BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Equal Access Exchange Areas, Toll Monopoly Areas, 1+ Restriction to the local exchange companies and elimination of the access discount	DOCKET NO. 880812-TP ORDER NO. 23540 ISSUED: 10-01-90

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DOCUMENT NUMBER-DATE
08736 OCT -1 1990
FPSC-RECORDS/REPORTING

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GTE Florida, Inc. (GTEFL)
Gulf Telephone Company (Gulf)
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Northeast Florida Telephone Company, Inc. (Northeast)
Quincy Telephone Company (Quincy)
Southern Bell Telephone and Telegraph Company (Southern Bell)
Southland Telephone Company (Southland)
St. Joseph Telephone and Telegraph Company (St. Joseph)
United Telephone Company of Florida (United)
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National Telephone Services, Inc. (NTS)
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ORDER

BY THE COMMISSION:

I. BACKGROUND

By Order No. 11551, issued January 26, 1983, this Commission initiated its generic access charge proceeding to explore and implement an intrastate access charge structure that would compensate the local exchange companies (LECs) for the use of their local facilities to originate and terminate long distance (toll) traffic within Florida. By Order No. 12765, issued December 9, 1983, as amended by Order No. 12765-A, issued December 22, 1983, we established intrastate access charges, to be effective January 1, 1984.

From the outset, our primary goal has been to set access charges that would adequately compensate the LECs for the use of their local facilities for originating and terminating interexchange carrier (IXC) traffic and to provide incentives for competition while maintaining universal service. Our access charge structure seeks to minimize disruption for customers while providing an opportunity for LECs to maintain reasonable earnings levels without increasing local rates.

Equal access under the Modified Final Judgment (MFJ) requires that "the [Bell] operating companies must provide access services to interexchange carriers (IXCs) and information service providers which are equal in type, quality and price to the access services provided to ATT-C and its affiliates." This Commission's view of equal access embodies the principle of technical equal access (MFJ equal access) but views it primarily from the customer's perspective rather than from the IXC's perspective. From the customer's viewpoint, equal access means having the ability to choose among the IXCs doing business anywhere in a given geographic area, thus fostering competition, lowering prices, and improving services. In Order No. 12765, we stated our view that a primary function of the LECs is to provide access for its customers to as many long distance carriers as is economically efficient. To that end we sought a means by which to accomplish this goal.

The vehicle chosen by the Commission to implement equal access in Florida was the Equal Access Exchange Area (EAEA). The MFJ equal access was viewed as defining only technical equal access for IXCs to reach customers on an end-office by end-office basis. The Commission nevertheless believed that this structure contained inherent incentives that would result in competitive services in high volume and urban markets, but not in the low volume and rural markets. This result would be contrary to the goal of statewide competitive service. The Commission favored establishing EAEAs within which the LECs would be responsible for providing access for all customers to reach IXCs serving anywhere in the area. It appeared that geographic areas served by each existing toll center and its subtending end offices would be reasonable. This configuration became known as the "toll center concept." It would provide access points at or near toll centers, which are places of concentration for all toll traffic in a given area. The keystone of the toll center concept is the LEC's obligation to deliver all toll traffic originating within an EAEA to the toll center at an average transport rate. This allows an IXC to serve an entire EAEA with one point of presence (POP) and allows all customers equal access to each IXC serving an EAEA.

By Order No. 13750, the Commission established twenty-two EAEAs. In conjunction with the creation of EAEAs, the Commission also limited the geographic scope of transmission competition by implementing toll transmission monopoly areas (TMAs) within which the LECs would be the sole provider of transmission facilities. TMAs were created coincident with EAEA boundaries. Consequently, IXCs were prohibited from transporting intraEAEA toll traffic over their own transmission facilities. Competition within an EAEA was limited to the resale of LEC services. However, TMAs were initially established only on a transitional basis until September 1, 1986.

In accordance with the decision in Order No. 13750, this Commission revisited the question of whether TMAs should be retained. By Order No. 16343, issued July 14, 1986, the Commission determined that the retention of TMAs was in the public interest. We made it clear that persons were free to come forward with a showing of significantly changed circumstances which would warrant the abolition of TMAs.

On May 26, 1988, the Florida Interexchange Carriers Association (FIXCA) sent a letter to this Commission urging it to undertake a fundamental reexamination of our policies dealing with 1+ Dialing, EAEAs and TMAs. Docket No. 880812-TP was initiated by the Commission in June, 1988, to consider FIXCA's request. The issues raised by the parties to this proceeding were presented at hearings held during November of 1989. Our decisions are reflected herein.

II. INTRODUCTION

Our role has not been and cannot be a single minded pursuit of a specific goal. Our public interest responsibilities require that we evaluate and weigh what are inevitably competing and sometimes inconsistent goals to maximize the benefits and simultaneously minimize negative consequences to the extent possible. This balancing act is complicated by the fact the various factors are themselves changing and shifting. This has been the nature of the evolution of telecommunications, particularly since divestiture.

Once more we are faced with the issue of whether to retain TMAs. Since we last addressed this subject in Order No. 16343, the telecommunications industry has undergone substantial change. Much has been accomplished in positioning the LECs for competition. However, certain actions remain to be taken. Notwithstanding this, our analysis of current conditions indicates that the end of TMAs is in sight. As discussed below, we have set a date certain for the elimination of TMAs that will fulfill our commitment to competition as well as accommodate the LECs' needs for final preparation. In addition, we have addressed several other issues related to EAEAs, access charges, the reservation of intraLATA 1+ and 0+ dialing patterns to the LECs, extended area service, toll rate pricing and IXC bypass.

III. RETENTION OF TOLL TRANSMISSION MONOPOLY AREAS

In our last review of TMAs we analyzed several factors within the broader context of our overall public interest concerns. In this latest review, we examine those factors as well as additional factors raised by the parties. Among the factors we evaluated were: LEC adjustments to competition,

revenue effect of intraEAEA transmission competition, effects of eliminating TMAs on local, toll and access services, benefits and detriments of intraEAEA transmission competition, economic efficiency and extended area service. In addition, the LECs raised several issues they considered necessary to resolve prior to allowing facilities-based competition. The LECs' criteria consisted of: deloading of non-traffic sensitive (NTS) costs from switched access charges, implementation of LEC toll bill and keep, private line and special access rate adjustments and regulatory flexibility to meet competition in a fully competitive market.

A. Basic Arguments

In general, the basic arguments of the parties fall along predictable partisan lines. The LECs, except for Centel, roundly rejected the prospect of eliminating the toll monopoly areas now. Centel favors the idea as long as it receives regulatory and pricing flexibility equal to the IXCs'. The other LECs focused on various concerns, generally concluding that until all their concerns are fully met, the transitional period to full competition will not be complete.

Southern Bell and GTEFL argue that only IXCs will benefit from TMA elimination, that rate payers will not benefit and, to the extent LECs may be harmed, the public interest will not be served. Southern Bell further argues that it cannot effectively compete until the MFJ interLATA prohibition is lifted. GTEFL argues that the LECs, through no fault of their own, do not yet possess the tools to fully compete, noting in particular IXC opposition to GTEFL's Suncoast Preferred discount toll plan.

United argues that the fulfillment of the LECs' criteria is essential to successful entry into full competition. United alone among the LECs proposed elimination of TMAs by December 31, 1992.

The small LECs, aside from the 1986 criteria, argue that elimination of the TMAs may require substantial modification or elimination of the intraLATA subsidy pool which currently exists to support LECs who were net losers when LEC toll bill and keep was implemented. They argue that intraEAEA competition will affect Southern Bell's willingness to participate in the subsidy pool.

ATT-C, Telus, ITI, MCI and FIXCA all argued that TMAs should be eliminated immediately. Sprint proposed that TMAs be eliminated on a specific schedule in order to spur the LECs to implementation of any necessary changes. The central argument of the IXCs is that increased competition will bring lower prices and more services. They also argue that the LEC will receive access revenues to replace lost toll revenues.

FIXCA's witness Gillan proposed an approach to the introduction of intraLATA competition which he has identified as "Consumer Sovereignty." According to Gillan, it should be the customer's right to choose which entity, whether LEC or IXC, that carries all his intraLATA toll traffic. Gillan's vision of Consumer Sovereignty would abolish TMAs, adopt a policy of financial indifference by accepting access charges as the source of contribution to local costs and implement dialing pattern reform by ending the reservation of all intraLATA 1+ calls to the LECs.

Public Counsel advocated the immediate elimination of TMA restrictions for only the four major Florida LECs (Southern Bell, United, GTEFL and Centel).

B. Evaluation of LEC Criteria

While we have not adopted the LECs criteria as the sole basis by which we judge the continuance or the termination of TMAs, they are relevant to such a decision. With respect to deloading NTS costs from access charges, by Order No. 18598 we allowed the LECs to establish LEC specific access charges. More particularly, each LEC may reduce its Busy Hour Minute of Capacity (BHMOC) access rate element and ultimately its Carrier Common Line (CCL) rate element as that LEC's circumstances warrant. The choice to deload now lies with the LECs. We note that Southern Bell and GTEFL have each significantly reduced their respective BHMOC rates since the issuance of Order No. 18598. None of the other LECs has of yet availed itself of the opportunity. Nonetheless, all the LECs except Centel argue that more time is needed in order to deload prior to the time TMAs end.

The IXCs, principally ATT-C and Telus, argue in response that, while NTS must be deloaded, deloading should not be used as an excuse for retaining TMAs.

The second LEC criteria is the implementation of LEC toll bill and keep. This policy was implemented January 1, 1988. Under bill and keep, each LEC is the primary carrier for all traffic originating in its own territory. The LEC bills and keeps the revenues from all intraLATA MTS and WATS calls that it originates. The LEC then pays terminating access charges to the LEC that terminates each call. If there is any intermediate transport the LEC pays transport charges to the intermediate LEC.

In conjunction with the implementation of bill and keep, we established a phased-out subsidy mechanism to help ease the transition from pooling. Only three LECs receive subsidies: St. Joe, Northeast, and Southland. Southern Bell funds these subsidies in the amount of $862,000 for 1990 and $785,000 for 1991. The three subsidy recipients argued that Southern Bell may not desire to fund the subsidies if TMAs are eliminated which in turn would cause severe financial impacts. As a solution ATT-C proposed a high cost fund to be funded from access charges.

We do not see the current LEC toll subsidies as a pressing issue in the context of TMAs. We note that the focus of this debate, Southern Bell, made no proposal to end its current subsidy obligations. If Southern Bell makes such a request in the future, we will address it at that time.

The third criteria is the restructure of private line and special access rates. The LECs stated during the 1986 proceedings that these rates were below cost. Thus, there was an incentive for IXCs to migrate to special access and for end-users to migrate to private line. The LECs argued that these rates must be made compensatory before the LECs could compete effectively. All LECs concur with Southern Bell's interexchange private line tariff and most concur with its access tariff. The long awaited private line restructuring was filed initially in March of 1989 and has been through several iterations since. The restructure is still not complete.

The only LECs to address this issue were GTEFL and United. GTEFL argues that, due to the time required to implement the restructuring, the subsequent restructure of intraLATA FX rates and the final elimination of private line pooling, this criteria has not been met. Witness Menard states that it will take more than two years to finish this process.

United argues similarly that private line and special access rates are distorted and should be corrected before TMAs are ended. Witness Poag argues that until the restructure takes place it becomes more economical to substitute special access for switched access.

ATT-C's witness Proctor argues in response that private line service is a relatively small portion of the total intraEAEA market and that Southern Bell's delay in filing should not delay termination of TMAs. The remaining IXCs argue similarly to ATT-C. FIXCA argues that delaying the demise of TMAs to accommodate the restructuring "ignores the important role that competition plays in encouraging utilities to propose price changes."

The restructure of private line and special access is an important piece of the overall goal of readying the LECs for a competitive future. The industry restructuring has begun with Southern Bell's filing. We are well into the restructuring process. However, we also note that the actual rate changes and their subsequent effects have not yet occurred.

The last criteria is the LECs' desire to have regulatory flexibility. Various forms of regulatory flexibility were emphasized by each of the four major LECs. These included elimination of restrictions on interLATA competition; toll pricing flexibility; LEC specific toll rates, private line rates, and interLATA access charges as well as geographic deaveraging of toll to compete with alternative access vendors. Centel argues simply that the Commission should treat all competitive carriers equally.

GTEFL argues that the LECs' lack of regulatory flexibility is a major reason to retain TMAs. GTEFL notes with some irony that its first attempt at competitive pricing of toll service via its SunCoast Preferred optional toll plan has been delayed through the opposition of Telus. The specific issues surrounding the SunCoast service are discussed in greater detail below. We note that only Telus opposed GTEFL's Suncoast tariff.

United stated that it required flexibility if the TMAs are eliminated. The small LECs did not specifically address the issue.

The IXCs note several regulatory changes that have taken place or are taking place that have improved the LECs' competitive position such as Southern Bell's own specific toll rates and the increasing number of LEC toll discount plans. In addition, the IXCs noted other indications of increasing regulatory flexibility such as limited service offerings, earnings incentives, company specific access charges, banded local and toll rates, shortened tariff approval periods and customer-specific contract rates.

The IXCs assert that their own product innovations and those of the LECs have resulted in a much expanded range of services provided to consumers. The IXCs argue that the LECs currently have the tools and the opportunity to design competitive offerings that are responsive to consumer needs.

Regulatory flexibility has been an increasingly pressing concern because of the advent of competition. The only current example of flexibility is Southern Bell's experimental rate stabilization plan. See Order No. 20162. Under this plan we expanded the Company's range on its authorized rate of return, authorized banded rates, accelerated its tariff approval process and established earnings sharing. In addition, the company reduced its WATS and MTS rates, its BHMOC, and certain local rates. In conjunction with that proceeding, the Commission amended Rule 25-4.034(2), Florida Administrative Code, that required uniform statewide toll rates, thus providing a forum for LEC requests for company-specific toll rates. GTEFL and United filed regulatory flexibility plans at approximately the same time as Southern Bell. However, GTEFL subsequently withdrew its plan and United failed to refile after its initial proposal was denied. See Orders Nos. 19411 and 18464, respectively.

Regulatory flexibility has been a slow and controversial process due to the caution we must exercise in reducing the level of regulatory oversight while maintaining adequate safeguards for the ratepayers. We anticipate that the pace of implementation will accelerate as we and the LECs gain more experience.

C. Revenue Impact Of Eliminating TMAs

The potential financial impacts to the LECs from ending TMAs has always been a concern, particularly the effects on

local rates. The central focus of Southern Bell's arguments in this case is that the elimination of TMAs will confer no benefits on the customer and will cause a loss of contribution from toll services of approximately $44.9 million. In support of its contribution loss claims, Southern Bell submitted a Florida IntraLATA Toll Contribution study. According to Southern Bell's witness Varner, the study shows that if the TMAs were eliminated and 10XXX competition were allowed, the company would lose 44% of its residential and 50% of its business toll traffic, culminating in a $44.9 million loss of annual contribution. Southern Bell further argues that, if the Commission also authorized 1+/0+ competition, Southern Bell would lose $71 million in annual contribution. According to Southern Bell witness Denton, competition would preclude recovery of the contribution loss through increased toll rates, leaving local rates as the only alternative. GTEFL estimated its loss at between $21 and $32 million, premised on a loss of 100% of its toll market share. The other LECs did not provide specific estimates of their expected loss.

The IXCs attacked Southern Bell's study arguing that the study was seriously flawed. ITI's witness Whitaker argues that the study overstates the contribution loss from intraEAEA competition. He estimates the loss at between $7 and $11 million. The IXCs also doubted the reliability of the study because it was not independently performed. As pointed out by the IXCs, BellSouth constructed the survey, selected the sample, analyzed the responses and drew the conclusions. The IXCs further pointed out that the survey data was selectively presented in the analysis. The IXCs noted that Southern Bell omitted data which showed that while the market share losses were premised on the use of autodialers to reach an IXC, a significant portion of customers do not have them and that less than half of those customers that have them use them. Other flaws asserted were that, despite the current availability of 10XXX dialing code, the vast majority of customers do not and would not use a 10XXX to reach an IXC and that the study did not indicate the magnitude of the price difference needed to spur a customer shift to an IXC. The IXCs also argued that Southern Bell's assumption that market share loss would be instantaneous is unrealistic. They point out that interEAEA 10XXX competition already exists and that they have obtained only 5% of that market after 5 years. Equally unrealistic, according to the IXCs, is the Company's failure to include stimulation in both toll and access revenues due to toll rate decreases which, in turn, would offset contribution losses.

As we found in Order No. 16343, any quantification of a net revenue impact must include reasonably accurate estimates for each of the variables which affect the revenue streams of the LECs. This record has only underscored the difficulty of that task. As pointed out by the IXCs, Southern Bell's estimated revenue loss is seriously flawed, making it unreliable as the measure. The estimate of GTEFL is equally doubtful. No party has adequately reflected all the variables in its estimates. Again, as in 1986, we are unable to determine an accurate potential revenue loss.

D. Benefits and Detriments of IntraEAEA Transmission Competition

The issue of benefits and detriments of intraEAEA competition is raised by the parties in this proceeding as it was in our 1986 proceeding. The IXCs lauded the potential benefits from intraEAEA competition. MCI's witness Dr. Cornell stated that competitive markets offer four benefits to society: they are superior to noncompetitive markets at producing the types of goods and services demanded by consumers; they result in the most efficient use of inputs thereby maximizing societal benefits; they offer the greatest opportunity for the introduction of new technology and new services; and they allow society to spend less on regulatory processes and procedures.

Contrary to the IXCs' glowing reports of competitive benefits, Southern Bell and GTEFL pointedly asserted that the IXCs themselves demonstrated that the theoretical benefits will not become reality. Southern Bell noted the admissions of the various IXCs that they would not immediately reduce rates if TMAs were terminated, that the IXCs' savings from the end of intraEAEA compensation payments would not be passed to customers, that IXCs would not build new facilities and that the IXCs could not identify any new service that is precluded by TMAs. Southern Bell and GTEFL argue that the absence of these "benefits" requires the retention of TMAs.

The issue of the benefits of competition was directly addressed in Order No. 16343. The arguments on this issue have not noticably changed. We again point out that a pristine purely competitive environment simply does not exist in the current intraLATA toll market. This is not to minimize the desirability of the potential benefits but to acknowledge that achievement of them will not be immediate no matter when

we eliminate TMAs. We generally agree with Dr. Cornell that it will take time for these benefits to work their way into the competitive arena.

E. InterLATA Prohibition

Pursuant to AT&T's consent decree divesting it of the Bell Operating Companies as set forth in the Modification of Final Judgment (MFJ), Southern Bell is precluded from providing interLATA toll service. GTEFL is bound by a similar restriction in its consent decree. Southern Bell and GTEFL assert that as long as the interLATA prohibition is in place they will never be able to compete on an even basis with the IXCs. They further argue that TMAs should be retained until the interLATA restriction is lifted.

The IXCs argued that the interLATA prohibition is not relevant to this docket, noting that the MFJ restrictions were put in place by LEC anti-trust settlements at the federal level. ATT-C points out that these restrictions were not part of the criteria for establishing TMAs in 1984 nor for continuing them in 1986.

We disagree that the elimination of TMAs should be held in limbo due to the interLATA prohibition. We have been cognizant of the interLATA prohibition since the inception of TMAs and it has not factored into our decision to create them nor to eliminate them. The prohibition is beyond our control. The issue for us is whether, based on all relevant criteria, the public interest is best served by the further retention of TMAs. The interLATA prohibition is but one of many possible criteria.

F. Resale of Switched Access

When TMAs were created in 1984, we determined that IXCs would not be allowed to carry intraEAEA traffic over their own transmission facilities. IXCs were allowed to provide intraEAEA service only through the resale of LEC facilities and services. At the time it was anticipated that such resale would consist of the resale of the LECs' WATS and MTS. Since that time it appears that a number of IXCs have been providing intraEAEA service other than through WATS or MTS by routing the originating intraEAEA calls directly back to the LEC for termination through terminating switched access service. This

phenomenon has been labeled the "resale of access." At issue is whether the resale of access is consistent with the LEC toll transmission facilities monopoly.

The IXCs argue that the resale of switched access falls within the definition of authorized LEC facilities. They further argue that if the resale of access was not originally contemplated, it should now be allowed. This being another partisan issue, the LECs argue that the resale of access should not be allowed.

When we established TMAs, we did not contemplate the resale of access within the allowed forms of resale discussed in Orders Nos. 13750, 13912 and 16343. The resale of access does utilize LEC facilities and, in doing so, avoids the uneconomic duplication of facilities. However, resale of access is not consistent with our goal of protecting LEC toll revenues. We note that the resale of access has not overly affected the revenue streams of the LECs because the IXCs are paying intraEAEA compensation for the intraEAEA traffic as contemplated by Orders Nos. 13750 and 13912. See also Orders Nos. 20484 and 22122. In view of our decision to retain TMAs for only a limited time, we find that the resale of access should be allowed during the interim. However, the resale of access shall be subject to intraEAEA compensation requirements as established in Orders Nos. 20484 and 22122. Allowing the resale of switched access is one more logical step towards the establishment of a competitive environment.

Having retained compensation requirements for intraEAEA traffic carried by the IXCs, there is another matter which must be addressed in the future. We postponed establishing compensation requirements for intraEAEA traffic carried over special access pending the outcome of this proceeding. We must now establish compensation requirements for intraEAEA traffic carried over special access. The parties are hereby put on notice that development of special access compensation requirements shall proceed with all due haste in order to achieve a meaningful level of compensation during the time remaining for TMAs.

G. Conclusion

As illustrated in Order No. 12765, we have been and are committed to the appropriate level of competition. Contrary to the past assertions of some of the parties, it is clear to us

that the issue has not been a matter whether TMAs should be ended but always a matter of when their demise would be appropriate. Our actions regarding TMAs have always been governed by caution and prudence, advocating competition while maintaining an orderly transition and preserving adequate safeguards for the protection of ratepayers.

Upon consideration of the evidence and the arguments of the parties regarding TMAs, we find that TMAs should be terminated. However, we also find that they should not be ended immediately. TMAs shall continue until December 31, 1991. While the LECs are in a much better position to engage in intraEAEA competition now than they were in 1986, there are still certain facts that persuade us to delay the final implementation of full intraEAEA transmission competition to a future time. We consider the restructure of LEC private line and special access an important hurdle in the LECs' preparation for competition. The restructuring should be substantially complete by the time TMAs are scheduled to end. In addition, we believe that we should further examine the deloading of NTS recovery from access charges before full competition is allowed. We note that two of the large LECs currently have rate cases pending. We further note that the remainder of the LECs will undergo rate reviews within approximately the next eighteen months. Our announcement here is the last warning to the LECs to prepare for the coming of full toll transmission competition. The time between now and December 31, 1991 should give the LECs sufficient time for their final preparations. They will receive the benefit of TMA protection during the interim.

VI. RETENTION OF EAEAS

Initially, it is important to note that, although TMAs and EAEAs share identical geographic boundaries, they are not conceptually the same nor are they mutually dependent. The EAEA concept was originated in 1983 when the Commission first established its access charge policy. Our decision to establish EAEAs was a result of dissatisfaction with the way equal access and interexchange competition were being handled at the federal level.

The Federal development of LATAs was based on population densities and required technical equal access to be implemented on an end-office basis. This, in turn, provided incentives for competition to develop only on high volume urban routes served by specific end-offices.

In contrast to LATAs, we designed EAEAs on the basis of existing network design. In doing so we focused on two goals: first, to promote inherent LEC network efficiencies and avoid uneconomic duplication of LEC facilities, and second, to facilitate the spread of technical equal access to all end-users. Equal access at the federal level was focused on the technical quality of interconnection of the IXCs with the LECs vis a vis AT&T. We focused on the ability of all end-users to access all available IXCs. The primary tool the Commission chose for this purpose was the implementation of a statewide average local transport rate. This arrangement differed from the federal decision to charge distance sensitive local transport rates. An average rate removed the incentive for an IXC to connect directly to an individual end office in a high volume area and to avoid low volume distant offices in an effort to avoid transport charges.

A secondary reason for creating EAEAs was to encourage the LECs to convert their end-offices to give all IXCs connected to an access tandem the ability to receive equal access "1+" interLATA traffic from end users served by that tandem. Several tools were implemented for this purpose, including the LS_1/LS_2 price differential and an access charge discount for nonequal access. These incentives were designed to prod the LECs to upgrade their central offices to equal access.

The LECs' witnesses, with the exception of Centel which advocated the abolition of EAEAs yet provided no support for its position, argued that EAEAs have been successful and effective and should remain. Although it was expected that the LECs would be predominantly in favor of retaining EAEAs, it is interesting to note that two IXC witnesses also favored retention of EAEAs, albeit without TMAs. Telus's witness Klugman supported retention, arguing that from a customer's standpoint the Commission has been successful in encouraging interconnection at the access tandem in order to spread competition to all customers. Sprint took the position that the Commission could choose to eliminate TMAs while retaining

the EAEA concept of encouraging the most efficient interconnection between IXCs and end users.

FIXCA and the remaining IXCs advocated elimination of EAEAs on the basis that IXCs would have interconnected at the toll tandem regardless of the EAEA structure and that the Commission's concerns over distance sensitive access transport rates were unfounded.

Regardless of whether EAEAs influenced the IXCs' network designs, it is apparent that the configuration of the toll network in Florida is generally consistent with our original goal. IXCs continue to connect at access tandems and rural customers are benefiting to some extent from the availability of multiple IXCs. Nothing suggests that this will change.

Upon consideration, we find that EAEAs should be retained. Although our objective of "technical" equal access has not been entirely met, as discussed in greater detail in Section VI. A. below, approximately 96% of Florida's access lines are capable of providing equal access. However, nine of twenty-two EAEAs are not presently 100% equal access capable. The discount for non-equal access depends on the current EAEA boundaries for calculation. The boundaries must remain to continue the incentives for LEC conversion to equal access.

Additionally, the intrastate local transport element is averaged within the EAEAs. If EAEAs are eliminated, we would have to redefine the parameters for calculation of the average transport rate or eliminate average transport rates and implement distance sensitivity. We decline to do this. The average transport rate still functions as we intended. EAEAs will serve as an administratively efficient way to determine the level of the discount required. Once the entire state has converted to equal access or its capability and the discount is removed we may again readdress EAEAs.

One other issue was raised related to the retention of EAEAs. MCI, Telus, Sprint, and FIXCA argued that, if EAEAs are retained, the Ojus EAEA should be further divided to account for the second access tandem deployed in the busy Ojus region. Telus argued principally that, because Southern Bell has installed two tandems in the Ojus EAEA due to traffic volumes, the EAEA should be divided to reflect the current network configuration. Telus further argues that a new EAEA would be

consistent with our policy of a single point of interconnection in an EAEA and our goal of insuring competition in the Southeast LATA. FIXCA argued that an EAEA should reflect the network that is actually deployed.

Southern Bell explained that, in order to help distribute the load being carried by the Ojus tandem, it placed a second toll switch in the same building where the original Ojus tandem is located. The Company also suggested that it will consolidate the two tandems as soon as one switch with sufficient processing power is available. FIXCA retorted with the comment "For a switch of that size, probably most of Florida's EAEAs could be combined."

When we created EAEAs, we also established the criteria for altering their boundaries. As we stated in Order No. 13750:

> Economic efficiency guides our decision as to the geographic boundaries of EAEAs that we establish in this order. This is the same principle that guided the Commission in our decision to establish EAEAs. Furthermore, economic efficiency will continue to be the primary consideration in any future proceedings before this Commission regarding changing EAEA boundaries, and compelling reasons must be shown to warrant future changes.

Based on the record before us, we find no compelling reasons to alter any of the current EAEA boundaries. We have insufficient information to determine whether splitting the Ojus EAEA will be more economically efficient. There is no evidence as to the costs or benefits that would stem from such network reconfiguration. Further, it does not appear that the current configuration is impeding any competition in the Southeast LATA.

V. <u>LEC RETENTION OF 1+ AND 0+ DIALING</u>

Since the inception of competition in the long distance arena, we have reserved to the LEC all intraLATA toll calls originated using 1+ and 0+ dialing patterns. See e.g., Orders Nos. 13750, 13912, 14621, 20489 and 22243. As discussed in greater detail below, we have determined that our current 1+ and 0+ dialing policies should be continued. It should be noted that this also includes 0- calls.

To eliminate any opportunity for confusion or doubt, we state once again the 1+, 0+ and 0- dialing patterns are defined from the end-user's perspective. Whatever digits are entered by an end-user customer controls the routing of the call regardless of any number translations performed by the CPE.

A. 1+ Dialing

In examining the issue, it appears that there are several problems inherent in removing the present 1+ intraLATA dialing restrictions. These problems include the availability and cost of intraLATA presubscription/equal access software; the cost of intraLATA presubscription balloting; the potential LEC toll revenue losses; and the difficulty of implementing consistent policies that account for the variations between LATAs due to the number of EAEAs, access lines, exchanges and the percentage of equal access within the LATAs.

Currently, interLATA equal access is being provided at 405 end offices. These end offices utilize either digital or electronic analog switches utilizing stored program control technology. Implementation of intraLATA presubscription would require new software in each end-office. No evidence was presented in this proceeding that these software modifications are available now. Centel's manufacturer advised that it would be approximately in the 1992 time frame before the software would be available. Neither GTEFL, Southern Bell nor United could estimate the cost or the time required to obtain and install any required software.

A study sponsored by the Minnesota Public Utilities Commission (Minnesota Study) indicated that the manufacturers would require up to eighteen months to produce the software. However, the report notes that the information obtained from manufactures carried the caveat that the development time estimates were not binding on the manufacturers.

FIXCA witness Gillan offered the only information relating to the cost of implementing 1+ intraLATA equal access. He estimated the cost for Southern Bell only at $10,646,989. He did not provide estimates for any other LEC. The estimate was based on the Minnesota Study which relied on cost factors reported for LECs within that state. The study reported costs of $50,000 to $183,000 for LECs with only one switch up to $9,382,000 for U.S. West's 89 switches. The Southern Bell

estimate was derived by proportionally increasing U.S. West's costs to reflect Southern Bell's larger number of end-offices. However, witness Gillan erred in his calculation by using the number of exchanges, 101, rather than its number of end offices, 210. Correcting the calculation indicates a cost of conversion for Southern Bell of $22,137,360. Without any reliable information as to whether the sizes and types of switches in the study are comparable to Florida, we have little confidence in the scant cost data before us. Before our decision to implement 1+ intraLATA equal access conversion could be contemplated, we must have much better cost information specifically related to Florida's LECs.

With respect to the issue of whether intraLATA presubscription should be required if 1+ competition is allowed, the IXCs and the LECs were evenly divided. In addition, FIXCA's witness Gillan proposed a plan for Consumer Sovereignty. His plan requires: abolition of TMAs, adoption of a policy of financial indifference by accepting access charges as the source of contribution to local costs, and implementation of dialing pattern reform by eliminating the 1+ intraLATA dialing restrictions. The third point is the only one relevant to this discussion. Witness Gillan's proposed dialing reform differs from normal intraLATA equal access in two respects. First, the customer requests equal access rather than the IXC; second, balloting is required but there is no allocation of those customers who do not respond.

Witness Gillan also provided information on the only known instance of intraLATA presubscription. In that case, 120 small independent LECs in Iowa joined together to provide inter- and intraLATA equal access at a common access tandem. However, he also stated that tandem based equal access was not favored by IXCs because of technical constraints on access features, time delays in transport to an IXC and the unavailability of direct end-office interconnection. We would also note that in contrast to Iowa, equal access is provided at the end office level in Florida. As a result, the Iowa experience is of little value as a guide for any decision we might make regarding intraLATA presubscription.

There is no evidence of the costs of implementation of intraLATA presubscription. Moreover, we do not have sufficient information to make a well founded decision as to the details of a balloting or default allocation or even whether we should

conduct balloting. In addition, there is also the question of recovery of the LEC's capital investment and expenses incurred to implement intraLATA equal access. Witness Gillan advocated that the Commission use access charges to recover these costs. The Minnesota study recommended that this cost be recovered in the same way that interLATA equal access cost was recovered. In Florida, interLATA equal access costs are recovered through access charges.

Other than FIXCA, no party devoted much attention to this issue. As a result, there is little positive information upon which we could proceed with intraLATA presubscription. From our past experience, the presubscription balloting process is expensive, complex, disruptive to the LECs and confusing to customers. As discussed above, we have inadequate cost data for intraLATA equal access conversion and inadequate information on the details of implementation of customer presubscription. Without such information, it is difficult if not impossible to design a recovery mechanism for the added costs. We cannot proceed without these essential pieces of information.

In addition to the problem of implementation of intraLATA 1+ competition there is also the issue of LEC revenue losses stemming from such competition. The LECs argued that they would be eliminated as intraLATA toll carriers and left with only local and access service. As discussed previously, Southern Bell's contribution study estimates the loss of TMAs, 1+ and 0+ contribution to amount to approximately $71 million. To no one's surprise, the IXCs disputed that there would be such a loss. FIXCA's witness Gillan argued that the revenue losses would be small or that, for some small companies, there would be a revenue increase.

We previously addressed our lack of confidence in the contribution study. However, we do note that potential losses from a total loss of toll revenue range from 12% to 59% of the LECs' total revenues. While we do not necessarily agree with such extremes, the potential remains. If the losses were of anywhere near the magnitude possible, it could be disastrous for some LECs. Again, we note the lack of reliable information on which to make a sound judgment on this issue. Most of data is related only to the large LECs. To make an informed decision, the effects on each LEC in each LATA must be determined.

In one interesting departure by ATT-C from the rest of the IXCs, ATT-C's witness Proctor testified that the LECs should retain the 1+ and 0+ monopoly on intraLATA MTS calls but that the 1+ monopoly on WATS and 800 service should be removed. He stated that this change would allow a customer to subscribe to ATT-C's statewide WATS plan, which would allow a customer to combine its intraLATA and interLATA WATS usage on one schedule to gain larger discounts. He also noted that Southern Bell could not offer a combined inter-and intraLATA service due to Southern Bell's interLATA traffic proscription.

It appears that ATT-C's plan could seriously affect LEC WATS service by allowing IXCs to specifically recruit high volume toll users, those most suitable as WATS customers. We have historically been very concerned about such "cream skimming" by the IXCs to the detriment to the LECs. This attempt by ATT-C to cream skim by differentiating WATS from MTS only underscores our concerns. This is particularly true in view of the fact that WATS is nothing more than a discounted 1+ MTS service.

Upon consideration of the foregoing, we find that 1+ intraLATA traffic shall continue to be reserved to the LECs. The uncertainties in software availability, implementation cost, balloting plan, cost recovery and possible toll revenue losses as discussed above dictate that there be no changes in the 1+ dialing policy at this time.

B. <u>0+ Dialing</u>

Historically our treatment of 1+ and 0+ dialing has been the same. The 0+ dialing pattern is addressed separately from 1+ dialing because it is technically possible that the dialing restrictions could be modified for one and not the other. All the parties except ATT-C and ITI took the same position for both 1+ and 0+. ATT-C's difference was related to its desire to have intraLATA 1+ WATS and 800 service as discussed above. ITI, an Alternative Operator Service (AOS) provider, took a different stance on 0+ in order for it to obtain permission to convert intraLATA 0+ and 10XXX dialed calls for routing to AOS providers.

All of the problems and unknowns discussed in relation to 1+ apply to 0+ intraLATA as well. The implementation costs such as software and balloting cost would be the same to provide for both 1+ and 0+ intraLATA equal access as to provide for only one of them. This is true for the other factors discussed above. Moreover, the parties' consistent positions between 1+ and 0+ weigh strongly towards consistent treatment for both.

In addition, all of the cost data provided on the intraLATA competition issues was for both 1+ and 0+ calling. The cost estimates of implementing intraLATA equal access presented by FIXCA witness Gillan were based on the Minnesota Study which provided for handling both 1+ and 0+ calling.

The only apparent reason for separate treatment of 1+ and 0+ dialing would be to provide new opportunities for AOS providers that currently handle only 0+ calls. ITI was the only AOS provider participating in this proceeding.

The automatic conversion by end users of 1+ and 0+ has been permissible and possible from a technical standpoint through the use of automatic dialing equipment. In an equal access office the end user can either dial 10XXX to reach an IXC of his choice or he can use an automatic dialer or converter to change a 0+ to 10XXX+. However, the key words are end user. Once again we reiterate our policy governing conversion of 1+ and 0+ dialing:

> Lest there be any doubt where this Commission stands, we will state once again, our position has been and continues to be that the customer is the end user and not the AOS provider's client. Our view of dialing is from the viewpoint of this end user, irrespective of the transformations performed by the CPE.
>
> Our reservation of 0- and 0+ intraLATA traffic to the LECs is a matter of long standing Commission policy and, as we clearly stated in the Order [No. 20489], this policy shall be applied to AOS providers and shall remain in effect, pending any changes that result from our ongoing investigation in Docket No. 880812-TP. [Order No. 22243]

There was no evidence in this proceeding that indicates that the policy outlined in Order No. 22243 above should be changed. Accordingly, there should be no different treatment given to AOS providers on this issue. In consideration of the above, we make no change to our 0+ or 0- intraLATA dialing policies. 0- and 0+ intraLATA calls shall continue to be handled by LEC operators. If an end-user desires to access an IXC operator he may dial either 00- or 10XXX + 0-.

VI. MISCELLANEOUS ISSUES

A. Phase Out of Discount for Inferior Access

There are four types of access interconnection: feature groups A, B, C and D (FGA, FGB, FGC and FGD, respectively). When we implemented our switched access rate structure, IXCs other than ATT-C could only obtain FGA or FGB. FGA and FGB are technically inferior to FGC and FGD. ATT-C was then already connected through FGC. Our goal was to make technical equal access, FGD, universally available to all IXCs.

By Order No. 12765, we implemented a discount on FGA and FGB switched access charge rates. The discount was thirty-five percent of switched access charge rates. The discount was designed to improve the competitive stance of the IXCs to reflect the lower quality of access relative to ATT-C. By Order No. 13858, we instituted a policy of phasing out the discount within an EAEA as end offices within the EAEA were converted to equal access. The phase-out was intended to encourage LECs to install stored program control switches and the necessary software to convert to equal access. The phase-out also reflects the lesser need of IXCs for access rate advantages due to the unavailability of FGD.

The current phase-out mechanism is based on the number of access lines served by equal access end offices as a proportion of the total number of access lines within the EAEA. As each end office within an EAEA is converted to equal access, the ratio of converted to total access lines grows and the effective discount is reduced proportionately. The question at issue is whether this phase-out policy should be retained or whether it should be modified. Based on our examination, it appears that the incentives to the LECs for equal access conversion have generally been successful. In addition, it

also appears that the discount may be hindering the spread of equal access due to the incentive for the IXC to not ask for equal access in order to keep the discount.

With respect to the incentive for LEC conversion, it appears that Florida is now substantially converted to equal access. Of twenty-two EAEAs, six are now converted and seven will be fully converted by 1995. The remaining nine EAEAs do not have an established date for full conversion. However, five of these nine LECs are already 90 percent or more converted. Only three EAEAs have no equal access. With respect to LEC conversion to equal access, three LECs are entirely converted, Southern Bell, GTEFL and Centel. ALLTEL will be fully converted by 1992, and United by 1995. Vista is 74.5% converted now, but has no implementation schedule for its remaining end office. The other seven LECs have no equal access conversions and have no scheduled plans. Of these LECs, Gulf, Indiantown, Northeast, Quincy and Southland, are 100% equal access capable. St. Joe is 84.2% capable. Florala is the only LEC in Florida that has not made any progress toward equal access.

Based on Florida's approximately 7.4 million access lines, Florida was 95.9% equal access capable and 94.2% equal access converted as of December 31, 1989. By 1995, only approximately five thousand access lines will not be converted to equal access. Equal access for these lines must wait until the two LECs involved, St. Joe and Florala, obtain stored program control capability in their switches.

With respect to the non-equal access EAEAs, FIXCA's witness Gillan testified that for some EAEAs the effective discount is so small that it is not material to an IXC's decision to request equal access. The more relevant factor to an IXC's decision to request equal access is the effective BHMOC rate. In those territories served by small, rural LECs where equal access is the least prevalent, the small LECs continue to charge $6.60 per Busy Hour. Given the relatively low volume of toll traffic in the rural areas, the effective BHMOC rate in those areas is higher per minute than in the higher traffic areas. Moreover, the two LECs who serve the most densely populated areas in the state, Southern Bell and GTEFL, have lowered their BHMOC rates. It is easier for IXCs to recover their access costs and operate profitably in the high volume, low effective BHMOC rate areas. Thus, according

to Gillan, a more effective way to encourage IXC requests for equal access in equal access capable but non-converted EAEAs is to lower the BHMOC rate.

Most parties generally favored the current phase-out policy. However, no party took a strong position on the issue. GTEFL, ITI and Public Counsel took no position at all. Witness Gillan proposed that the focus of the phase-out be shifted from EAEAs to end offices by eliminating the discount as individual end offices are converted to equal access. His proposal is premised on matching our phase-out plan with the FCC's. Although there is a logical basis to matching the intrastate and interstate discount phase out mechanisms in that it would make the administrative aspects easier on both LECs and IXCs, we are unpersuaded that we should match the FCC's plan. The overall revenue effect would be small; however, the small LECs that are capable but not converted could get a revenue decrease, while the large LECs that have completed conversion would get a revenue increase. For example, Northeast Telephone Company, currently 100% capable, would change from giving a 1.2% discount on an EAEA basis to a 35% discount on an end office basis. The negative revenue effects on the small LECs as well as witness Gillan's statements that the BHMOC is the more crucial factor in the IXC's request for equal access cause us to reject this proposal.

While we do not adopt witness Gillan's proposal, we do find that the phase-out should be modified such that the discount will be based on the percent of access lines served by equal access <u>capable</u> end offices rather than the percent equal access actually converted. This approach would have a favorable revenue effect on those LECs that have done their part by acquiring the appropriate hardware but that have received no request from an IXC for equal access. This change would also remove some of the penalty being imposed on those LECs that have converted to 100% equal access but still must provide discounts because other LECs in the same EAEA have not received equal access requests. For purposes of determining the discount, an equal access capable end office should be defined as a stored program control switch, digital or electronic analog, requiring only software additions to provide equal access.

Based on this new application of the discount, there would be no change in nine EAEAs and reductions of less than three

percent in eight others. The reductions in discount rates for the remaining five EAEAs range from 8.9% to 35%; however, these five EAEAs contain only 67,226 access lines or 1.0% of the Florida total of over 7.4 million.

B. Eliminating the Discount for Terminating FGR

One additional issue that arose during this proceeding concerns the discount on FGB terminating access charges. As was noted above, the switched access discount was to reflect the qualitative differences in the technical access connection available to IXCs relative to ATT-C. ATT-C received the benefit of 1+ access by its toll customers while the customers of the other IXCs were required to dial multiple digit access codes inherent in the use of FGA or FGB.

The thirty-five percent discount for FGA and FGB is applied to both originating and terminating access charges. Originating access over FGB is of poorer quality than ATT-C's FGC or FGD due to the additional digits required for access. However, Witness Gillan testified that there were no technical differences between FGB and FGD when used for terminating traffic. IXCs continue to utilize FGB for terminating traffic despite the availability of FGD. Witness Gillan and Sprint's witness Key both stated that price was one of the principle reasons that IXCs order FGB despite the fact that FGD is available.

The discount was premised on FGB's technical inferiority. We did not intend that FGB would evolve into essentially a discounted one-way terminating service. Moreover, since there are no significant technical or functional differences between FGB and FGD for terminating traffic, it is inappropriate that a discount be applied to such FGB traffic. Accordingly, the discount shall be eliminated for FGB terminating traffic.

C. Elimination of LS1 and LS2 Rate Differential

Local Switching is one of the functions that is employed in providing access service to an IXC. The Local Switching access charge rate element was established to reflect this function. The rate element was further divided into two separate rates, LS1 and LS2. The LS1 access rate is discounted to 65 percent of the LS2 rate. LS1 was discounted to provide an additional discount to those IXCs required to take less than

equal access such as feature group A (FGA) or feature group B (FGB). The discount was in addition to the overall discount for less than equal access discussed above.

The current LS2 rate per access minute is .98¢. This rate is applied to the local switching element of access charges for minutes of use on FGC and FGD. For FGA and FGB, the LS1 rate is .64¢. However, if the FGA or FGB access is in an EAEA with no equal access the transitional rate discount discussed above also applies. In such case, the local switching rate for these minutes would be the LS1 rate of .64¢ per minute further discounted by 35 percent or .42¢ per access minute.

The FCC is currently phasing out the LS1 discount by raising the LS1 rate to the current LS2 rate gradually over a five year period. The FCC phase-out is scheduled for completion in 1993. The issue now before the Commission is whether the additional discount (the differential) should be continued or eliminated or modified.

The small LECs favor eliminating the differential entirely, although most did not specify any particular manner. GTEFL, United, Southern Bell and Centel propose elimination of the differential once equal access is achieved in an EAEA. GTEFL supports elimination of the differential on the basis that many IXCs continue to use FGB for terminating access while using FGD for originating access, simply because they receive a discount for FGB.

Most IXCs appear to view the discount as more of an administrative burden than a benefit. The IXCs generally support greater uniformity in FCC and state access rates since that would be simpler to administer. FIXCA's witness Gillan advocated making the LS1 and LS2 rates converge by reducing the LS2 rate and raising the LS1 rate, and phasing it in on the same schedule as the FCC. Only Telus advocated retaining the LS1 discount. ATT-C and MCI stated that a differential should be retained only if it is proven to be cost based. ATT-C further claimed that there was no difference in cost between LS1 and LS2. As was explained by witness Gillan, IXCs utilizing FGA and FGB pay the LS1 discounted rate. Even in equal access areas, some IXCs utilize FGB on terminating access and get the same terminating scope as FGD but at a discounted rate.

During the hearing, the parties, LECs and IXCs alike, indicated they had no strong objection to making the LS1 rate identical to that of LS2, and then reducing the BHMOC rate by a comparable amount so that the effect was revenue neutral. GTEFL noted that it would be more efficient to retain the LS1 rate element until the rate differential at the interstate level has gone away. This would avoid the necessity of modifying the LECs' billing systems.

Upon consideration, we find that the additional discount on Local Switching should be eliminated now. Therefore, the LS1 rate, currently .64¢ per minute, shall be raised to the level of the LS2 rate (.98¢ per minute). Both rate elements will be retained at least until the FCC phase out is complete. In addition, the LECs respective BHMOC rates shall be reduced by an equivalent amount of revenues so that the overall effect is revenue neutral. This will avoid any revenue windfalls to the LECs from the increase in the LS1 rate. Eliminating the LS1 discount will simplify our access rate structure and be administratively easier for both LECs and IXCs. Reduction of the BHMOC will avoid windfalls to the LECs and any harm to the IXCs. It will also eliminate certain unintended effects discussed earlier stemming from discounts on FGB terminating access. We also decline to mirror the FCC's plan; to do so would eliminate the administrative efficiency generated by the elimination of the discount now.

D. Retention of the Bypass Restriction

By Order No. 12765, we instituted a bypass restriction by which IXCs were precluded from providing access facilities directly to an IXC's customer's premises unless expressly authorized by the Commission. We readdressed the bypass issue in conjunction with our review of TMAs and EAEAs in 1986. By Order No. 16804, we determined to retain the bypass restriction. We again turn our attention to the bypass restriction.

With depressing predictability the LECs and IXCs were divided along partisan lines. The IXCs, of course, argued that the bypass restriction should be lifted. Sprint's witness Sievers argued that "the bypass restriction should be eliminated as non-effective." MCI's witness Dr. Cornell stated simply that "bypass is just a pejorative word for competition." She later added that forcing a customer to use

LEC facilities when the LEC can not provide the lowest price leads only to higher costs to consumers.

MCI's witness Wood, contrary to the other IXC witnesses, argued that "the current facilities bypass restriction is effective in deterring certificated carriers from constructing bypass facilities." However, he maintained that the restriction "creates unnecessary administrative hurdles that discourage" economic bypass and should be discontinued.

Witness Menard of GTEFL best summed up the LECs' position:

> The ultimate loser, when the LEC is bypassed is the residential rate payer since the bulk of costs of service do not leave as the large user leaves, but remain to be distributed over a smaller pool of minutes that are generated by a customer set with few or no alternative access options.

The original concept of the bypass prohibition was only to prohibit the uneconomic bypass of LEC facilities. As stated on page 20 of Order No. 12765, then again on page 5 of Order No. 16804:

> ... IXCs shall not be permitted to construct facilities to bypass the LECs unless it can be demonstrated that the LEC cannot offer the facilities at a competitive price and in a timely manner.

As we have stated so many times before, the purpose of the bypass restrictions is to prevent uneconomic bypass of LEC access facilities. The purpose of the restriction is to protect the revenue streams of the LECs and deter the migration of large customers from their networks until all proper access rate structures were deployed. That has not yet occurred. We note that we have the private line restructuring currently pending. Until the tariffs filed as a result of these decisions become effective, the LECs will not have the proper pricing to compare their services with the IXCs.

We must also note that we have another proceeding pending in which the bypass issue plays a major role. In Docket No. 890183, we are investigating alternative access vendors (AAVs). According to GTEFL, these entities are providing bypass facilities on a large scope. GTEFL further argues that

we should not adjust the bypass restriction until the AAV proceeding has been concluded.

Upon consideration, we find that the bypass restriction as it is currently structured in Order No. 16804 should be continued.

F. Application of FGA Access Charges to Resellers

By Order 12765, the Commission determined that use of the local exchange network to access a reseller's switch via PBX trunks, is technically no different than the line-side access (FGA) used to access any other IXC. In accordance with that determination, the Commission decided that the same access charges should ultimately apply to all such traffic. However, the Commission deferred implementation of (FGA) access charges for resellers in order to minimize disruption in the emerging reseller market. As a result, WATS resellers were allowed to subscribe to PBX trunk rates for access to the reseller's switch in lieu of FGA. In addition, resellers also paid the Dedicated Access Line (DAL) charge of $38 to cover the access facilities portion from the reseller's switch to the WATS serving office as well as the usage sensitive WATS rates.

In addition to pure resellers, some IXCs known as mixed-mode carriers, also used their own facilities as well as reselling WATS. In recognition of the problem with mixed mode carriers of applying PBX trunk rates to only the resold WATS traffic of FGA to the remaining traffic carrier on the same line side access connections, the Commission established the WATS prorate credit. The prorate was applied based on the number of DALs used by the carrier. The function of the prorate was to approximate PBX trunk rates on that portion of access connections equivalent to the number of DALs. Another result of the prorate was to avoid the double application of access charges to resold WATS traffic since WATS rates have access charges embedded in the rates.

In Order No. 13934, the Commission again deferred implementation of FGA access charges to resellers until the cap on WATS was removed. We again turn our attention to this issue.

The LECs argue that the Commission should implement its decision to assess FGA access charges even though there is no revenue impact associated with this issue. Among the IXCs,

ATT-C advocates implementation. The rest of the IXCs, except Telus, took no position. With respect to the impact of implementation, only Telus stated that there would be any effect and that it would be nominal.

Telus argues that the WATS prorate credit is the only relevant issue here. The WATS prorate credit prevents double charging of access charges on resold WATS. According to Telus, nothing has changed to alter the validity of this prorate credit for resold WATS used in conjunction with FGA access and thus the credit should continue.

We disagree. The prorate was intended as a protection against the implementation of full access charges during the development of the IXC industry. That protection was to continue until the phase-out of the cap on WATS. See Orders No. 14621 and 16687. The cap on WATS is now gone and the time has come to implement our earlier decision to charge FGA access charges or the resale of WATS. We also find it appropriate that the prorate credit should be eliminated as well. Otherwise, mixed-mode resellers would not be paying FGA access charges; they would still be paying PBX trunk rate equivalents.

F. Elimination of Terminating Access TOD Discounts

In Orders Nos. 12765 and 13934, the Commission determined that originating and terminating switched access charges should be discounted by the same amounts and for the same time periods as existing Message Toll Service (MTS), in order to encourage off peak usage of the network. Implementation of terminating time-of-day (TOD) discounts was deferred due to technical constraints. By Order No. 15481, we again deferred implementation of terminating TOD discounts. However, we also determined that the technical problems of implementation of the discount could be alleviated by delaying the implementation until an EAEA is fully converted to equal access. As we stated then, implementation of technical equal access entails measurement capability for terminating access minutes.

This issue has again been raised in conjunction with our review of TMAs and EAEAs. GTEFL's witness Menard argued that TOD discounts present the opportunity for stimulation of network usage during nonpeak hours if the discount is passed on to the end users. Telus' witness Klugman argues similarly that TOD pricing for access serves as an incentive to shift traffic

off peak, reduces network investment and reduces overall network costs for all users of the network.

United's witness Poag agrees that TOD discounts provide an incentive to IXCs for off-peak pricing. However, he also argues that because the differences between the LECs peak loads and the IXCs discounts and discount periods there is no advantage to terminating access TOD discounts. Moreover, he argues that the absolute TOD differential becomes smaller if access charges are further reduced, thus reducing the magnitude of the incentive for TOD pricing.

ATT-C argues that there is no cost justification to support the implementation of TOD discounts on access usage because nontraffic sensitive portion of access charges are designed to recover costs which are by definition, independent of usage. GTEFL's witness Menard agrees with ATT-C that NTS costs are designed to cover costs which may be independent of usage patterns. However, she states that LECs have a requirement to impute access charges; and with the high off-peak usage for residential customers, it is essential that TOD discounts be implemented for FGD terminating access. We note that Ms. Menard also stated that the driving force for her support for TOD terminating discounts was the requirement that LECs' MTS and WATS rates be priced to cover access in the aggregate, not the incentive to shift traffic to off-peak periods.

Upon consideration, we find that TOD discounts for terminating switched access should not be implemented. Whatever intuitive incentives there may be for TOD discounts, time and experience have not shown that they have caused any significant shifts of traffic to LEC off-peak periods. TOD access discounts do not necessarily result in discounts to end-users unless flowed directly through by IXCs, something which has not been established. Nor do the absence of time-of-day discounts necessarily result in no discounts to consumers. There are no time-of-day discounts on originating or terminating interstate access charges; however, time of day discounts exist in end-user rates.

While we do not fully agree with ATT-C's argument regarding the inconsistencies of time-of-day discounts for nontraffic sensitive charges, we do question whether putting additional discounts on switched access should take priority

over other actions, such as decreasing non-traffic sensitive access charges. We agree with FIXCA's witness Gillan that reducing the BHMOC should take a higher priority than attempting to implement terminating TOD discounts.

In addition, it appears that there are technical impediments to the implementation of TOD discounts. As noted previously, there are still a number of EAEAs not technically converted to equal access. Although it may be possible to work out the implementation problems, the calculation of terminating TOD discounts will be very costly to administer and does not appear to result in a significant gain for IXCs or consumers.

G. Competitive Pricing of LEC Toll Rates

The debate over how access charges should be reflected in toll rates has raged since the inception of access charges. For the IXCs we resolved the issue by directing that the test for toll pricing was whether toll rates were set at a level such that total toll revenues exceeded total access charge expenses. See Order No. 16180. This has become known as the "aggregate access charge test." This test was followed in resetting Southern Bell's toll rates in that Company's rate stabilization proceeding.

The issue has once again arisen under the guise of GTEFL's Suncoast Preferred experimental tariff. Suncoast Preferred is GTEFL's first foray into competitive toll pricing. The tariff offers several optional discounted toll plans.

Telus has opposed the Suncoast experiment since its inception, arguing that the plan is anticompetitive because it does not cover switched access charges in all mileage bands and time periods. In the broader context of this proceeding Telus argues that, if toll rates do not cover access in the manner it advocates, such pricing is "predatory and contrary to the best interests of the ratepayers." Telus further argues that rates for wholesale and retail services should contain an internal logic and relationship to each other to ensure that the LECs compete fairly. The solution according to Telus is to test LEC toll rates with an appropriate cost study methodology such as the "building block" concept advocated by MCI's witness Cornell. The building block approach would derive the average incremental cost of part of the network utilized by a service which would be lowest permissable price.

GTEFL argues that Telus ignores the problems the LECs face but the IXCs do not. Witness Menard specifically noted problems with EAS pressures, the fact that LEC toll is predominately short in length, the Commission's refusal to deload NTS costs from toll and IXC services that do not incur switched access charges at both ends of a call. Southern Bell and GTEFL also noted that to implement Telus proposal would necessitate increasing current LEC toll rates in the face of IXC rates that themselves do not cover access charges in the shorter mileage bands or in all time periods. The LECs continue to maintain that they should be subject to the same aggregate test applied to the IXCs.

We recognize that the incentives for cross-subsidization exist. It is a simple matter of economics that a business will price its goods or services the highest where the demand is least elastic. We are concerned that as competition increases, the incentive to cross-subsidize becomes greater. A cost study methodology would greatly aid us but such a project is beyond this proceeding. We disagree with Telus that the appropriate interim action is to require the LECs to price their toll services to cover access charges in every mileage band and time-of-day period. It is only logical and appropriate that LEC toll services should be judged by the same test that is applied to their IXC competitors. Accordingly, we find that each LEC's toll rates should cover access charges in the aggregate. This is consistent with prior action regarding ATT-C's and Southern Bell's toll rates. We note that the discounted LEC toll services we have examined have so far met the aggregate access charge test.

H. Extended Area Service

In Order No. 16343, we expressed concern that Extended Area Service (EAS) would become obsolete if TMAs were eliminated. We have continued to implement EAS on both interEAEA and interLATA competitive routes where sufficient community of interest exists. This process forces us to balance the potential benefits of competition against community of interest considerations. It will continue to do so. We note the paradox of changing a competitive toll route back to a monopoly. However, we will continue to consider EAS requests and, where public interest considerations in favor of communities of interest outweigh those of competition, we will continue to implement EAS.

I. Objection to Late-filed Exh. No. 12

During the course of Sprint's witness Sievers discussion of his disagreement with the use of price minus incremental cost as a measure of contribution, witness Sievers offered to demonstrate that an analysis using this definition led to the conclusion that local service generated its own contribution. Witness Sievers was asked to submit this analysis as Late-filed Exhibit No. 12. It was filed on November 15, 1989. On November 28, 1989, MCI filed an objection. MCI's objects on the grounds that it has not had an opportunity to cross-examine witness Sievers regarding the substance of this exhibit. MCI further argues that cross-examination would show a series of flaws in the exhibit. Sprint responded to MCI's objection on December 11, 1989, arguing generally that the exhibit was merely a logical extension of the information and analysis already provided by Southern Bell or by witness Sievers' testimony and that MCI had an opportunity to conduct cross-examination.

As a matter of Commission practice and as a matter of due process, late-filed exhibits are accepted subject to timely objection by a party. MCI has raised substantial allegations of flaws in Late-filed Exhibit No. 12. Accordingly, we find that MCI's objection should be sustained. Accordingly, Late-filed Exhibit No. 12 shall not be admitted to the record in this proceeding.

J. Implementation

In view of our decisions set forth above, it is necessary that the appropriate tariff revisions be filed to reflect the actions we have taken. Accordingly, Southern Bell and United shall file revisions to their respective access tariffs within two weeks of the date of this Order reflecting the following:

1) Increase the LS1 rate level to be equal to the LS2 rate level;
2) Eliminate the provision that allows PBX trunk rates to be offered to resellers and eliminate the pro rate credit;
3) Modify the application of the discount for less than equal access to an equal access capable basis;
4) Eliminate the discount on FGB terminating access; and

5) Adjust the BHMOC rate for each LEC to achieve revenue neutrality with respect to items number 1, 3 and 4 above.

The tariff revisions shall reflect an effective date for the rate changes of October 1, 1990. Concurrently with the revisions to the access tariffs, each LEC should calculate the revenue changes it will experience as a result of changing the calculation of the phase out of the discount from equal access converted to equal access capable, discontinuing the discount on FGB terminating access charges and increasing the LS_1 rate to the LS_2 level. These calculations should also be filed with the Commission within two weeks of the date of this Order.

Based on the foregoing, it is

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

ORDERED that toll transmission monopoly areas are retained for the reasons and for the time period set forth in the body of this Order. It is further

ORDERED that Equal Access Exchange Areas are retained as set forth in the body of this order. It is further

ORDERED that the local exchange companies shall retain the right to be the sole carrier of 0-, 0+ and 1+ intraLATA dialed calls. It is further

ORDERED that the phase-out of the discount for less than equal access shall be modified as set forth in the body of this Order. It is further

ORDERED that the differential between the LS1 and the LS2 access rates shall be eliminated as set forth in the body of this Order. It is further

ORDERED that the bypass restriction shall be retained as set forth in the body of this Order. It is further

ORDERED that FGA access charges shall be implemented for resellers as set forth in the body of this Order. It is further

ORDERED that the WATS pro-rate credit shall be eliminated as set forth in the body of this order. It is further

ORDERED that time of day discounts on terminating access charges shall not be implemented as set forth in the body of this Order. It is further

ORDERED that an aggregate access charge test is adopted for competitive pricing of LEC toll services as set forth in the body of this Order. It is further

ORDERED that the objection to Late-filed Exhibit No. 12 is sustained and the Exhibit shall not be admitted to the record in this proceeding as set forth in the body of this Order. It is further

ORDERED that tariffs implementing our decisions herein shall be filed as set forth in the body of this Order.

By ORDER of the Florida Public Service Commission, this 1st day of OCTOBER, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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