contribute to US/COLR obligations in varying degrees. As these implicit subsidies are reduced by statutory mandate or by non-competitive barriers erected by the law, they must be replaced in some manner. In the interim, it will have to be the responsibility of the LEC and the ALEC to bear that burden and to recover those costs through their pricing mechanisms.

**S/C/U:** The legislation provides that each telecommunications company shall contribute its fair share to support of US and COLR obligations. Section 364.02(12), F.S., defines telecommunications company. Section 364.025 also identifies an interim US mechanism and provides that each alternative local exchange company shall contribute its fair share to support US and COLR obligations. Alternative local exchange company is defined in Section 364.02(1), F.S.

**TCG:** Section 364.025 addresses the obligations of "local exchange telecommunications companies" and "telecommunications companies", both defined in Section 364.02. Section 364.025 does not explicitly require telecommunications companies to contribute a fair share to US support through the payment of in-kind "fees", but could permit such a contribution through network investment.

**TW/DMP:** All telecommunications companies, as defined by Section 364.02(12), Florida Statutes and all CMRS providers are

subject to any fees or other obligations assessed pursuant to Section 364.025, Florida Statutes.

**STAFF:** No position at this time.

**ISSUE 4:** Should the interim US/COLR mechanism apply only to ALECs? If the interim US/COLR mechanism should not apply only to ALECs, to which other companies should it apply?

**AMC:** See Alltel Mobile's position in response to Issue 3. CMRS providers already are making a significant contribution to US through interconnection charges. If the Commission obtains the authority to subject CMRS providers to interim US/COLR fees or obligations, then CMRS interconnection rates should be decreased proportionately to cost.

**AT&T:** AT&T submits that there is no need, given the information available, to fund any interim US fund (USF) for COLR obligations or to meet US objectives.

**BMI:** The language of the statute limits the interim US/COLR mechanism to ALECs.

**FCTA:** Each telecommunications provider should contribute a "fair share" to the interim US/COLR mechanism, but only if the LEC has demonstrated before the Commission that it is unable to maintain US to a given exchange as a COLR without contributions.

**FIXCA:** No interim US/COLR fund is necessary.

**FPTA:** The interim US/COLR mechanism should not apply to IPP providers because IPP providers already make substantial contributions to maintaining US. The rates IPP providers pay for their lines help to support US objectives and COLR obligations, as do the other sources of revenue the LECs receive directly from IPP providers' lines.

**GTEFL:** The interim mechanism should be applied only to ALECs because there is no mechanism for them to contribute to US support presently. During this interim phase, existing US support provided by other telecommunications companies should be maintained at present levels until a new plan is adopted.

- GTEM:** CMRS providers already are making a significant contribution to US through interconnection charges. If the Commission obtains the legal authority to subject CMRS providers to interim US/COLR fees or obligations, then CMRS interconnection rates should be decreased proportionately to cost.
- ICI:** The interim US/COLR mechanism should apply only to ALECS because of the language of the statute.
- McCAW:** The interim mechanism should apply to all companies identified in Issue 3, unless the Commission believes that the consumers of exempted companies are already paying their fair share of the cost of a LEC providing service in areas that are not economical for them to continue to serve.
- MCI:** There is no need to begin funding any interim mechanism to support US/COLR obligations. If funding of an interim mechanism is required in the future, the funding mechanism should apply to all telecommunications companies, including LECs, ALECs, IXCs, cellular carriers, and others.
- MFS:** If a need for a subsidy is demonstrated, quantified and the Commission determines the desirability of continuing such a subsidy, all providers should contribute.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** Yes. All telecommunications companies other than ALECs currently contribute to universal support in various ways. The interim mechanism is a temporary method to ensure that ALECs provide support to US as well.
- SCC:** A. The State of Florida "Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations" (Section 364.025(2)). SCC submits that this includes not only alternative local exchange companies (ALECs) but also all providers of intrastate telecommunications service including providers of basic local telecommunications service, non-basic services and toll services. All intrastate telecommunications providers who benefit from the use of local network should contribute to the funding of the US/COLR mechanism. It is the social

responsibility of all intrastate telecommunications service providers to keep universal service available to all. The telecommunication service providers include LECs, ALECs, IXCs, Cellular and resellers. Universal Service funds should be made available to Carriers of Last Resort in order to provide for the continued provisioning of universal service throughout Florida.

B. See Part A response.

**S/C/U:** The language of the statute does not preclude the interim mechanism from being applied to any telecommunications company, but at a minimum, the statute could be complied with by a mechanism that applies only to ALECs. An interim mechanism that applied to all telecommunications companies would also meet the statute's requirements. To the extent that the obligation might be extended to ALECs, it should only include their fair share of the US/COLR obligation and should not impede the development of residential consumer choice or create an unreasonable burden to competition.

**TCG:** It is unnecessary to modify existing investment recovery mechanisms currently utilized by the LECs. TCG's "mechanism" would treat all carriers fairly: incumbents would have the opportunity to recover the costs of their investments, and ALECs would be permitted to develop the network infrastructure necessary to offer choice to residential customers.

**TW/DMP:** No, pursuant to Section 364.025, Florida Statutes, the interim US/COLR mechanism should apply to all telecommunications companies, including LECs, ALECs, and others. If there is any funding obligation, it also extends to all commercial radio service providers pursuant to Section 364.02(12), Florida Statutes.

**STAFF:** At a minimum, ALECs should contribute, directly or indirectly, to the maintenance of US and COLR responsibilities. No position at this time as to whether such contribution should be via an interim US/COLR mechanism or other means, or whether any other companies should be subject to an interim US/COLR mechanism.

**ISSUE 5:** How should the Commission ensure that any interim mechanism be designed and implemented so as not to impede the development of residential consumer choice nor create

an unreasonable barrier to competition, and ensure that each provider contributes its fair share to the support of US objectives and COLR obligations?

**AMC:** No position at this time.

**AT&T:** AT&T submits that no interim mechanism is necessary.

**BMI:** No position.

**FCTA:** The Commission should implement a mechanism that has two main components. The first component would consist of quarterly reporting requirements by LECs and ALECs. The reports would provide data sufficient to track the pace of competition and the LECs' continued ability to maintain US as a COLR in each exchange area per the requirements of Section 364.386(1), Florida Statutes. The second component would allow each LEC to petition the Commission for contribution in the event that it is no longer able to maintain US as a COLR. In this instance, funding should trigger only if a LEC identifies an exchange(s) or customer(s) it can no longer serve without assistance, proves any amount of contribution needed, and each providers' "fair share" of contribution is explicitly quantified. It is important to note that this is FCTA's recommendation for an interim mechanism that will apply while the Commission is researching the issue of whether a subsidy is necessary and a permanent mechanism. The new law requires such research and a recommendation as early as January 1, 1997.

**FIXCA:** No interim US/COLR fund is necessary.

**FPTA:** IPP providers already contribute their fair share to the support of US objectives and COLR obligations, so no Commission action is needed with respect to IPP providers. In addition, it is important to remember that the Legislature has directed the Commission to create an interim "mechanism." An interim mechanism does not automatically translate into some kind of fund.

**GTEFL:** Any interim mechanism must be narrowly drawn to allow LECs to recover only the support lost from an erosion of local market share and directly limit ALECs' support obligations to the benefits they receive from opening the local market. Such a mechanism will neither create competitive barriers nor impede customer choice.

**GTEM:** No position at this time.

**ICI:** The interim mechanism should be designed so that no subsidy payment is placed on any competitive carrier unless the need for that payment is absolutely clear. The best way to impede competition is to penalize competitors for actually winning customers. Promoting competition by avoiding unnecessary barriers will guarantee that each carrier is contributing toward US consistent with its ability to deliver in the market place. Neither the Commission nor any competitor should pay the slightest attention to "supporting" the COLR obligation because that obligation has no functional or economic significance.

**McCAW:** The best way for the Commission to ensure that any mechanism (either interim or permanent) does not impede the development of competition is to ensure that any subsidy paid to the LEC is the absolute minimum necessary for any company to provide service in the geographic area wherein the LEC claims a subsidy is necessary in order to continue to serve the geographic area. Subsidies from others to the LEC are only necessary if the LEC cannot recover its incremental cost of continuing to serve in any part of the territory they are serving today. Furthermore, through the use of a bidding mechanism, it is possible an existing local exchange company or a new local exchange company would be willing to buy the assets and risk serving the area without a subsidy. The Commission should explore the possibility of bidding local exchange service in areas the existing LEC claims a subsidy is required.

To ensure that each provider pays its fair share, the Commission should first determine who is already paying their fair share and assess the balance to those who are not making a contribution to universal service, assuming any subsidies are necessary.

**MCI:** The Commission should establish an interim mechanism under which a LEC is permitted to demonstrate that (a) the economic cost of providing basic local telecommunications services exceeds the revenues generated by monthly recurring charges for those services (including the federal SLC), and (b) the contribution from other services is insufficient to cover the difference between economic costs and revenues. No

funding should be required unless and until a LEC makes the foregoing demonstrations.

- MFS:** A funding mechanism is only necessary if the need for a subsidy is proven, quantified and approved by the Commission.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** The Commission should adopt BellSouth's proposed alternative 1, which is described more fully in response to Issue No. 9.
- SCC:** A. As indicated in the response to issue 4, funding of the US/COLR mechanism should come from all providers of intrastate telecommunications services. This establishes the widest base of potential US contributors. Each telecommunications company would contribute to the fund based on its percentage of the total intrastate and user revenues. With each telecommunications company contributing its proportionate share, it would provide assurance that the funding mechanism would not impede competition but rather be competitively neutral.

On the other hand, if two telecommunications providers were providing service in competition but only one contributed to the US/COLR obligation, the non-contributing competitor would have a competitive advantage that was not available to the contributing telecommunications provider. This example does not illustrate the "fair share" principle contained in the legislation.

The concept of proportionately sharing the funding of the US/COLR mechanism and furthering the objectives of universal service and the carrier of last resort obligations benefits not only the end users but also all intrastate telecommunications providers.

B. In a price cap environment, a Minute Of Use charge can ensure that there is no unreasonable barrier to competition throughout the exchange while ensuring that all telecommunications companies, either directly or indirectly, pay their fair share. In Indiantown's territory, if an ALEC recruits a high revenue customer, they would pay a greater amount towards a US/COLR mechanism. This is the same thing that occurs today for

the LEC. That same customer provides contribution to the US/COLR responsibilities in support of the high cost, low revenue customer. Conversely, if an ALEC were to accept a low revenue customer, they will pay little. The reason that they should pay anything for that customer is because the incumbent LEC continues to maintain the COLR responsibility for all customers in that exchange and incurs an on-going cost to do that.

**S/C/U:** The Commission should establish a petition process under which any incumbent LEC which believes that it has experienced erosion of its ability to support US or the COLR obligation could request, and if proven, receive on an expedited basis US and COLR support. The degree of erosion, its causes and effects on the ILEC, and related issues are all matters for proof on a case-by-case basis.

**TCG:** TCG's proposed interim mechanism achieves these goals by permitting ALECs to invest in the network infrastructure necessary to provide full service telecommunications to all customers throughout their service territories and allowing existing LECs the time to recover their previous investments in COLR/US obligations.

**TW/DMP:** The Commission should ensure that any interim mechanism:

- 1) be based on as narrow a definition of US as actual customer demand and cost indicate is needed,
- 2) be structured in a competitively neutral fashion,
- 3) does not have the effect of rewarding inefficiencies that are present in the ongoing operations of the incumbent LECs,
- 4) provides assistance to only those customers and areas that need it.

Time Warner believes that there is no need for broad general support funding for US, either in the interim or long term, as claimed by some LECs in this docket. In a permanent mechanism, there should be support for service to qualified high cost exchanges and to low income customers (such as through Lifeline and Linkup programs). In a permanent mechanism, Lifeline and Linkup support should be available to all local service providers serving such customers. In the interim, however, there is no need for funding. All local service providers should offer Lifeline and Linkup as part of their certification obligation, and this should be internally funded until a permanent mechanism is funded.

Targeted high cost support should not be needed in the short term because the incumbent LECs are earning an adequate return at this time (or else they should have filed a rate request with the Commission), and they will have adequate time to adjust to the impact of competition. Existing sources of support, such as from the interstate high cost fund, yellow pages, and vertical services, will continue to be available during this interim period until a permanent mechanism is put into place. In addition, price cap LECs have the ability to raise prices for some services.

If the Commission determines that it must fund US on an interim basis, it should target that funding to high cost areas and low income customers. Revenues foregone by providing Lifeline and Linkup should be basis for funding service to low income customers. Only rate-of-return LECs should be eligible to request assistance for high cost exchanges. If a rate-of-return LEC believes that it cannot afford to serve a specific area, it must first demonstrate that the area is so costly to serve that, absent support, basic rates would exceed the affordability threshold. If a determination is made that support is needed based on an objective analysis of the characteristics of the area using cost proxies, then a bidding process should be used to determine the fair market value of the area. The incumbent LEC, as well as other local service providers, would be able to bid for the amount of subsidy. The provider requiring the least subsidy to offer basic residential local exchange services to the area at a pre-specified rate and pre-specified quality of service would obtain an exclusive right to the high cost support for a specified number of years. This would ensure that high cost support would be provided at the least cost, and would assure that high cost areas which are also high revenue areas would not receive unnecessary subsidies.

**STAFF:** No position at this time.

**ISSUE 6:** For each LEC, specifically what facilities are used to fulfill its COLR obligations?

**AMC:** No position at this time.

- AT&T:** It is AT&T's view that there are no specific facilities that have been placed by any local exchange company solely to fulfill COLR obligations.
- BMI:** No position.
- FCTA:** The LECs have not adequately identified the specific facilities used to fulfill their COLR obligations for purposes of determining a provider's "fair share" of contribution, if any, under an interim mechanism. Such information is solely within the LECs' possession.
- FIXCA:** No facilities used for COLR have been specifically identified.
- FPTA:** No position at this time.
- GTEFL:** The primary facilities used to fulfill the GTEFL's US/COLR responsibilities include the subscriber loop, customer drop, and associated non-traffic sensitive central office equipment and facilities. The Federal Communications Commission (FCC) refers to these facilities as "common line" facilities.
- GTEM:** No position at this time.
- ICI:** Intermedia is unaware of any LEC fulfilling "COLR obligations" through economic behavior distinct from profit-maximizing behavior. In short, no facilities are used to fulfill COLR obligations in any sense that would support targeted funding of facilities.
- McCAW:** McCaw is not aware of any specific facilities that a LEC uses to fulfill COLR obligations.
- MCI:** There are no LEC facilities that have been put in service specifically to fulfill COLR obligations.
- MFS:** No position stated.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** Basic local exchange telecommunications service (which will initially comprise US) makes use of virtually all of the facilities used by LECs in building and maintaining their networks. Generally, these include local loop

facilities, switching facilities, interoffice transport facilities, non-network facilities, and overhead costs.

**SCC:** A. LECs have been and continue to be the carriers of last resort. This responsibility has been met by satisfying customer requests for service as well as complying with all Commission rules and regulations in order to satisfy customer requests for services and invest based on regulatory considerations, it was not always possible to expend funds based on an economic analysis.

The LEC's embedded investment base is comprised of numerous capital expenditures based on the LEC's desire to satisfy customer requests and regulatory considerations. The embedded investment base also includes significant capital expenditures to provide spare capacity, to modernize the network, and to provide additional services to meet customer demand.

These investments were not designated as economic or non-economic, as meeting regulatory consideration or otherwise, or as meeting carrier of last resort obligations. Because of this, it is impossible to specifically identify those impeded facilities used to fulfill the carrier of last resort obligations.

B. See Part A response.

**S/C/U:** The Companies are unaware of any methodology to identify specific COLR investment. The COLR obligations could occur anywhere within the LEC territory and could require any or all classes of plant investment.

**TCG:** No position.

**TW/DMP:** The COLR obligation means the provision of US on a ubiquitous basis in an exchange. Time Warner believes there is no funding requirement specifically associated with COLR obligations. Any funding needs come from US obligations of serving qualified high cost areas or low income customers. Therefore issues relating to COLR obligations are addressed under US issues (issues 14-17).

**STAFF:** No position at this time.

**ISSUE 7:** For each LEC, what are the specific intrastate and interstate amounts of the investments and associated reserves made in fulfilling its COLR obligations?

**AMC:** No position at this time.

**AT&T:** To the extent that there have been no facilities specifically placed for COLR obligations there should be no accounts for funds associated with COLR obligations.

**BMI:** No position.

**FCTA:** The LECs have not adequately quantified the specific intrastate and interstate amounts of investment and associated reserves made in fulfilling their COLR obligation for purposes of determining a provider's "fair share" of contribution, if any, under an interim mechanism.

**FIXCA:** No facilities used for COLR have been specifically identified.

**FPTA:** No position at this time.

**GTEFL:** Based upon its recently conducted study, GTEFL's intrastate and interstate investments and reserves made in fulfilling its US/COLR responsibilities are as follows (in millions of dollars):

	<u>Interstate</u>	<u>Intrastate</u>
Telecommunications Plant	\$571	\$1,714
Reserves	\$244	\$ 733
Net Investment	\$327	\$ 981

**GTEM:** No position at this time.

**ICI:** None, assuming that this issue is directed toward identifying facilities that may be functionally segregated from other facilities dedicated to profit maximization.

**McCAW:** See the position to Issue No. 6.

**MCI:** Because no LEC facilities have been put in service specifically to fulfill COLR obligations, there are no specific investments and associated reserves related to those obligations.

**MFS:** No position stated.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** The interstate net investment associated with BellSouth's COLR and US obligations is approximately \$745,806,000. The intrastate amount is \$2,237,410,000. Applying the US access lines percentage to the sum of these amounts yields \$2,088,275,000 as the total net investment necessary to support Southern Bell's US/COLR obligation.

**SCC:** A. It is possible by applying the rules of FCC Part 36 to identify the specific intrastate and interstate amounts of total investments and associated reserve. However, as indicated in the response to question 6, specific intrastate investments and associated reserves associated with carrier of last resort obligations cannot be identified.

B. See Part A response.

**S/C/U:** It is extremely difficult in this time frame to separate COLR investments from other investments. If such investment amounts could be identified, attempts to create jurisdictional allocations would be very judgmental. If it is necessary to make jurisdictional separations in this time frame the Companies propose that any jurisdictional allocations required be based on existing Part 36 rules.

**TCG:** No position.

**TW/DMP:** See issue 6.

**STAFF:** No position at this time.

**ISSUE 8:** What amount of each LEC's investment made in fulfilling its COLR obligations should be recovered through an interim mechanism?

**AMC:** No position at this time.

**AT&T:** See AT&T's Positions with respect to Issues 6 and 7.

**BMI:** No position.

- FCTA:** The LECs have not adequately identified the amount needed to maintain universal service through a COLR during the transition period. They have not provided any reliable or independently verifiable information necessary to meet this burden.
- FIXCA:** See Issues 6 and 7.
- FPTA:** No position at this time.
- GTEFL:** GTEFL proposes a flat per-line monthly rate (\$45.00 for business and \$4.10 for residence) to recover its investment in fulfilling its COLR obligations lost as ALECs gain local market share. In the alternative, GTEFL proposes an usage-based rate of \$0.025638 per terminated minute of traffic carried by ALECs.
- GTEM:** No position at this time.
- ICI:** No amount of the LEC investment made in fulfilling its COLR obligations should be recovered through an interim mechanism at this time. The LECs have not demonstrated that the profits they can generate are inadequate to ensure a fair return on investment.
- McCAW:** See the position to Issue No. 6.
- MCI:** Since there are no specific investments made to fulfill COLR obligations, there are no amounts to recover.
- MFS:** No LEC has demonstrated a need for such a subsidy.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** The actual amount of the LEC's investment to be recovered via the interim mechanism will depend on the type of interim mechanism that is selected. Southern Bell's preferred mechanism is outlined in response to Issue No. 9.
- SCC:** A. Historically, LEC rate design resulted from a conscious decision of the LEC and the regulator to keep basic local service rates affordable throughout the service areas of the LEC by including implicit subsidies in the price for toll, access and other non-basic services. Through the residual ratemaking process, this resulted in rates for basic local exchange service that

were generally well below the fully distributed costs of providing the service. In a competitive telecommunications world, it will no longer be possible to maintain these implicit subsidies that are necessary to preserve universal service. Artificially high prices for a given service would simply price the LEC out of the market for that service, resulting in a loss of the normal contribution that service would bring as well as the implicit subsidy it was intended to provide. Thus, it is absolutely necessary that the LECs be accorded rate rebalancing to establish economically based prices.

Through this rebalancing process, it is appropriate for the LECs to price toll and access service using fully distributed costs (cost plus return on investment), in accordance with FCC Parts 32, 64, 36, and 69, as the basis for rebalanced rates. Failure to include common costs in these elements would result in shifting the responsibility for common costs solely to basic local exchange rates. This would clearly not be in the overall public interest since it would result in artificially high local service rates for the average customer. In essence, it would result in a reverse subsidy counter to the goals of the regulators for many years.

Incumbent LECs must be granted revenue neutral replacement of revenue reductions resulting from the removal of these implicit subsidies. This incumbent LECs have had their rates established under regulation to recover actual revenue requirements. Failure to permit revenue replacement as part of the rebalancing process would be confiscatory.

In order to minimize rate shock and to provide for a more orderly transition, the rate rebalancing process should take place on a phased-in basis over a four (4) year period. In addition to meeting these objectives, a phased in approach will also permit the establishment and funding of the state universal service fund in a manner that will allow any necessary corrections to occur prior to the fund requirements reaching their ultimate level.

In order to provide for the continued provisioning of universal service by carriers of last resort throughout the State of Florida, a maximum end user benchmark rate should be established for basic local calling areas with similar calling scopes.

As the basic local service rates of the carriers of last resort reach these maximum rate levels throughout the rate rebalancing process, then these carriers would become eligible to obtain explicit support from the state universal service fund. Each qualified carrier would be eligible to draw from the fund, on a recurring basis an amount equivalent to the portion of the revenue reductions incurred in the removal of implicit subsidies that cannot be made up through basic local service rate increases without exceeding the maximum applicable end user benchmark rate.

B. In a price cap environment, under the current statute, rate rebalancing for basic local exchange service isn't an available option for three to five years and then only over a long period of time. A small company in this environment will still need the replacement of any implicit or explicit subsidies that are lost due to statutory mandates and non-competitive barriers erected by the new law. The implicit subsidies that will be lost are the revenues associated with access charge reductions, payphone service reductions, and Lifeline. The explicit subsidies that will be lost are interstate US Funds and interstate DEM Weighting for each customer transferred.

**S/C/U:** Consistent with their position on Issue 5, the Companies believe that such questions are relevant, if at all, only when an ILEC petitions for interim US and COLR support. Sprint United/Centel have not made such a calculation.

**TCG:** TCG's proposal permits the LECs to maintain their existing investment used for fulfilling COLR obligations during the interim period.

**TW/DMP:** See issue 6.

**STAFF:** No position at this time.

**ISSUE 9:** On what basis should each LEC's investment made in fulfilling its COLR obligations be recovered? This issue should include, but not be limited to, a consideration of: Precisely how should the COLR recovery element be computed? Should a COLR recovery element be computed on a LEC-specific basis, or on a statewide basis? Should COLR recovery be on a company-wide basis, or geographically specific?

**AMC:** No position at this time.

**AT&T:** There are no unique investments made for COLR obligations; therefore, there is no need to develop unique recovery mechanisms for expenditures that have not been made.

**BMI:** No position.

**FCTA:** No interim recovery should be permitted unless a LEC demonstrates that it can no longer maintain US as a COLR without assistance. Such a determination should be made by the Commission and any recovery should be on a LEC-specific, exchange-specific basis.

**FIXCA:** Because there is no need for an interim fund, FIXCA has no position on the specific details of administering such a fund.

**FPTA:** No position at this time.

**GTEFL:** The recovery element for US/COLR support should be on a company-specific statewide basis and is computed in the following manner:

1. Determine the total common line embedded cost (revenue requirement), i.e., net investment, expenses, taxes, and return, by dividing the interstate common line amount reported on ARMIS by 25%.
2. Multiply the ratio of business single line access lines to total switched access lines (including pay telephones) by the total common line (Item 1) to calculate the common line revenue requirement relative to business single line service. A similar methodology is utilized to calculate the common line revenue requirement relative to residence service.
3. If a LEC is seeking to accelerate recovery of its reserve deficiency of COLR investment during the interim period, it should quantify the intrastate amount to be amortized and recommend the amortization period.
4. If a LEC is seeking to recover other items during the interim period, e.g., an offset to access rate

- reductions, it should quantify the intrastate amount to be recovered.
5. Determine the annual basic revenues received from business single line and residence service and add the revenues received for the FCC end user common line charge (EUCLC or SLC).
  6. Determine the required support revenue for business single line and residence service by:
    - a. Subtracting the annual basic revenues (Item 5) from the revenue requirement (Item 2);
    - b. Add any recovery requested in Items 3 and 4 to determine the required annual support revenue for accelerated capital recovery and other items (GTEFL is not requesting any interim recovery for Items 3 and 4); and
    - c. Add a and b above to determine the total annual required US/COLR support revenue.
  7. Divide the required monthly US/COLR support revenue (Item 6c divided by twelve) by the LEC's total business and residence access lines (including an appropriate weighting for business units) to calculate the monthly residential US/COLR rate. Calculate the business US/COLR rate by multiplying the residence rate by the business weighting factor.

GTEFL's Alternative 2 is also based on Item 6c above which should be divided by the estimated annualized terminating local/ECS minutes of use to determine the rate per minute. Following the methodology outlined above, the proposed rates are designed to offset the average loss of US/COLR support for business single line and residence service that is implicit in each LECs' rate structures.

GTEFL's proposal is only intended to be an interim mechanism. GTEFL recommends that the Commission consider a permanent mechanism which requires all telecommunications companies to contribute to a US/COLR Fund, thus eliminating the interim US/COLR interconnection charge arrangement and replacing it with a competitively neutral funding mechanism. The permanent

mechanism should also enable multiple COLRs to undertake the responsibilities and receive COLR support for providing ubiquitous service throughout a designated area, using other providers services as desired.

**GTEM:** No position at this time.

**ICI:** This issue incorrectly assumes that a LEC has discrete investments dedicated to fulfilling its "COLR obligations." The LECs have made investments to maximize profits in delivering basic and nonbasic services on a universal basis. Under the framework of the new statute, if in a high-cost area a LEC is unable to recover its investments from the delivery of basic and nonbasic services, and it cannot abandon the area due to its "COLR obligations," then specific relief can be fashioned for that problem.

**McCAW:** Each LEC's recovery of investment made should be recovered by their sale of those investments if another company is willing to serve the exchange at less subsidy than the LEC wants. A COLR recovery element should be recovered on an exchange-specific basis.

**MCI:** Since there are no specific investments made to fulfill COLR obligations, there are no amounts to recover. Further, since the interim US funding mechanism will address any shortfall between the economic cost of providing basic local service and the available revenues, there is no need for a separate COLR charge in any event.

**MFS:** No LEC has demonstrated a need for such a subsidy.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** Southern Bell proposes three alternatives for providing interim US support:

Alternative 1 - This alternative identifies the implicit support that is currently built into the LEC rate structure. All telecommunications companies, including LECs, ALECs, IXCs, would be assessed a tariffed US preservation charge based on their relative share of retail revenues generated in Florida minus US revenues. Access charges would be reduced by the amount of support received.

Alternative 2 - In this alternative, the level of support required is calculated in the same manner as in Alternative 1. The amount of support per access minute is then determined, and this amount is applied to each minute of use that an ALEC terminates on BellSouth's network. Access charges would not be reduced and IXCs would not be assessed a portion of this support directly.

Alternative 3 - The Carrier Common Line and interconnection rate elements in the access tariff would be used as the US/COLR support elements for ALECs.

Southern Bell believes that Alternative 1 is the best choice, and it should be ordered by this Commission.

SCC:

A. As stated in the responses to issue 8, the implicit subsidies in the prices for toll, access and other non-basic services must be redistributed via a rate rebalancing mechanism based on the principle of revenue neutrality. As these implicit subsidies are removed through the rate rebalancing process, upward pressure on local rates is the inevitable result. In order to provide for the continued provisioning of universal service objectives and to maintain carrier of last resort obligations, State of Florida maximum and user benchmark rates should be established for each local service area with similar calling scopes.

During the rate rebalancing process, the basic local service rates of last resort will increase until they attain the maximum and user benchmark rates as set by the State. At this point, the carrier of last resort would be eligible to obtain explicit support from the state universal service fund. Each qualified carrier of last resort would be eligible to draw from the fund, on a recurring basis, an amount equivalent to the portion of the revenue reduction incurred in the removal of implicit subsidies that cannot be made up through basic local service increases without exceeding the maximum rates established by the State.

Each LEC is an individual local exchange telecommunications company specific characteristics which include differentiated serving areas with varying customer densities, different network capabilities and varying modernization levels. Therefore, each LEC should

be individually measured against the maximum end user benchmark rates which are based on local service area calling scopes.

B. For a small company electing price cap regulation the computation should be on a company-wide basis and should be company specific. For the small LEC, this is a relatively easy calculation. Shown below is how the calculation would be done for Indiantown Telephone System, as an example:

	<u>Revenue Impact</u>	1994 Annual <u>Minutes of Use</u>	<u>Cent/ Minute</u>
Interstate DEM	\$ 600,000.00	39,645,941	\$.0151
Interstate USF	1,000,000.00	39,645,941	.0252
Lifeline	25,000.00	39,645,941	.0006
Payphone reductions	23,000.00	39,645,941	.0006
Access Charge reductions	0.00	39,645,941	.0000
TOTAL	1,648,000.00	39,645,941	.0416

Any subsidy that is done on a company-wide basis is in effect a targeted subsidy. This is because of the use of average price and average cost. It isn't possible for a LEC to determine the cost to serve any particular customer. It may be illustrative, however, to use a simple example to demonstrate how a general subsidy, in fact, becomes targeted. As an example of this, if the average cost is \$55.00, and the average price is \$10.00 then the average subsidy is \$45.00. However, the actual cost to serve one customer may only be \$10.00 while another is \$110.00. Consequently none of the subsidy flows to the low cost customer and \$90.00 flows to the high cost customer.

**S/C/U:** It is extremely difficult in this time frame to separate COLR investments from other investments. If the Commission does require identification and/or quantification, it should be on a company-specific basis

in a proceeding in which that company seeks interim US and COLR support. Whether it should be company-wide or geographically specific would depend on how the data would be used.

**TCG:** As proposed by TCG, the incumbent LECs should be able to recover the cost of fulfilling their COLR obligations during the interim period on the same basis as they do now. Recovery, therefore, would proceed on a LEC-by-LEC basis, not statewide.

**TW/DMP:** See issue 6.

**STAFF:** No position at this time.

**ISSUE 10:** Should there be a pooling arrangement for COLR recovery? If so, how should it operate and who should administer it?

**AMC:** No position at this time.

**AT&T:** See AT&T's Positions on Issues 6 through 9.

**BMI:** No position.

**FCTA:** No pooling arrangement is necessary under the interim mechanism proposed by FCTA. A pooling arrangement may be an appropriate permanent mechanism, which is not the focus of the current proceeding.

**FIXCA:** Because there is no need for an interim fund, FIXCA has no position on the specific details of administering such a fund.

**FPTA:** No position at this time.

**GTEFL:** A pooling arrangement is not required to create an interim mechanism for US/COLR recovery because GTEFL is not proposing statewide uniform rates. However, a permanent US/COLR mechanism should include a Florida universal service fund to meet any public policy objectives that are not adequately provided for through a national plan.

**GTEM:** No position at this time.

**ICI:** No.

- McCAW:** A pooling arrangement is not necessary.
- MCI:** No. See MCI's position on issues 6 through 9.
- MFS:** No LEC has demonstrated a need for such a subsidy.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** There should not be pooling arrangement for the COLR recovery. There are numerous practical, operational and legal issues that make a pooling arrangement unworkable as an interim support mechanism.
- SCC:** A. Contributions to the support of the universal service objectives and carrier of last resort obligations will be made by all telecommunications companies in the State of Florida. Disbursements will be made to all local exchange telecommunications companies who meet the qualifications for support distributions. Due to the numerous companies involved in the mechanism, whether making contributions or receiving disbursements, it would be prudent to establish one state-wide administrator.

While the Commission may be fully capable of providing all of the final administration functions, it may be administratively and economically more efficient for the Commission to delegate to a third party those functions that the Commission is not presently staffed to provide. The delegation of certain duties to a third party is analogous to the delegation of interstate Universal Service Fund Administration to the National Exchange Carrier's Association by the FCC.

The independent third party's duties would be administrative in that ultimate decisions regarding funding and the collection and distribution of fund revenues would be established by the Commission. The independent administration's functions shall include the following:

1. To receive and evaluate financial information provided by local exchange telecommunications companies seeking to qualify as recipients of the fund and to make a proper determination based on that information as to which companies will be recipients of the fund.

2. To receive and collect revenues from contributions paid into the fund by participating telecommunications companies.
3. To administer the funds so the designated recipients in an equitable and non-discriminatory manner.
4. To assess telecommunications companies the appropriate charges, and
5. To administer the fund in accordance with Commission policies and procedures.

The Commission should make the decision regarding the assessment of charges to generate the revenues for the fund and the rules regarding fund distribution. In addition, the administration of the fund is subject to Commission review. This will assist in ensuring that the legislative goal of just, reasonable and affordable rates to customers for essential services will be attained.

B. In a price cap environment, a pooling arrangement with an administrator requires a fund. The creation of a fund requires legislative action and this cannot be accomplished under the provisions of the statute prior to January 1, 1996. Furthermore a Minute of Use charge will not require any pooling mechanism to be administered.

**S/C/U:** A pooling arrangement will not be necessary for an interim mechanism. However, a permanent mechanism may require pooling. Any pooling arrangement should be administered on a competitively neutral basis and should be designed to encourage economic efficiencies.

**TCG:** To the extent that TCG believes the LECs can maintain their existing support systems, TCG's proposal does not require the establishment of new or untested mechanisms.

**TW/DMP:** See issue 6.

**STAFF:** No position at this time.

**ISSUE 11:** Should recipients of COLR recovery be required to offset monies received by reducing rates for other services? If so, for which services should rates be reduced?

- AMC:** No position at this time.
- AT&T:** AT&T submits that no incumbent LEC should be permitted to receive funds for COLR recovery. However, if the Commission does determine that such an entitlement exists, there should be offsetting reductions in the interexchange carrier access charges. This is because the interexchange carrier access charges constitute a fund which is for the most part purely a subsidy to local service at this time.
- BMI:** No position.
- FCTA:** To the extent the LECs can maintain their existing support systems, no offset is required.
- FIXCA:** Yes. Access charges should be reduced.
- FPTA:** No position at this time.
- GTEFL:** No. Rate reductions should not be required of COLR recipients during the transition period. GTEFL's proposed interim mechanism, which is designed to offset losses to current US/COLR support levels incurred after customers transfer to ALECs, will not result in increased revenues for GTEFL. The LEC's former customers, which had been providing implicit US/COLR support, would be gone, along with all revenues, i.e., local, access, and toll formerly received by the LEC. This mechanism recovers the implicit support provided by these former customers.
- GTEM:** No position at this time.
- ICI:** No position at this time.
- MCCAW:** This would be unnecessary under the procedure identified in the position to Issue 5.
- MCI:** No LEC should be permitted to receive funds for COLR recovery. To the extent the Commission determines that some COLR recovery is required, there should be offsetting reductions in intrastate access charges, which are priced well above cost.
- MFS:** No position stated.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** Under Alternative 1, LEC prices would be reduced by the amount of support that is billed via the US preservation charge. Switched access charges would be the primary service to receive rate reductions. There would be no such reductions under Southern Bell's Alternatives 2 and 3 because the amounts received from the interim mechanism under these alternatives would help to offset losses in implicit support from customers and services that migrate to the ALECs.

**SCC:** A. As the implicit subsidies are removed through the rate rebalancing process, initially local service rates will increase until attaining the maximum end user benchmark rates. When the specific LEC's rates meet the maximum end user benchmark rates, additional reductions of implicit subsidies will be recovered from the state fund. Throughout the process of rebalancing, all revenue reductions resulting from the removal of implicit subsidies must be recovered by each LEC on a revenue neutral basis. This carrier of last resort recovery is intended to make up for rate reductions made through the rebalancing process.

Due to the historical residual ratemaking process and the universal service goal of maintaining just, reasonable and affordable local service rates, the rates established for basic local exchange service were deemed to be well below the fully distributed costs of providing the service. Prices for toll, access and other non-basic services were priced by the LEC and the regulator to compensate for this. This created the implicit subsidies and accordingly the need for rate rebalancing.

B. No. In a price cap environment, the LEC will have already reduced the rates for other services prior to receiving any US/COLR relief.

**S/C/U:** Given the Companies' position on Issue 5, the answer would be "no" for an interim mechanism.

**TCG:** To the extent that TCG believes the LECs can maintain their existing support systems, no offset is required.

**TW/DMP:** See issue 6.

**STAFF:** Depending upon how an interim COLR mechanism is ultimately structured, it may be appropriate to require the recipient to make offsetting reductions to the rates for other services.

**ISSUE 12:** What conditions must exist before contributions to any interim COLR mechanism are required?

**AMC:** No position at this time.

**AT&T:** Clearly before there are any contributions to an interim COLR mechanism there must be demonstrated evidence that (1) funds have been expended uniquely for that purpose, and (2) that normal rate setting as it exists and is being implemented today would not recover those costs.

**BMI:** No position.

**FCTA:** The LECs must demonstrate that they can no longer maintain US as the COLR to a particular exchange. Prefunding without a determination of need would impede competition.

**FIXCA:** There must be an unambiguous showing by a LEC that reimbursement is intended to recover costs to serve an area of customers who are unprofitable to serve (considering all revenue sources) and that ALEC entry is responsible for a disruption in the revenue streams historically used to offset this shortfall.

**FPTA:** No position at this time.

**GTEFL:** GTEFL's recommended interim mechanism would be implemented as soon as customers transfer their local service to an ALEC. Since the proposed rates are based on company-wide average support, there should be no other interim conditions established.

**GTEM:** No position at this time.

**ICI:** The LEC must demonstrate affirmatively that it is unable to achieve satisfactory revenues within a specific exchange.

**McCAW:** There must be a request for a subsidy and a determination that the economic costs to provide service to an exchange exceed the economic benefits from that exchange. There

should also be no other provider willing to provide service at a smaller subsidy.

- MCI:** As stated in response to Issue 9, the interim US funding mechanism will address any shortfall between the economic cost of providing basic local service and the available revenues, so there is no need for contributions to any interim COLR mechanism. If a separate COLR mechanism is established, there should be no contributions to or withdrawals from the fund until a LEC has demonstrated that (a) there is a geographic area within which the economic cost of providing basic local telecommunications services exceeds the revenues generated by monthly recurring charges for those services (including the federal SLC), and (b) the contribution from other services is insufficient to cover the difference between economic costs and revenues.
- MFS:** The need for a subsidy must be proven, quantified and approved by the Commission.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** The Commission must establish and approve the interim mechanism. Thereafter, contributions will begin at the time of the first interconnection by an ALEC to the LEC network (under Alternatives 2 and 3) or upon implementation of the US preservation charge tariff (under Alternative 1).
- SCC:** A. As indicated in (Section 364.025(2), F.S.) "an interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the Commission, pending the implementation of a permanent mechanism. The legislation describes the mechanism as one where "each telecommunications company should contribute its fair share to the support of universal services and carrier-of-last-resort obligations".

Therefore, contributions are to begin when the mechanism is implemented January 1, 1996. At that time, a funding rate based on a percentage of total intrastate revenues should be established. On an annual basis, the funding rate should be reviewed and revised to reflect the actual revenues collected and the disbursements made during the previous year. In addition, an analysis of the

experience to date and an estimation of the funding support needed to support universal services and carrier-of-last-resort should be factored into the annual rate revision.

The four year phase-in of the rate rebalancing, the determination of the state basic local service rates by the Commission, and the status of each LEC's basic local service rates in the rebalancing process should be helpful in determining the revised rate.

Universal service includes Lifeline service to low income, economically disadvantaged customers. Lifeline Assistance Plans are required to be in place as Commission approved tariffs. These tariffs include a basic local service rate for residential customers which is below the standard Commission approved basic local service rate. This difference should be eligible for reimbursement from the US/COLR mechanism. The tariffs will be in place by January 1, 1996 and available to customers. Local exchange carriers are eligible to receive the amount of difference between the standard local service rate and the tariffed Lifeline rate from the US/COLR mechanism. Therefore, local exchange carriers are eligible for disbursements from the US/COLR mechanism as of the January 1, 1996 implementation date. Contributions should be required to make it possible to pay these disbursements.

B. While it is understood that all LECs are eligible for US recovery, especially lifeline, as mandated in the statute, there will have to be two different mechanisms available to the small LECs. Part A describes the rate rebalancing mechanism for companies that remain under rate of return regulation. A different mechanism will be required in a price cap environment. Using a Minute of Use mechanism, the conditions will insure that there is no contribution until there is competition in that territory and consequently established need. Until competition arrives in a small company exchange the full burden of the lost revenues associated with the implicit subsidies will be born solely by the LEC.

**S/C/U:** See the Companies' position on Issue 5.

**TCG:** No cash contributions are necessary since effective and sustainable local exchange competition will not be in place for some time. All LEC-to-ALEC interconnection

arrangements, including a mutual compensation mechanism, must be in place prior to any required cash contributions. There must be equal access to any contributed funds.

**TW/DMP:** See issue 6.

**STAFF:** No position at this time.

**ISSUE 13:** What conditions, if any, must be satisfied in order for LECs to receive COLR recovery through an interim mechanism?

**AMC:** No position at this time.

**AT&T:** In addition to the items identified in issue 12 there should be a clear demonstration by the LEC that (1) overall existing rates are inadequate to cover its costs and (2) that shortfall is caused by COLR obligations and there is, in fact, a failure to recover funds associated with that activity.

**BMI:** No position.

**FCTA:** A LEC must demonstrate before the Commission that it can no longer maintain US as a COLR to a particular exchange area. Using reliable and independently verifiable data, the LEC must quantify any necessary amount of contribution deemed necessary, and all telecommunications providers must contribute a "fair share" of support.

**FIXCA:** There must be an unambiguous showing by a LEC that reimbursement is intended to recover costs to serve an area of customers who are unprofitable to serve (considering all revenue sources) and that ALEC entry is responsible for a disruption in the revenue streams historically used to offset this shortfall.

**FPTA:** No position at this time.

**GTEFL:** Because they are designated as the COLR during the interim period, LECs should be entitled to COLR recovery when ALECs begin serving customers formerly served by the LECs (GTEFL recommended Alternative 1) or begin terminating traffic formerly carried by the LECs (Alternative 2).

- GTEM:** No position at this time.
- ICI:** See position on Issue 12.
- McCAW:** See Issue 12.
- MCI:** See response to issue 12.
- MFS:** A LEC must demonstrate that a subsidy is necessary.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** The Commission needs to establish and approve the interim mechanism.
- SCC:** A. During the rebalancing process, the implicit subsidies in access, toll and other non-basic services must be recovered by initially increasing the basic local service rates on a revenue neutral basis. At such time as the basic local service rates attain the pre-determined state maximum end user benchmark rates, any additional recovery of the revenue reduction from access, toll or other non-basic local service will be eligible to be received from the State US/COLR fund on a recurring basis. As the rebalancing continues to completion, all subsequent implicit subsidy reductions will also be recovered from the US/COLR mechanism.
- In addition, as each local exchange company's economically disadvantage customers avail themselves of the reduced residential basic local service rate as tariffed in the Lifeline Assistance Plan, these are differences between the standard rate and the Lifeline rate are eligible for recovery from the mechanism.
- B. In a price cap environment, a LEC should be required to clearly demonstrate the amount of lost revenues associated with the implicit and explicit subsidies referred to in Issues 8 and 9.
- S/C/U:** See the Companies' position on Issue 5.
- TCG:** During the interim period, TCG's proposal allows the LECs unconditional recovery of their investments. If the Commission adopts an explicit funding mechanism, no LEC should be allowed to receive funding until it has been

determined through comprehensive cost studies that such support is warranted and available to all ALECs also.

**TW/DMP:** See issue 6.

**STAFF:** No position at this time.

**ISSUE 14:** (a) For each LEC, what are the intrastate and interstate sources and amounts of support currently provided to sustain US?

(b) For each LEC, what are the intrastate and interstate sources and amounts of support required to sustain US?

**AMC:** No position at this time.

**AT&T:** No position at this time pending completion of discovery.

**BMI:** No position.

**FCTA:** 14a - The LECs have not adequately quantified the specific intrastate and interstate sources and amounts of support currently provided to sustain US for purposes of determining a provider's "fair share" of contribution, if any, under an interim mechanism.

14b - The LECs have not adequately quantified the specific intrastate and interstate sources and amounts of support required to sustain US for purposes of determining a provider's "fair share" of contribution, if any, under an interim mechanism.

**FIXCA:** Because there is no need for an interim fund, it is unnecessary to make this determination.

**FPTA:** No position at this time.

**GTEFL:** The current implicit support flow (received through access charges, toll rates, and certain business services) is approximately \$293 million per year, as shown in GTEFL's embedded fully allocated cost study. Explicit US/COLR flows associated with national programs and the Florida Lifeline Assistance plan are negative for GTEFL. It is estimated that GTEFL will experience a net outflow of approximately \$9 million per year.

**GTEM:** No position at this time.

**ICI:** No position at this time.

**McCAW:** The LECs are the only ones who can answer this question accurately. All revenues they receive are currently provided, plus they have the ability after the first year to raise rates up to an additional 6% or 20% on selected nonbasic services, depending on whether they have any competition on an exchange-by-exchange basis.

**MCI:** Because US is supported through internal subsidy flows, and because the LECs have not submitted information to demonstrate the economic cost of providing basic local telecommunications service, it is impossible to determine the amounts of subsidy, if any, required to sustain US. All LEC revenue sources, including local services, toll service, access charges, vertical services, etc. currently provide sources of funds that in the aggregate are likely to be in excess of the amounts required to sustain US.

**MFS:** A LEC must demonstrate that a subsidy is necessary.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** 14a - The amount of implicit support currently being recovered in BellSouth's rates is \$647 million. Also, \$668 million is derived from revenues for services that constitute US, and \$13 million is derived from explicit support revenues.

14b - All of the existing sources of support are required to support US. Once implemented, the interim US/COLR mechanism will provide a partial offset of the support lost by the LECs as ALECs take away services/customers that previously provided support for US/COLR obligations.

**SCC:** A. Today, due to the residual pricing of basic local service rates, implicit subsidies are embedded in the prices for access, toll and other non-basic local services. These implicit subsidies allow local service rates to remain artificially low to support the social goal of ubiquitous universal service at just, reasonable, and affordable rates. Prices for basic local services are deemed to be below the fully distributed costs to provide these services.

In the interstate jurisdiction, local exchange telecommunications companies who qualify are eligible for distribution from the interstate USF to compensate for serving customers in high cost servicing areas. In addition, Lifeline Assistance is available to those economically disadvantaged customers who without monetary assistance would be unable to afford the basic necessity of telephone service.

With the introduction of competition and the associated legislation, the manner by which universal service objectives are achieved must be altered. The implicit subsidies resident in access, toll and non-basic service rates currently used to promote the universal service objectives must be phased out and replaced by explicit subsidies in the form of a State Universal Service Fund. Pricing service below cost is not economically feasible in a competitive environment. The challenge, however, is to balance the desire to provide just, reasonable and affordable basic local service while pricing these same services to attain a competitive, economically based market position.

The Small Company Committee believes the solution to this challenge is a revenue neutral rate rebalancing process whereby implicit subsidies would be reduced, basic local service rates deemed priced below fully distributed costs, would be increased to Commission approved maximum end user benchmark rates and the balance of the implicit subsidies would be recovered through the Florida universal service fund.

Reliance on the current level of support from the interstate USF is of concern. Issues regarding the current support amount provided by the USF, the potential reduction or eventual elimination of the DEM weighing factor, and the overall restructuring of the interstate universal service rules and regulations are currently under investigation by the FCC. The results of the FCC's Notice of Inquiry may impact not only interstate universal service support, but also the amount of implicit subsidies from all access currently used to support universal service in the State of Florida.

B. In addition to the Small Company Part A response, in a price cap environment, rate rebalancing for basic local exchange service isn't an option.

**S/C/U:** All regulated services, regardless of jurisdiction, excluding basic residential service, have contributed to the US objective. Historically, in support of the US objective, all services have been priced to maximize revenues to the support of basic residential service. Therefore, all revenues from all these sources have supported US.

**TCG:** No position.

**TW/DMP:** 14a - The principle sources of support are:  
\* Yellow pages advertising revenues;  
\* Interstate (and, where applicable, intrastate) Carrier Common Line (CCL) revenue;  
\* Interstate/intrastate switched access/transport services priced in excess of cost;  
\* Local and intraLATA toll usage services priced in excess of cost;  
\* Vertical service features priced in excess of cost; and  
\* US fund.

The funding level provided by the foregoing sources varies from LEC to LEC. The LECs have this information.

14b - All of the existing subsidies listed in Time Warner's response to issue 14a) will continue to exist without measurable change due to competition in the interim. In a permanent mechanism, the amount of support or low income customers will be the revenues foregone by providing Lifeline and Linkup. For high cost areas, it is the low bid of the provider winning the bid process.

**STAFF:** No position at this time.

**ISSUE 15:** What amount of each LEC's required US support from intrastate sources should be recovered through an interim mechanism?

**AMC:** No position at this time.

**AT&T:** AT&T submits that no funds should be recovered at this time through an interim mechanism. If, however, it were possible for the Commission to order and enforce permanent reductions in access charges as part of the interim mechanism, it could be reasonable for some portion of that access reduction to be recovered through

a US support mechanism. Under those circumstances, such recovery should be computed on a LEC-specific basis through a broad based recovery arrangement applied to all providers of telecommunications service on a competitively neutral basis.

**BMI:** No position.

**FCTA:** The LECs have not identified the amount needed to maintain US through a COLR during the transition period. They have not provided any reliable or independently verifiable information necessary to meet this burden.

**FIXCA:** Because there is no need for an interim fund, FIXCA has no position on the specific details of administering such a fund.

**FPTA:** No position at this time.

**GTEFL:** GTEFL proposes a flat per-line monthly rate (\$45.00 for business and \$4.10 for residence) to recover the universal support investment lost as ALECs gain local market share. In the alternative, GTEFL proposes an usage-based rate of \$0.025638 per terminated minute of traffic carried by ALECs.

**GTEM:** No position at this time.

**ICI:** None. No LEC has demonstrated that the revenues it generates from the bundle of services it offers are inadequate to assure it a fair rate of return on its investment.

**McCAW:** Any US funding should be on an annual basis, because circumstances in any one geographic area can substantially change from year to year. It is generally recognized that telephone costs are declining and revenues are growing. It would be extremely difficult, if not impossible, to forecast the subsidies required over any extended period. If a subsidy receiving company is the low bidder no forecast is necessary.

**MCI:** In the short term, the introduction of competition will have no significant impact on the sources of support available today. Therefore no support should be recovered through an interim mechanism unless and until a LEC demonstrates that (a) the economic cost of providing basic local telecommunications services exceeds

the revenues generated by monthly recurring charges for those services (including the federal SLC), and (b) the contribution from other services is insufficient to cover the difference between economic costs and revenues.

- MFS:** None.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** The actual amount of investment to be recovered via the interim mechanism will depend on the type of interim mechanism that is selected. Southern Bell's preferred mechanism is outlined in response to Issue No. 9.
- SCC:** A. Generally, the universal service objectives and the carrier of last resort obligations are strongly interwoven and do not allow for differentiation. The response for issue 8 applies to this issue also.
- B. In addition to the Small Company Part A response, the Part B responses to Issues 8 and 9 are also applicable.
- S/C/U:** Given that existing revenue sources and existing subsidy mechanisms in the aggregate already recover US requirements, each LEC must quantify the amount of any US support that is not being recovered. That amount should then be recovered from the ALECs consistent with the requirements of 364.025, and the process identified Sprint United/ Centel's position on Issue 5.
- TCG:** TCG's proposal permits the LECs to maintain their existing US support during the interim period.
- TW/DMP:** None.
- STAFF:** No position at this time.
- ISSUE 16:** On what basis should each LEC's US support from intrastate sources be recovered? This issue should include, but not be limited to, a consideration of: Precisely how should the interim US support element be computed? Should an interim US support element be computed on a LEC-specific basis, or on a statewide basis? Should interim US recovery be on a company-wide basis, or geographically specific?

- AMC:** No position at this time.
- AT&T:** See AT&T's Position with respect to Issue 15.
- BMI:** No position.
- FCTA:** No interim recovery should be permitted unless a LEC demonstrates that it can no longer maintain US as a COLR without assistance. Such a determination should be made by the Commission and any recovery made on a LEC-specific, exchange-specific basis.
- FIXCA:** Because there is no need for an interim fund, FIXCA has no position on the specific details of administering such a fund.
- FPTA:** No position at this time.
- GTEFL:** GTEFL incorporates by reference its statement of position on Issue No. 9.
- GTEM:** No position at this time.
- ICI:** Because US contemplates high market penetration for the provision of basic service, and because basic service infrastructure is the platform for highly profitable nonbasic service, it is functionally invalid to focus on US support without considering the LEC's revenues from all services. In short, where in a specific geographic territory a LEC is losing money from a total revenue perspective, appropriate relief for that area can be devised.
- MCCAW:** There should not be a US support element computed until after the support needed for each company is calculated on an exchange-by-exchange basis. Once the needs are determined, the funds necessary to pay the support should be levied on the basis of access lines or revenues similar to the method used to calculate the gross receipts tax.
- MCI:** There is no need to begin funding an interim US mechanism at this time. In general, the need for any US funding should be demonstrated on a geographically specific basis. If a need is demonstrated, the funding should be recovered on a LEC-specific basis.
- MFS:** No LEC has demonstrated a need for such a subsidy.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** Southern Bell proposes three alternatives for providing interim US support, which are described in response to Issue No. 9.

**SCC:** A. Generally, the universal service objectives and the carrier of last resort obligations are strongly interwoven and do not allow for differentiation. The response for Issue 9 applies to this issue also.

B. See response to Issue 9. Part B.

**S/C/U:** Consistent with the Companies' position on Issue 5, it should be computed on a LEC-specific basis, and be company-wide.

**TCG:** As proposed by TCG, the incumbent LECs should be able to maintain their existing support mechanisms during the interim period. Recovery, therefore, would proceed on a LEC-by-LEC basis, not statewide.

**TW/DMP:** In the interim, no intrastate US support is needed. However, if the Commission determines that an interim funding mechanism is needed, the amount of funding should be computed by determining the amount of Lifeline/Linkup revenues foregone by both LECs and ALECs, plus the total of subsidies determined by the bidding process. The amount of support determined in this manner would be company-specific. The high cost portion of the support will be exchange-specific.

**STAFF:** No position at this time.

**ISSUE 17:** Should there be a pooling arrangement for interim US support recovery? If so, how should it operate and who should administer it?

**AMC:** No position at this time.

**AT&T:** AT&T does not believe that an interim US support fund is necessary. However, if it were established, it should be addressed on a local exchange company by local exchange company basis, not on a pooled arrangement. To the extent there is any US support fund, any moneys that are recovered via that mechanism should result from reduction

of other service elements which constitute a subsidy to local service primarily intrastate access charges.

**BMI:** No position.

**FCTA:** There is no need for a pooling arrangement under the interim mechanism proposed by FCTA. A pooling arrangement may provide an appropriate permanent mechanism, which is not the subject of the current proceeding.

**FIXCA:** Because there is no need for an interim fund, FIXCA has no position on the specific details of administering such a fund.

**FPTA:** No position at this time.

**GTEFL:** A pooling arrangement is not required to create an interim mechanism because GTEFL is not proposing statewide uniform rates. However, a permanent US/COLR mechanism should include a Florida universal service fund to meet any public policy objectives that are not adequately provided for through a national plan.

**GTEM:** No position at this time.

**ICI:** No.

**McCAW:** There should be no pooling. Revenues raised for payment of the subsidy is a fee (some would call it a tax). Fees can be disbursed to the recipient corporations as determined by the Commission.

**MCI:** There is no need to begin funding an interim US support mechanism at this time. If a LEC makes a demonstration that such funding is required in the future, monies should be recovered on a LEC specific basis, not through a pooling arrangement.

**MFS:** No LEC has demonstrated a need for such a subsidy.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** There should not be pooling arrangement for interim US support recovery. There are numerous practical operational and legal issues that make a pooling arrangement unworkable as an interim support mechanism.

**SCC** A. Generally, the universal service objectives and the carrier of last resort obligations are strongly interwoven and do not allow for differentiation. The response for issue 10 applies to this issue also.

B. See response to Issue 10, Part B.

**S/C/U:** Please see the Companies' position on Issue 10.

**TCG:** To the extent that TCG believes the LECs can maintain their existing support systems, TCG's proposal does not require the establishment of new or untested mechanisms.

**TW/DMP:** If there is a fund for COLR/US recovery, which Time Warner believes will not be needed for the interim mechanism, it should be a pooled fund administered by a neutral third party.

Any funding obligation should be collected through a "value added" surcharge to be assessed upon all telecommunications providers and commercial radio service providers based on the net of all telephone revenues less common carrier service payments to other telecommunications providers.

**STAFF:** No position at this time.

**ISSUE 18:** Should recipients of monies for interim US support be required to offset funds received by reducing rates for other services? If so, for which services should rates be reduced?

**AMC:** No position at this time.

**AT&T:** Yes. Without reductions in current subsidy elements such as access charges, there is no need for interim funding unless it can be demonstrated that the local exchange company is not able to adequately cover its costs given current rates for all services and potential rate increases permitted under the "price regulation" provisions of Section 364.051(6)(a), Florida Statutes. See also response to Issue 19.

**BMI:** No position.

- FCTA:** To the extent the LECs can maintain their existing support systems, no offset is required.
- FIXCA:** See Issue 11.
- FPTA:** No position at this time.
- GTEFL:** No. Rate reductions should not be required of COLR recipients during the transition period. GTEFL's proposed interim mechanism, which is designed to offset losses to current US/COLR support levels incurred after customers transfer to ALECs, will not result in increased revenues for GTEFL. The LEC's former customers, which had been providing implicit US/COLR support, would be gone, along with all revenues, i.e., local, access, and toll formerly received by the LEC. This mechanism recovers the implicit support provided by these former customers.
- GTEM:** No position at this time.
- ICI:** No position.
- McCAW:** No. Recipients of monies for US should not be required to offset funds received by reducing rates for other services. The fact that the LECs are earning an adequate rate of return, or could be in 1996, should be used by the Commission in determining if any funding for COLR is reasonable and necessary for 1996.
- MCI:** No, provided the LEC has made a demonstration that (a) the economic cost of providing basic local telecommunications services exceeds the revenues generated by monthly recurring charges for those services (including the federal SLC), and (b) the contribution from other services is insufficient to cover the difference between economic costs and revenues. Yes, if funding is required without such a demonstration, in which case the rates for access charges should be reduced.
- MFS:** No position stated.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** Under Alternative 1, LEC prices would be reduced by the amount of support that is billed via the US preservation

charge. Switched access charges would be the primary service to receive rate reductions. There would be no such reductions under Southern Bell's Alternatives 2 and 3 because the amounts received from the interim mechanism under these alternatives would help to offset losses in implicit support from customers and services that migrate to the ALECs.

**SCC:** A. Generally, the universal service objectives and the carrier of last resort obligations are strongly interwoven and do not allow for differentiation. The response for issue 11 applies to this issue also.

B. See response to Issue 11, Part B.

**S/C/U:** No, please see the Companies' position on see response to Issue 11.

**TCG:** To the extent that TCG believes the LECs can maintain their existing support systems, no offset is required.

**TW/DMP:** No. Under Time Warner's proposal, there would not need to be any offset of monies received by the low subsidy bidder, because that bidder would have taken into account all revenue sources for the given geographic area in comparison to costs in making its bid.

**STAFF:** Depending upon how an interim US mechanism is ultimately structured, it may be appropriate to require the recipient to make offsetting reductions to the rates for other services.

**ISSUE 19:** What conditions must exist before contributions to any interim US mechanism are required?

**AMC:** No position at this time.

**AT&T:** Before any contributions are made to an interim US mechanism there should be reductions in other rates that are currently supporting local service or currently providing contribution support to the local exchange company for whatever purpose. Additionally, it should be demonstrated that the items which are targeted for support are truly being provided on a basis significantly less than cost and are in fact demonstrably subsidized from other services.

**BMI:** No position.

**FCTA:** A LEC must demonstrate before the Commission that it can no longer maintain US as a COLR to a particular exchange. Prefunding without a thorough investigation of LEC need would impede competition.

**FIXCA:** A LEC must make a specific request for reimbursement and show that the reimbursement sought is intended to recover the costs to serve an area of customers who are unprofitable considering all relevant revenues and that ALEC entry is responsible for a disruption in the revenue streams historically used to offset this shortfall.

**FPTA:** No position at this time.

**GTEFL:** GTEFL's recommended interim mechanism would be implemented as soon as customers transfer their local service to an ALEC. Since the proposed rates are based on company-wide average support, there should be no other interim conditions established.

**GTEM:** No position at this time.

**ICI:** The LEC must demonstrate that it is unable to generate adequate revenues from its products within a specific geographic area.

**McCAW:** There should be a clear and present danger that the LEC cannot recover its incremental cost of continuing to serve all geographic areas it was serving on July 1, 1995 at rates as fixed or authorized by the new law. In addition, the Commission should determine that the subsidy paid is the minimum necessary for US to continue in the identified exchange.

**MCI:** Before any contributions to, or withdrawals from, an interim US mechanism are required, the LEC must first demonstrate that (a) the economic cost of providing basic local telecommunications services exceeds the revenues generated by monthly recurring charges for those services (including the federal SLC), and (b) the contribution from other services is insufficient to cover the difference between economic costs and revenues.

**MFS:** A LEC must demonstrate that a subsidy is necessary.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** The Commission must establish and approve the interim mechanism. Thereafter, contributions will begin at the time of the first interconnection by an ALEC to the LEC network (under Alternatives 2 and 3) or upon implementation of the US preservation charge tariff (under Alternative 1).

**SCC:** A. Generally, the universal service objectives and the carrier of last resort obligations are strongly interwoven and do not allow for differentiation. The response for issue 12 applies to this issue also.

B. See response to Issue 12, Part B.

**S/C/U:** Please see the Companies' position on Issue 5.

**TCG:** No cash contributions are necessary since effective and sustainable local exchange competition will not be in place for some time. All LEC-to-ALEC interconnection arrangements, including a mutual compensation mechanism, must be in place prior to any required cash contributions. There must be equal access to any contributed funds.

**TW/DMP:** Time Warner does not believe any contributions are required for an interim US mechanism at this time. However, if the Commission determines that funding is necessary on an interim basis, no contributions should be made until a determination of the funding required is made through the two-part bidding process for high cost areas and through revenues foregone by offering Lifeline and Linkup.

**STAFF:** No position at this time.

**ISSUE 20:** What conditions, if any, must be satisfied in order for LECs to receive US support through an interim mechanism?

**AMC:** No position at this time.

**AT&T:** Absent permanent and statutorily enforceable reductions in access charges that are a major source of subsidy funds for the local exchange company, no LEC should receive US support through an interim mechanism.

**BMI:** No position.

**FCTA:** A LEC must demonstrate before the Commission that it can no longer maintain US as a COLR to a particular exchange area. Using reliable and independently verifiable data, the LEC must quantify any necessary amount of contribution and all telecommunications providers must contribute a "fair share" of support.

**FIXCA:** A LEC must make a specific request for reimbursement and show that the reimbursement sought is intended to recover the costs to serve an area of customers who are unprofitable considering all relevant revenues and that ALEC entry is responsible for a disruption in the revenue streams historically used to offset this shortfall.

**FPTA:** No position at this time.

**GTEFL:** Because they are designated as the COLR during the interim period, LECs should be entitled to US support when ALECs begin serving customers formerly served by the LECs (GTEFL recommended Alternative 1) or begin terminating traffic formerly carried by the LECs (Alternative 2).

**GTEM:** No position at this time.

**ICI:** The LEC must demonstrate that it is unable to generate adequate revenues from its products within a specific geographic area.

**McCAW:** See Issue No. 19. Contributions should be required only after it has been proven that a subsidy is necessary.

**MCI:** See response to Issue 19.

**MFS:** A LEC must demonstrate that a subsidy is necessary.

**OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.

**SBT:** The Commission needs to establish and approve the interim mechanism.

**SCC:** A. Generally, the universal service objectives and the carrier of last resort obligations are strongly interwoven and do not allow for differentiation. The response for issue 13 applies to this issue also.

B. See responses to Issues 12 and 13, Part B.

**S/C/U:** Please see the Companies' position on Issue 5.

**TCG:** During the interim period, TCG's proposal allows the LECs unconditional recovery of their investments. If the Commission adopts an explicit funding mechanism, no LEC should be allowed to receive funding until it has been determined through comprehensive cost studies that such support is warranted and available to all ALECs also.

**TW/DMP:** Time Warner does not believe any funding is required for an interim US mechanism at this time. However, if the Commission determines that funding is necessary on an interim basis, funding should be made available after a determination is made through the two-part bidding process for high cost areas, and through revenues foregone by offering Lifeline and Linkup. Such funding would be available to any companies participating in these processes.

**STAFF:** No position at this time.

**ISSUE 21:** What monitoring procedures, if any, should be instituted?

**AMC:** No position at this time.

**AT&T:** No position at this time.

**BMI:** No position.

**FCTA:** Monitoring procedures should track: (1) the impact of the interim mechanism on development of residential consumer choice; (2) whether the interim mechanism impedes development of telecommunications competition; (3) the pace of competitive entry; (4) the overall impact of local competition on the continued availability of US; (5) the overall impact of price regulation on the maintenance of reasonably affordable and reliable high quality telecommunications services; and (6) potential LEC under/over-recovery through any interim funding mechanism deemed necessary.

**FIXCA:** Because there is no need for an interim fund, FIXCA has no position on the specific details of administering such a fund.

- FPTA:** No position at this time.
- GTEFL:** During the interim period, the Commission may need to review LECs' updates of its US/COLR rates and address any complaints regarding the application of those rates. Under a permanent mechanism, procedures should be established to ensure compliance with US regulations. The Commission should also periodically review the definition of US.
- GTEM:** No position at this time.
- ICI:** No position at this time.
- McCAW:** The monitoring procedures necessary are essentially administrative in nature (i.e., collecting and disbursing fees, if necessary reports from the LECs) plus, due to growth and pricing flexibility granted by the Legislature, the Commission should verify or determine the minimum amount of subsidy on an annual basis. Performance reviews may be necessary to assure quality of service does not decline.
- MCI:** No position at this time.
- MFS:** No position stated.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** Normal tariff review procedures would suffice, and no additional monitoring would be necessary.
- SCC:** A. Based on the Industry and Commission goal to streamline and reduce reporting requirements, any additional monitoring procedures should be closely scrutinized and where possible, information deemed necessary should be obtained from existing reports.

To verify contributions to the fund, the amount of total intrastate end user revenues for each telecommunications company must be obtained. Contributing companies should be subject to audit to certify the validity of its filing.

At the discretion of the Commission, other monitoring procedures may be necessary. However, the Small Company Committee urges the Commission to simplify all requests

to the highest degree possible, to strongly consider the administrative burdens imposed on the companies due to the monitoring, and particularly to consider the technical capabilities of various sizes of companies to obtain the information requested.

B. The simplicity of a Minutes of Use mechanism is that it requires no administration or monitoring. At the most, the Commission might want to audit records to insure accuracy of the minutes reported and billed. However, this is easily handled through the self-policing of the parties by each other.

**S/C/U:** The only monitoring which should be instituted is that required to establish the existence and levels of competition as required for the Commission to prepare the legislative reports as now required in Chapter 364.

**TCG:** Section 364.025(3) permits a party to petition for a change in any interim mechanism which the Commission adopts. BellSouth can petition the Commission to re-evaluate existing support mechanisms should competition truly develop to a point that BellSouth's ability to maintain US/COLR obligations is affected.

**TW/DMP:** The Commission should monitor 1) the impact of the interim mechanism on the development of residential consumer choice; 2) whether the interim mechanism impedes development of telecommunications competition; 3) the pace of competitive entry; and 4) potential LEC under/over-recovery through any interim funding mechanism deemed necessary.

**STAFF:** No position at this time.

**ISSUE 22:** Should this docket be closed?

**AMC:** No position at this time.

**AT&T:** No. This docket should remain open to address the long-term US and COLR questions necessary for the Commission to formulate its recommendation to the Legislature as required by Section 364.025(4), Florida Statutes.

**BMI:** No position.

- FCTA:** No. The docket should remain open to implement monitoring mechanisms and for the research and development of the Commission's January 1, 1997 recommendation to the Legislature for a permanent funding mechanism.
- FIXCA:** Yes.
- FPTA:** No position at this time.
- GTEFL:** This docket should be kept open to address adoption of the permanent long-term US/COLR mechanism. GTEFL's proposed interim mechanism will suffice for only a short period of time. The Company recommends the Commission take the necessary steps to implement a permanent mechanism.
- GTEM:** No position at this time.
- ICI:** No position at this time.
- MCCAW:** This docket should remain open or at the very least participants should be put on notice that the entire record will be part of the docket used in determining the permanent mechanism to assure US is continued in the State of Florida.
- MCI:** No. This docket should remain open as a vehicle to address the long term mechanism for ensuring US and for making its recommendations to the Legislature as required by Section 364.025(4).
- MFS:** No position stated.
- OPC:** The Citizens have no position at this time pending the cross-examination of witnesses at hearing.
- SBT:** No. This docket should remain open so that, immediately after an interim mechanism is ordered, work can begin to develop a permanent mechanism.
- SCC:** A. Due to the importance of universal services objectives and carrier of last resort obligations and the complexity of the issues, the Small Company Committee recommends this docket be continued.
- B. No.

**S/C/U:** No position.

**TCG:** No. The docket should remain open for the purpose of addressing the issues concerning a permanent US mechanism, if any.

**TW/DMP:** No. As stated in Florida Cable Telecommunications Association, Inc.'s Motion for Order Initiating Second Phase of Proceeding, the long term issues surrounding US funding cannot be addressed under the issues identified in this proceeding. The Commission is required to provide a recommendation to the Legislature by January 1, 1997 regarding the need for a US mechanism, among other issues. The Commission should base this recommendation on its analysis of the best available information. This docket should remain open for the purpose of holding a Phase II hearing.

**STAFF:** No position at this time.

VIII. EXHIBIT LIST

DIRECT

<u>Witness</u>	<u>For</u>	<u>ID No.</u>	<u>Description</u>
Pacey	FCTA	PLP-1	Resume of Patricia L. Pacey
Pacey	FCTA	PLP-2	Newspaper Article: "FCC to Retool Telephone Subsidies"
Pacey	FCTA	PLP-3	Clemons' Letter dated August 17, 1995.
Williams	GTEFL	MWW-1	Prefiled exhibit
Cresse	ICI/McCAW	JPC-1	Biographical Sketch
Devine	MFS	TTD-1	Petition of MFS to the FCC requesting Inquiry into Policies and Programs to Assure US in a Competitive Market Environment

<u>Witness</u>	<u>For</u>	<u>ID No.</u>	<u>Description</u>
Price	MCI	DGP-1	Academic and Professional Qualifications of Don Price
Price	MCI	DGP-2	"The Cost of Basic Universal Service" by Hatfield Associates (July, 1994)
Price	MCI	DGP-3	Nationwide Cost of Providing Basic US
Martin	SBT	PFM-1	US Net Investment
Martin	SBT	PFM-2	US/COLR support calculation
Martin	SBT	PFM-3	Calculation Alternative 3
Varner	SBT	AJV-1	McCaw Florida Serving Area
Varner	SBT	AJV-2	Wall Street Journal Article, August 21, 1995
Varner	SBT	AJV-3	Florida Total Revenue Distribution
SCC Panel	SCC	SCC-1	Map of service territories of Florida LECs
SCC Panel	SCC	SCC-2	Comparison of costs, rates and data for Florida LECs
Selwyn	TW/DMP	LLS-1	Statement of Qualifications
Selwyn	TW/DMP	LLS-2	Market to Book Ratios
Selwyn	TW/DMP	LLS-3	Average Annual Market to Book Ratios
<b><u>REBUTTAL</u></b>			
Marek	TW/DMP	CMM-1	GTE-FL and BellSouth Tariff and US/COLR charge
Cresse	ICI/McCAW	JPC-2	Comparison of Florida Local Exchange Telephone Companies Statistical Data (1993)

<u>Witness</u>	<u>For</u>	<u>ID No.</u>	<u>Description</u>
Cresse	ICI/McCAW	JPC-3	Switched Access Charges - Comparison of Rates Per Minute
Price	MCI	DGP-4	Cost of Service Comparisons
Price	MCI	DGP-5	Hypothetical Customer Profitability - Bell Example - LEC vs. ALEC
Beard	SCC	TMB-1	Professional Qualifications of Tom Beard
Beard	SCC	TMB-2	Bibliography of Thomas M. Beard

**CROSS-EXAMINATION**

	FCTA	(composite)	Hearing Transcripts, Volumes I-IV, March 10-11, 1993, Docket No. 910757-TP
	FCTA	(composite)	Official Legislative Transcripts identified as items H, I, J, and K in FCTA's Prehearing Statement
	MFS	SBT-1	BellSouth's August 24 Response to Staff Interrogatories 3(f) and 3(g)
	MFS	GTE-1	GTEFL's August 21 Response to FCTA Interrogatory 7
Eudy	Staff	SCC-3	Responses to Staff's First Set of Interrogatories, Nos. 1-6, and Nos. 4(d), (e) revised.
(Northeast)	Staff	SCC-4	Responses to Staff's First Set of Interrogatories, Nos. 1-6.
(Floral) (a)	Staff	SCC-5	Responses to Staff's First Set of Interrogatories, Nos. 1-6.
(Gulf)	Staff	SCC-6	Responses to Staff's First Set of Interrogatories, Nos. 1-6.

<u>Witness</u>	<u>For</u>	<u>ID No.</u>	<u>Description</u>
(St. Joe)	Staff	SCC-7	Responses to Staff's First Set of Interrogatories, Nos. 1-6.
(Indiantown)	Staff	SCC-8	Responses to Staff's First Set of Interrogatories, Nos. 1-6.
(Quincy)	Staff	SCC-9	Responses to Staff's First Set of Interrogatories, Nos. 1-6.
(Vista-United)	Staff	SCC-10	Responses to Staff's First Set of Interrogatories, Nos. 1-6.
(Frontier)	Staff	SCC-11	Responses to Staff's First Set of Interrogatories, Nos. 1-6.
(SBT)	Staff	SBT-2	Responses to Staff's First Set of Interrogatories, Nos. 1-6; Responses to AT&T's First Set of Interrogatories, Nos. 1-15, and No. 2 Revised; Responses to FCTA's First Set of Interrogatories, Nos. 36-37;
Martin	Staff	SBT-3	Responses to FCTA's First Set of Interrogatories, Nos. 4, 7, 24, 34; Responses to Staff's Third Set of Interrogatories, Nos. 28-39; Responses to Staff's Fifth Request for Production of Documents, Nos. 22-29.
Varner	Staff	SBT-4	Responses to FCTA's First Set of Interrogatories, Nos. 7, 25, 27, 28; Responses to Staff's Fourth Set of Interrogatories, Nos. 40-44;
Poag	Staff	SCU-1	Responses to Staff's First Set of Interrogatories, Nos. 1-6; Responses to Staff's Third Set of Interrogatories, Nos. 13-20; Responses to Staff's Fifth Request for Production of Documents, No. 11.

<u>Witness</u>	<u>For</u>	<u>ID No.</u>	<u>Description</u>
Sather	Staff	ATT-1	Responses to Staff's First Set of Interrogatories, Nos. 14-20; Responses to Staff's Second Set of Interrogatories, Nos. 21-24.
Price	Staff	MCI-1	Responses to Staff's Second Set of Interrogatories, Nos. 16-22.
Devine	Staff	MFS-1	Responses to Staff's Second Set of Interrogatories, Nos. 6-14.
Pacey	Staff	FCTA-1	Responses to Staff's First Set of Interrogatories, Nos. 1-6; Responses to Staff's Second Set of Interrogatories, Nos. 7-28; Responses to Staff's First Request for Production of Documents, Nos. 1-2.
Cain	Staff	TCG-1	Responses to Staff's Second Set of Interrogatories, Nos. 11-16.
Selwyn/Marek	Staff	TW-1	Responses to Staff's First Set of Interrogatories, Nos. 1-3.
Cresse	Staff	ICI-1	Responses to Staff's First Set of Interrogatories (to Intermedia and to McCaw), Nos. 1-10; Responses to Staff's Second Set of Interrogatories, Nos. 11-31; Responses to Staff's First Request for Production of Documents, Nos. 1-3.
Williams	Staff	GTE-2	Responses to FCTA's First Request for Production of Documents, No.2; Responses to FCTA's Second Request for Production of Documents; Responses to AT&T's First Set of Interrogatories, Nos. 1-17; Responses to FCTA's First Set of Interrogatories; Responses to FCTA's Second Set of Interrogatories, Nos. 38-39;

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Responses to Staff's First Set  
of Interrogatories, Nos. 1-6;  
Responses to Staff's Third Set  
of Interrogatories, Nos. 28-40;  
Responses to Staff's Fourth Set  
of Interrogatories, Nos. 41-44;  
Responses to Staff's Fifth  
Request for Production of  
Documents, Nos. 17-19.

Parties and Staff reserve the right to identify additional  
exhibits for the purpose of cross-examination.

It is therefore,

ORDERED by Chairman Susan F. Clark, as Prehearing Officer,  
that this Prehearing Order shall govern the conduct of these  
proceedings as set forth above unless modified by the Commission.

By ORDER of Chairman Susan F. Clark, as Prehearing Officer,  
this 5th day of October, 1995.

  
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SUSAN F. CLARK, Chairman and  
Prehearing Officer

( S E A L )

RJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.