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JAMES C. FALVEY  
ATTORNEY-AT-LAW

DIRECT DIAL  
(202) 424-7706

April 4, 1996

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**VIA FEDERAL EXPRESS**

Ms. Blanca S. Bayo  
Director, Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

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APR - 5 1996

Re: Docket No. 950984-TP

FPSC-RECORDS/REPORTING

Dear Ms. Bayo:

Please find enclosed for filing in connection with the above-referenced docket the original and 15 copies of the **Posthearing Brief and Statement of Issues and Positions of Metropolitan Fiber Systems of Florida, Inc.** Also enclosed is a double-sided high-density disk using the Windows 3.11 operating system and WordPerfect 5.1 software which contains a copy of the enclosed document.

Also enclosed is an additional copy of the Posthearing Brief. Please date stamp and return this copy in the enclosed self-addressed stamped envelope. Thank you, in advance, for your attention to this matter. If you have any questions, please do not hesitate to contact me at the above telephone number.

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Very truly yours,

*James C. Falvey*  
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04008 APR-5 1996

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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

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**Resolution of Petition(s) to establish  
nondiscriminatory rates, terms, and  
conditions for resale involving local  
exchange companies and alternative  
local exchange companies pursuant  
to Section 364.161, Florida Statutes** )  
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**Docket No. 950984-TP**

**Filed: April 5, 1996**

**POSTHEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS OF  
METROPOLITAN FIBER SYSTEMS OF FLORIDA, INC.  
(Petitions filed Against Sprint and GTE)**

Pursuant to Rule 25-22.056, Florida Administrative Code, Metropolitan Fiber Systems of Florida, Inc. ("MFS"), by its undersigned attorneys, hereby files this posthearing brief and statement of issues and positions in the Commission's proceeding concerning the unbundling of network features, functions and capabilities.

**Background**

This Commission has before it the historic task of implementing switched local exchange competition in the State of Florida. A critical component of local competition will be unbundling the features, functions, and capabilities of the local exchange network so that the new entrant can determine whether economic efficiency requires that various features be obtained from GTE Florida, Inc. ("GTE") and Sprint United Telephone Company, Inc. and Sprint Centel Telephone Company, Inc. ("Sprint") or be provided by the ALEC. The Commission has ordered that BellSouth unbundle two-wire and four-wire analog and digital local loops pursuant to the petitions of Metropolitan Fiber Systems of Florida, Inc. ("MFS")

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and MCI Metro Access Transmission Services, Inc. *In re: Resolution of petition(s) to establish nondiscriminatory rates, terms and conditions for resale involving local exchange companies and alternative local exchange companies pursuant to Section 364.161, Florida Statutes.*<sup>1/</sup>

If unbundling of features, functions, and capabilities is not properly accomplished in this docket, the development of new facilities-based competition will be significantly impaired, and the benefits of competition will not be shared throughout Florida. The need for unbundling to enable the development of facilities-based competition was fully understood by the Legislature and expressly provided for. Florida statute states that each LEC shall, upon request, “unbundle all of its network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider requesting such features, functions or capabilities for resale to the extent technically and economically feasible.” Fla. Stat. § 364.161(1).

While the Legislature properly provided for the unbundling of *all* features, functions, and capabilities to the extent technically and economically feasible, there are specific elements of the network that are absolutely essential to the development of competition. The Legislature recognized this and specifically identified several such features. There is no doubt that the most essential feature for the development of competition is access to GTE and

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<sup>1/</sup> *In Re: Resolution of petition(s) to establish nondiscriminatory rates, terms and conditions for resale involving local exchange companies and alternative local exchange companies pursuant to Section 364.161, Florida Statutes, Docket No. 950984-TP, Order No. PSC-96-0444-FOF-TP (issued March 29, 1996) [hereinafter “BellSouth Unbundling Order”].*

Sprint's local loop. Accordingly, the statute specifically refers to "unbundled local loops."

*Id.*

The unbundling of the local loop is essential because GTE and Sprint continue to have monopoly control over the "last mile" of the telecommunications network. This monopoly results from the fact that this loop network consists mostly of transmission facilities carrying small volumes of traffic, spread over wide geographic areas. Devine, Tr. at 79. This infrastructure was paid for by GTE and Sprint customers over the course of the century and constructed during that period with the benefit of an exclusive monopoly franchise, access to rights-of-way, unique tax treatment, access to buildings on an unpaid basis, and protection against competition. No new entrant can today construct a ubiquitous network on an economically viable basis, nor would the duplication of this entire network be efficient. Given this reality, the "last mile" loop network, is an essential bottleneck facility for any potential provider of competitive local exchange service. The U.S. Congress and the President of the United States recognized the importance of loop unbundling to local exchange competition and, therefore, required it in the Telecommunications Act of 1996.<sup>2/</sup> Based on this rationale, local loops and the other elements requested by MFS must be unbundled and made separately available.

For the same reasons, the appropriate price for these elements is LRIC. As MCI witness Cornell explained, a price for loops greater than LRIC would create a price squeeze for new entrants, would introduce a contribution element into the costs borne by the new entrant, and

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<sup>2/</sup> Public Law 104-104 (February 8, 1996).

would prevent Florida consumers from experiencing the lowest rates that competition would otherwise offer. Cornell, Tr. at 234. In order to avoid setting artificially high price floors and to permit the competitive entry of new entrants, the Commission should require unbundled elements to be at their LRIC.

### **Summary of Position**

Pursuant to the process established by statute, MFS requested in July 1995 that GTE and Sprint unbundle: 1) local loops, providing the transmission path between the customer and the local exchange central office (specifically, 2-wire and 4-wire analog and digital loops); 2) the port element, which represents the interface to the switch, and the capability to originate and terminate calls (specifically, 2-wire and 4-wire analog and digital ports); and 3) its digital loop carrier systems. Devine, Tr. at 76-77; MFS requires this level of unbundling to ensure that the quality of links MFS obtains from GTE and Sprint is equal to the quality of links that GTE and Sprint provide directly to end users and so that MFS can use the links with the same level of efficiency. The Commission recognized those needs in its consideration of MFS' BellSouth unbundling petition and ordered BellSouth to provide these elements on an unbundled basis. BellSouth Unbundling order, at p. 11. Sprint has not distinguished its position from that of BellSouth in any relevant manner. Accordingly, The Commission should adopt the same requirements for unbundling for Sprint as were adopted for BellSouth.

MFS and GTE have agreed that GTE will provide the essential elements requested by MFS on an unbundled basis. GTE will provide to MFS unbundled access and interconnection to two-wire and four-wire analog and digital loops and ports. GTE will also provide to MFS the capability to perform loop concentration through collocation of MFS' own digital loop

carriers (“DLCs”). See Exh. 4. MFS was unable to come to a similar agreement with Sprint. Under Florida statute, Sprint is required to unbundle network elements to the extent “technically and economically feasible.” All of the elements requested by MFS are admittedly utilized by Sprint in its local exchange network. As the agreement with GTE demonstrates and as the Commission found in the BellSouth proceeding, it is technically and economically feasible to unbundle these elements.<sup>3/</sup> As such, there is no question that Sprint should be required to provide them on an unbundled basis. Sprint’s approach of selectively choosing the network elements it will unbundle would deprive ALECs of access to the level of technology necessary to provide services that will be competitive with Sprint’s current service offerings. This approach was never contemplated by the Legislature and fundamentally contravenes the Legislature’s intent to encourage the development of local exchange competition.

In addition to the Florida Commission, several other states, including New York, Connecticut, Illinois, Michigan, Oregon, Washington, and Iowa, have already ordered such loop unbundling and the MFS/Pacific Bell agreement in California provides for loop unbundling, as well. See Exh. 2. In fact, MFS believes it is the largest user of unbundled loops in the country, with in excess of ten thousand loops currently in use in New York. Devine, Tr. at 22-21 and 68-69. There can therefore be no question as to the technical and economic feasibility of the unbundling requested by MFS.

In order to achieve the Legislature’s desired goal, loops must not only be offered separately but must also be priced at the appropriate level to ensure that ALECs are not

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<sup>3/</sup> BellSouth Unbundling Order, at p. 8.

subject to a price squeeze and that demand for ALEC services is not artificially depressed. MFS recommends that GTE and Sprint's Long Run Incremental Cost ("LRIC") should serve as the target price and cap for Sprint and GTE's unbundled loops. Devine, Tr. at 41-43 and 89-90. While the cost studies submitted by GTE and Sprint were already wholly inadequate, until adequate cost studies can be performed, reviewed, and evaluated, MFS urges the Commission to set interim rates for unbundled loops at the "LRIC" costs provided by Sprint and GTE for high capacity business loops. Sprint and GTE should also be ordered by the Commission to perform true LRIC cost studies for each component of the local exchange access line, including the link, cross-connect,<sup>4/</sup> and local usage elements.<sup>5/</sup> To ensure that a price squeeze cannot be imposed, the Commission should also adopt additional pricing principles to ensure that the prices for the unbundled bottleneck dial tone line components are derived from the existing access line rates but do not include joint and common costs, overhead costs or contribution. Specifically, the bottleneck loop and cross-connect elements should be priced at LRIC. The port element, which is not a bottleneck, should be priced at the bundled retail rate minus the LRIC of the loop and the LRIC of the cross-connect.

Both GTE and Sprint's response to MFS' request was totally inadequate. Sprint has proposed that MFS obtain unbundled loops at the rate a private line or special access channel is presently offered in Sprint's tariff. Poag, Tr. at 516-517. This is exactly the approach

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<sup>4/</sup> The cross-connect is the wiring between the Main Distribution Frame ("MDF") and ALEC-collocated equipment.

<sup>5/</sup> This docket should remain open so that these cost studies can be filed and analyzed in a contested proceeding.

proposed by BellSouth and rejected by the Commission. BellSouth Unbundling Order, at p. 7. As the Commission recognized in its BellSouth Unbundling Order, due to the significant differences in technical standards and practices, providing simple links at special access pricing would not only seriously overcharge ALECs for unbundled links, but would effectively foreclose MFS from the market. As the Commission also recognized in the BellSouth unbundling order, the Stipulation between BellSouth and several cable companies provides almost no guidance on the issue of loop unbundling. See BellSouth Unbundling Order, at p. 11. Critically, the pricing agreed to in the Stipulation was special access pricing which the Commission found would create a price squeeze. BellSouth Unbundling Order, at p. 7. Similarly, the contribution element GTE and Sprint propose in their rates for unbundled network elements would unduly burden ALEC with rates in excess of costs and create the anticompetitive price squeeze that the Commission has committed to prevent.

#### **Argument on Specific Issues**

**Issue 1: What elements should be made available by Sprint and GTE to MFS on an unbundled basis (e.g., link elements, port elements, loop concentration, loop transport)?**

**Summary of Position: \*\*\* MFS and GTE have reached agreement on this issue. Exh. 4. With respect to Sprint, MFS seeks the same level of unbundling agreed to with GTE, and that level required of BellSouth in the BellSouth Unbundling Order, namely unbundled access and interconnection to two-wire and four-wire analog and digital loops and ports and the capability to perform loop concentration.**



**Discussion:** Pursuant to Section 364.161, MFS requested last July that Sprint unbundle certain network elements, including loops and ports, and loop concentration. Devine, Tr. at 76. MFS will first address the unbundling of Sprint local loops and ports, and then the unbundling of Sprint digital loop carrier systems which perform the loop concentration function.

**A. The Commission Should Order the Unbundling of Local Loops and Ports As It Did in the BellSouth Unbundling Order.**

The network access line portion of local exchange service is comprised of two key components: the loop, or "link," which provides the transmission path between the customer and the local exchange central office, and the "port," which represents the interface to the switch, and the capability to originate and terminate calls. The unbundling of the local loop is critical to the development of local exchange competition in Florida. The Legislature recognized the critical significance of loop unbundling by specifically referencing "unbundled local loops" in Section 364.161(1) which requires network unbundling.

MFS has requested that Sprint unbundle all of its exchange services into two separate packages: the link element plus cross-connect element and the port element plus cross-connect element. Devine, Tr. at 76 and Exh. 5. MFS requests both 2-wire and 4-wire analog and digital loops and ports. *Id.* As discussed below, the 4-wire analog and digital elements provide a level of transmission sufficient to satisfy sophisticated customers.<sup>6/</sup> A diagram of the

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<sup>6/</sup> Specifically, MFS seeks unbundled access and interconnection to the following forms of unbundled links:

- (1) 2-wire and 4-wire analog voice grade, also known as a "simple" link, which is  
(continued...)

requested unbundled elements is included in the record. See Exh. 5. In order for MFS to efficiently offer telephone services to end users, Sprint must unbundle and separately price and offer these loops and ports so that MFS will be able to obtain and interconnect to whichever of these unbundled elements MFS requires and to combine the Sprint-provided elements with facilities and services that MFS provides itself. The Commission in its BellSouth Unbundling Order fully agreed with MFS' position finding such unbundling to be technically and economically feasible. BellSouth Unbundling Order, at p. 8. The same request was made of Sprint and GTE. Devine, Tr. at 76-77 and Exh. 4. GTE voluntarily agreed to this unbundling. See Exh. 4. Sprint has offered no basis for concluding that in this instance MFS' request is either technically or economically infeasible. Consequently, the Commission should

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<sup>6/</sup> (...continued)

simply a path for voice-grade service from an end user's premises to the central office;

- (2) 2-wire ISDN digital grade; and
- (3) 4-wire DS-1 digital grade.

MFS also requests that the following forms of unbundled ports be made available:

- (1) 2-wire and 4-wire analog line;
- (2) 2-wire ISDN digital line;
- (3) 2-wire analog DID trunk;
- (4) 4-wire DS-1 digital DID trunk; and
- (5) 4-wire ISDN DS-1 digital trunk.

Devine, Tr. at 81.

require Sprint to fulfill MFS' request, as it has ordered BellSouth to do, and as GTE has voluntarily agreed to do.<sup>21</sup>

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<sup>21</sup> At least seven states have already ordered voice grade local loop unbundling: New York, Illinois, Michigan, Iowa, Maryland, Washington, and Connecticut. *Proceeding on Motion of the Commission Regarding Comparably Efficient Interconnection Arrangements for Residential and Business Links*, 152 PUR4th 193, 194 (NY PSC 1994); *In the matter of the application of CITY SIGNAL, INC. for an order establishing and approving interconnection arrangements with Michigan Bell Telephone Company*, Case No. U-10647, Opinion and Order at 56, 57 (MI PSC, February 23, 1995); *Illinois Bell Telephone Company, Proposed Introduction of a Trial of Ameritech's Customers First Plan in Illinois*, Docket Nos. 94-0096, et al., at 48 (Ill. Commerce Comm'n, April 7, 1995); *In re: McLeod Telemanagement, Inc.*, TCU-94-4 (Iowa Utilities Board, March 31, 1995); *In Re: Application of MFS Intelenet of Maryland, Inc.*, Case No. 8584, Phase II, Order No. 72348 at ¶¶ 37-39, mimeo (issued December 28, 1995); *Washington Utilities and Transportation Comm'n v. U S West Communications, Inc.*, Dkt. No. UT-9414, Fourth Supplemental Order Rejecting Tariff Filings and Ordering Refiling, Granting Complaints, In Part, at 47-53 (Wash. UTC, Oct. 31, 1995). *DPUC Investigation Into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network*, Docket No. 94-10-02, Order (Conn. D.P.U.C., Sept. 22, 1995).

Four-wire and digital loop unbundling, agreed to by GTE and ordered of BellSouth, is possible, and is in fact taking place today. Sprint has not offered one scintilla of evidence to reach a conclusion different than that reached by the Commission in the BellSouth Unbundling Order. Commissions and LECs in other states have appropriately extended unbundling beyond two-wire analog loops and ports. In Michigan, Ameritech offers five types of analog loops, including four-wire loops, and one digital loop. *See In the Matter on the Commission's Own Motion, to Establish Permanent Interconnection Arrangements Between Basic Local Exchange Service Providers*, Direct Testimony of William DeFrance (Ameritech Michigan), Case No. U-10860, Tr. at 325 (filed July 24, 1995). In Illinois, similarly, Ameritech offers several four-wire analog loops as well as digital loops. *See Ameritech Illinois Commerce Commission Tariff No. 5, Part 2, Section 26*. In Connecticut, SNET has stipulated to provide voice grade loops and ports, but also 2-wire ISDN digital grade loops, 4-wire DS-1 digital grade loops, 2-wire ISDN digital line side ports, and 4-wire digital trunk side/DID. *DPUC Investigation Into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network*, Decision, attached Stipulation at 1-2 (Sept. 22, 1995). In California, Pacific Bell has agreed to provide, in addition to 2-wire analog loops, 2-wire ISDN digital grade loops.

Requiring Sprint to provide the full range of loop and port options is clearly justified on technical and economic grounds,<sup>8/</sup> and it is also justified from a policy perspective to the extent that it is consistent with the Commission's and the Legislature's goal of implementing widespread competition. In order for ALECs to offer advanced network services such as ISDN to customers who are not yet located along an ALEC's network, ALECs must be able to utilize both two- and four-wire connections in analog or digital format. Devine, Tr. at 102-103. See also BellSouth Unbundling Order, at p. 8. For a large percentage of the business market, key systems and private branch exchanges ("PBXs") are commonplace. *This customer equipment almost always requires a four-wire connection.* Sprint will be able to continue to offer such sophisticated services without competition and Sprint's monopoly -- particularly with respect to the most sophisticated business users -- will be preserved. Accordingly, MFS strongly urges the Commission, as it did in the BellSouth Unbundling Order, to require Sprint to offer both two- and four-wire, as well as analog and digital loops and ports. Failing to order the unbundling of the loops and ports necessary for the complete line of analog and digital connection service offerings, would result in the Commission undermining the Legislature's unbundling policies, and would severely limit the development of competition in Sprint territory.

Sprint has argued that it requires more time to consider requests other than the unbundling of local loops. Khazraee, Tr. at 499-501. This delay, however, is in derogation of the express requirements of the statute. The statute set out a precise timetable for Sprint to

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<sup>8/</sup> It should be noted that Section 251(C)(3) of the Federal Telecommunications Act of 1996 requires finding that such unbundling is only *technically* feasible.

respond to unbundling requests (60 days) and a limited amount of time for the Commission to rule on petitions from ALECs (120 days) when negotiations fail. Fla. Stat. 364.161(1).<sup>2/</sup> Sprint decidedly is not permitted an infinite amount of time to study unbundling requests, to make requests for further information from ALECs, or, as it admittedly did, to focus on some requests and not on others. Given Sprint's obvious reluctance to engage in the unbundling of its network, the Commission should order the unbundling of all the requested loop and port elements on a set timetable to ensure that unbundling takes place on a timely basis.

**B. The Commission Should Order the Unbundling of Sprint Loop Concentration**

MFS, in this case as it had in its BellSouth petition, also requested the ability to use its own digital loop carriers ("DLCs") through collocation to provide loop concentration or, alternatively, to purchase loop concentration from Sprint. Loop concentration is a multiplexing function utilized by ALECS in several states on a collocated basis that permits a carrier to concentrate the traffic from a number of loops onto a single channel. When an ALEC purchases a number of unbundled loops terminating at the LEC central office, it cannot afford to transport each loop on its own individual channel all the way back to its switch. Loop concentration permits an ALEC to combine the loops for more economical transport to the switch. Sprint, like BellSouth, has declined to provide loop concentration. Khazraee, Tr. at 501-502. Again, no reason has been given to demonstrate why the Commission should not

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<sup>2/</sup> Sprint might argue that it is not "economically feasible" for Sprint to address these unbundling requests simultaneously. This was not the intent of the statute when it took into account "economic feasibility." This is certainly not a compelling argument for a corporation of the size of Sprint, particularly when all of the requested unbundling has been performed by other LECs across the country.

require Sprint to offer loop concentration, just as it ordered BellSouth to do in the BellSouth Unbundling Order. BellSouth Unbundling Order, at p. 10.

MFS seeks the ability to collocate its own digital loop carriers at its current Sprint virtual collocation arrangements, or seeks unbundled access and interconnection to the Sprint digital loop carrier ("DLC") systems which provide loop concentration. Devine, Tr. at 82-83.<sup>10/</sup> To the extent these or similar systems are employed in Sprint's network, MFS should be allowed to interconnect to the unbundled subelements of these systems, where technically feasible and where capacity allows. To minimize delays while providing sufficient information on sub-loop unbundling, MFS urges the Commission to require Sprint to participate in the development of a comprehensive proposal for sub-loop unbundling as it required of BellSouth and MFS in the BellSouth Unbundling Order. This unbundling is necessary in order to ensure that the efficiency of links MFS obtains from Sprint is equal to the efficiency of links that Sprint uses. Devine, Tr. at 83.

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<sup>10/</sup> These DLC systems typically involve three main sub-elements:

- (1) a digital transport distribution facility operating at 1.544 Mbps ("DS1"), or multiples thereof, extending from the LEC end office wire center to a point somewhere in the LEC network (*e.g.*, a manhole, pedestal, or even a telephone closet in a large building);
- (2) digital loop carrier terminal equipment housed in the manhole, pedestal, telephone closet, etc., at which the DS1 terminates and which derives from the DS1 facility 24 or more voice grade telephonic channels; and
- (3) copper pair feeder/drop facilities (lines) extending from the DLC terminal to a demarcation/connector block at various customers' premises.

*See also* MCI description of loop concentration, Cornell, Tr. at 230-232.

Again, Florida statute explicitly requires Sprint to perform this unbundling upon request. Pursuant to the statute, each LEC shall, upon request, “unbundle all of its network features, functions, and capabilities, including access to signaling *databases, systems and routing processes*, and offer them to any other telecommunications provider requesting such features, functions or capabilities for resale to the extent technically and economically feasible.” Fla. Stat. § 364.161(1) (emphasis added).

Moreover, MFS has requested the unbundling of DLC *systems* in order to permit the more efficient *routing* of its traffic. As the Commission recognized in the BellSouth Unbundling Order, loop concentration will permit MFS to utilize the same concentration efficiencies Sprint employs within its network. If MFS is unable to connect to either MFS-*collocated* or Sprint DLC systems, MFS will be burdened with a requirement to install significant amounts of additional equipment that Sprint can avoid through the use of DLCs. For example, MFS will have to install two multiplexers, one at the wire center and a second at MFS’ switch site to connect between MFS’ DLC<sup>11/</sup> and its switch. By imposing this needless architecture on MFS and other ALECs, Sprint creates additional expense for new entrant competitors and severely restricts its ability to test its circuits.

Again, there is no question whatsoever as to the technical and economic feasibility of Sprint unbundling its DLC systems and permitting their collocation. Once again, MFS is currently utilizing unbundled DLCs in collocation arrangements with LECs in numerous other states. In fact, the collocation of DLCs has not even been an issue in these states because

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<sup>11/</sup> MFS will have to locate its DLC at its own switch site if it cannot collocate it or obtain access to Sprint’s DLCs.

LECs have willingly agreed to collocate them as has GTE in Florida. A number of LECs currently permit the collocation of DLCs in the states in which MFS is currently operating. These include GTE in Florida; NYNEX in New York and Massachusetts; SNET in Connecticut; Rochester Telephone in New York; Bell Atlantic in Maryland; Ameritech in Illinois; and Pacific Bell in California.<sup>12/</sup> The availability of interconnection to Sprint's form of DLC is also noncontroversial. GTE has voluntarily agreed to this. The co-carrier agreement between MFS and Pacific Bell provides for the possibility of purchasing "multiplexing, if necessary." Unbundling collocation arrangements are also referenced in the Connecticut Stipulation, including the option to purchase "SNET provided multiplexing." *DPUC Investigation Into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network*, Decision, attached Stipulation at 4 (Sept. 22, 1995). In both of these arrangements, LECs, like LECs in other states, permit the collocation of DLCs. In its refusal to permit the collocation of DLCs, Sprint is simply out of step with the common practices of LECs around the country, with the Commission's BellSouth Unbundling Order, and with the voluntary agreement between MFS and GTE.

As the Commission noted in the BellSouth Unbundling Order, because a DLC is clearly a multiplexer rather than a switch, the Commission should have no hesitation in requiring that ALECs be permitted to collocate DLCs at Sprint collocation sites. BellSouth Unbundling Order, at p. 11. If Sprint were required to provide access to its own DLC systems, Sprint will be compensated—by charging multiplexing rates or potentially through a

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<sup>12/</sup> Collocation arrangements in place with Ameritech and Bell Atlantic are, like those of Sprint, virtual collocation arrangements.



lease or a sale-leaseback arrangement that is common in collocation arrangements, for the use of DLCs. This purchase of multiplexing capability from Sprint would be effected just as it currently takes place in Connecticut, California, and other states, as discussed above and as it will take place between MFS and BellSouth and MFS and GTE. DLC systems could effectively be shared between Sprint and ALECs, so “new hardware” would not necessarily be required. Devine, Tr. at 99. Moreover, if new purchases of digital loop carrier systems are required to meet increasing demand, this is a beneficial result of implementing competition that will benefit all end users. The use of loop concentration by ALECs benefits both Sprint and end users alike, by permitting the most efficient provisioning of the local exchange network. Devine, Tr. at 98-99. Again, none of this need be an issue if MFS is permitted to collocate its own DLCs.

2. **Issue:** What are the appropriate technical arrangements for the provision of such unbundled elements?

**Summary of Position:** \*\*\* MFS and GTE have reached agreement on this issue. See Exh. 4. As to Sprint, interconnection should be achieved via collocation arrangements MFS will maintain at the wire center at which the unbundled elements are resident. MFS also must be able to install digital loop carriers at Sprint virtual collocation sites or obtain access to Sprint’s DLC equivalent.

**Discussion:** Economic development and expanded competition in the provision of local exchange services will be promoted only if MFS can interconnect to unbundled elements of the local loop. Interconnection should be achieved via collocation arrangements MFS will maintain at the wire center at which the unbundled elements are resident. Devine, Tr. at 86.

At MFS's discretion, each link or port element should be delivered to the MFS collocation arrangement over an individual 2-wire or 4-wire hand-off. It appears that loop and port interconnection through MFS collocation arrangements is not contested by Sprint.

In addition, Sprint should permit MFS to collocate digital loop carrier systems and associated equipment in conjunction with collocation arrangements MFS maintains at Sprint's wire center, for the purpose of interconnecting to unbundled link elements. If DLC unbundling is achieved through interconnection to Sprint DLCs, MFS would seek to obtain as one element, the DS1-rate digital distribution facility and DLC terminal, and to obtain as discrete incremental elements individual channels on voice-grade feeder/drop facilities. MFS would expect to interconnect to the DS1 distribution facility at the Sprint end office (via expanded interconnection arrangements), but would also consider arrangements pursuant to which it could interconnect at other points. *Id.*<sup>13/</sup> (Other technical arrangements for digital loop concentration are indicated in Issue 1.)

**3. Issue: What are the appropriate financial arrangements for each such unbundled element?**

**Summary of Position:** \*\*\* Sprint and GTE's LRICs are the appropriate prices for unbundled loops, ports and other elements. Furthermore: 1) the sum of the prices of the unbundled rate elements must be no greater than the price of the bundled dial-tone line; and

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<sup>13/</sup> The generic interface for the DLC-type arrangements is described in Bellcore TR-TSY-000008, *Digital Interface Between the SLC-96 Digital Loop Carrier System and Local Digital Switch*, and TR-TSY-000303, *Integrated Digital Loop Carrier ("IDLC") Requirements, Objectives and Interface* and MFS' Ericsson switch is compatible with these standards. Devine, Tr. at 83.

2) the bottleneck loop and cross-connect elements should be priced at the price of the bundled dial tone line minus the loop and cross-connect LRICs.

**Discussion:** Sprint and GTE propose to price voice grade unbundled loops at such excessive rates that MFS could not successfully compete with Sprint and GTE by utilizing unbundled Sprint and GTE local loops to provide expanded local exchange service. Unbundling at these prices entirely defeats the purpose of unbundling. The loops must be priced in a manner that allows carriers to offer end users a competitively priced service. In order to discourage Sprint and GTE from implementing anticompetitive pricing policies that would artificially depress the demand for a competitor's service, the Commission should adopt pricing guidelines for unbundled loops that are premised on GTE and Sprint's LRIC in providing the service. Devine, Tr. at 41-43 and 89-90.

Absent mitigating circumstances, Sprint and GTE's LRIC should serve as the target price and cap for unbundled loops. LRIC is the direct economic cost of a given facility, including cost of capital, and represents the cost that Sprint and GTE would otherwise have avoided if they had not installed the relevant increment of plant -- *i.e.*, local loops in a given region. Thus, by providing a loop to a competitor, GTE and Sprint would be allowed to recover no less than the full cost they would otherwise have avoided had they not built the increment of plant that they have made available, through loop unbundling, for use by a competitor in serving the customer to whose premises the loop extends. Cornell, Tr. at 234-235.

LRIC pricing of unbundled elements is essential to the development of local exchange competition. As MCI witness Cornell explained, a price for loops greater than LRIC would

create a price squeeze for new entrants, would introduce a contribution element into the costs borne by the new entrant, and would prevent Florida consumers from experiencing the lowest rates that competition could otherwise offer. Cornell, Tr. at 234. In order to avoid setting artificially high price floors and to permit the competitive entry of new entrants, the Commission should require unbundled elements to be priced at their LRIC.

In order to calculate LRIC-capped rates for unbundled loops, Sprint and GTE should be required to perform long-run incremental cost studies for each component of the local exchange access line, including the link, port, cross-connect, and local usage elements. Devine, Tr. at 41-43 and 89-90. The Commission recognized in the BellSouth Unbundling Order that the performance of cost studies would delay the introduction of local exchange competition if interim rates were not set. BellSouth Unbundling Order, at p. 16. The interim rates for unbundled Sprint and GTE loops should be set at the confidential capacity-sensitive "LRIC" of GTE's loops referred to generally during the hearing. See Exh. 13 and Exh. 25. These rates are more in line with the cost-based loop rates established by other State Commissions, and agreed to by LECs in other states. See MFS Late-Filed Deposition Exhibits 1 and 2 to Deposition of Timothy T. Devine (Feb. 27, 1996). However, upon cross-examination during the hearings it became clear that GTE had erroneously included extra "costs" in its "LRIC" studies. Trimble, Tr. at 408-413 (examination by Commissioner Deason). These extra costs, such as expenses for billing and collection, customer contact and marketing and spare capacity inventory should be excluded from the "LRIC" rates provided by GTE. These revised LRIC rates are those properly used for interim purposes. Sprint failed to provide capacity-sensitive rates. As such, until Sprint can develop distance- and density-

sensitive cost studies for loops, it should be required to use GTE's rates as its own interim rates. GTE has provided the only information available to the Commission to determine these costs. Further, setting *interim* rates for unbundled network elements at the GTE "LRIC" for loops will provide the incentive for Sprint to expeditiously complete its cost studies. The Commission should then order Sprint and GTE to provide and thus should use appropriately conducted cost studies of Sprint and GTE to establish permanent rates. The Commission should, however, leave this docket open in order to conduct a contested proceeding regarding the validity of the cost studies it orders. The Commission should also keep this docket open because, pursuant to Florida statute, ALECs may need to request the unbundling of additional elements in the future.

Even LRIC pricing will be futile unless it is applied consistently in setting the price both for the unbundled services provided to co-carriers and the bundled services offered by Sprint and GTE to their own end users. New entrants should not be subject to discriminatory charges that GTE or Sprint do not apply to their own end users. Devine, Tr. at 42 and 90. Therefore, the Commission should adopt two additional pricing guidelines to prevent such discrimination:

- First, the sum of the prices of the unbundled rate elements (link, port, and cross-connect) must be no greater than the price of the bundled dial tone line.
- Second, the loop and cross-connect rates should be set at LRIC. The port rate should be the bundled retail rate minus the LRIC of the loop and the LRIC of the cross-connect.

These guidelines would require that the prices for the unbundled dial tone line components be no greater than the dial tone line rates established in GTE and Sprint's effective tariffs. As long as those rates cover LRIC, the unbundled component prices determined by these guidelines would also cover LRIC. Devine, Tr. at 43 and 91. Moreover, the second rule requires that the bottleneck loop and cross-connect elements are priced at LRIC, while the port, which is not a bottleneck element, Cornell, Tr. at 291-292, is priced such that the sum of unbundled elements will equal the dial tone line rate.

In the BellSouth Unbundling Order, the Commission directed BellSouth to file cost studies to be used in setting long-term rates for unbundled network elements. BellSouth Unbundling Order, at p. 15. Cost-based pricing for unbundled elements has also been endorsed by the Commission in other contexts and by other state commissions, and other parties to this docket. Cornell, Tr. at 234; Guedel, Tr. at 310. BellSouth Unbundling Order, at p. 15. The Commission, in its number portability decision, found that the legislative mandate encouraging the development of competition is fulfilled by setting cost-based rates and requiring cost studies of BellSouth to confirm that rates are set at cost. *In re Investigation into Temporary Local Telephone Number Portability Solution to Implement Competition in Local Exchange Markets*, Docket No. 950737-TP, Order No. PSC-95-1604-FOF-TP, at 17 (Dec. 28, 1995).

Moreover, several other states have adopted cost-based rates for unbundled elements. See, e.g., *In the Matter of the Application of City Signal, Inc.*, Case No. U-10647, Opinion and Order at 35 (Mich. P.S.C., Feb. 23, 1995); *Washington Utilities and Transportation Commission v. U S West*, Docket No. UT-941464, Fourth Supplemental Order Rejecting

Tariff Filings and Ordering Refiling; Granting Complaints in Part, at 52 (W.U.T.C., Oct. 31, 1995).

Finally, the Telecommunications Act of 1996 requires incumbent LECs, like Sprint and GTE, to offer unbundled network elements at cost-based rates.<sup>14/</sup> Thus, the Federal Act and the Florida Statutes are consistent by supporting unbundled bottleneck network elements priced at LRIC.

As stated above, MFS believes that the Commission should adopt, on an interim basis, the confidential distance-sensitive rates provided by GTE excluding those “costs” mentioned above not appropriately included in LRIC such as billing and collection, customer contact and marketing expenses and volume insensitive expenses such as spare capacity inventory.<sup>15/</sup> Unlike other rates cited, these rates account for the fact that loop costs are distance-sensitive and density-sensitive. Sprint, in these rates and at the hearing, acknowledges the distance-sensitivity of loop rates. Poag, Tr. at 540 and 554. See Exh. 25. Any proposed rate that does not take into account this distance-sensitivity, and more importantly, does not take into account line density, is fundamentally flawed and could severely impair facilities-based local exchange competition. Furthermore, the adoption of distance- and density-sensitive rates is

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<sup>14/</sup> See Telecommunications Act of 1996, §§ 251(C)(3) and 252(d)(1)(A) (“Determinations by a State commission of . . . the just and reasonable rate for network elements . . . shall be based on the cost . . . of providing the . . . network element.”)

<sup>15/</sup> Due to Sprint’s failure to provide distance- or capacity-sensitive rates, and in order to avoid further delay, the Commission should apply the revised GTE rates to Sprint on an interim basis.

the most accurate reflection of the underlying costs for these loops and therefore the most effective means of implementing the principle of cost-based rates.

Consistent with the BellSouth Unbundling Order, MFS urges the Commission to require Sprint and GTE to file cost studies that consider both the usage and cost characteristics of local exchange loops. MFS submits that rates eventually set by the Commission must: (1) recover the cost of providing the loop and (2) be developed using the usage or cost characteristics of the loop. The usage or cost sensitive characteristics of loop plant are length and density (*i.e.*, number of loops per square mile). Sprint and GTE cost studies mandated by the Commission should therefore account for both loop length and density in determining loop costs.<sup>16/</sup>

In order to price the loops on a usage sensitive basis, Sprint and GTE should establish price categories calculated on the cost of the average loop length and density by wire center. Based on its experience in other states, MFS would suggest three wire center categories. Category A would include wire centers from which loops of the shortest length and maximum density extend. Category B would include wire centers from which loops of medium length and medium density extend. Finally, Category C would include those wire centers from which loops of the longest length and lowest density extend (a category unlikely to be highly used by ALECs

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<sup>16/</sup> The Commission should also require that GTE and Sprint cost studies are broken down by each unbundled element (including the link, cross-connect, and local usage elements) and should conduct a contested proceeding to analyze those costs. The Commission similarly required BellSouth to break down its cost studies by each unbundled element, and there is no legitimate reason to require otherwise of Sprint and GTE. BellSouth Unbundling Order, at p. 15.



at the outset and the only category for which Sprint indicated that unbundling might be a problem.) Trimble, Tr. at 417-419.

Rates for loops in each wire center category would be the same and would be calculated based on the average long run incremental cost of the loops in that category. This pricing approach will ensure that the statutory requirement that unbundled loops be offered at rates reflective of their cost and usage characteristics is satisfied. LECs in other jurisdictions, including Ameritech Illinois, the Southern New England Telephone Company and Pacific Bell, have adopted similar pricing methodologies. Moreover, the Federal Communications Commission (“FCC”) endorsed such a pricing scheme when it authorized LECs offering collocation to implement zone density pricing for special access services. Zone density pricing allows LECs the opportunity to price their services in a manner that reflects the cost differences in providing service to major metropolitan business districts, smaller cities and suburban areas, and rural areas. *Expanded Interconnection with Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking*, 7 FCC Rcd 7369, 7454 (1992). Such cost differences are just as characteristic of unbundled loops.

Sprint’s proposal that loops be priced at special access rates would be the equivalent of not providing loops at all because ALECs will not be able to resell unbundled loops at those rates. The resulting price squeeze would make the use of unbundled loops completely unattractive to an economically national provider. Devine, Tr. at 93; Cornell, Tr. at 237. The Commission explicitly rejected this “special access tariff” to unbundled loop pricing in its BellSouth Unbundling Order and should similarly reject Sprint’s anticompetitive proposal in this proceeding.

Sprint claims that unbundled loops are currently available through Sprint's Access Services Special Access tariff. Khazraee, Tr. at 499. While there is not much physical difference between an unbundled link and a private line or special access channel, there are significant differences in technical standards as well as engineering and operational practices that render current tariffed special access services a completely unsatisfactory substitute for unbundled links. Devine, Tr. at 91-93. The major differences between these existing services and unbundled simple links are the additional performance parameters required for private line and special access services, beyond what is necessary to provide plain old telephone service ("POTS") ; and the methods used by LECs to install and provision the services. Currently, installation of a private line or special access channel typically requires special engineering by the LEC and therefore takes longer and costs more than installation of a POTS line. This special engineering begins with a line that would be suitable for POTS, but then adapts it to conform to specialized performance parameters. Because of these differences, the Sprint tariffed price for special access services is substantially greater than the LRIC for an unbundled loop. Devine, Tr. at 93. These differences are also reflected in the GTE/MFS-FL agreement which specifically excludes monitoring, testing, and maintenance identification responsibilities from the unbundled loop service provided by GTE, responsibilities that are included in special access service. Agreement at 22, § VIII A(3)(a). The Commission recognized the differences between Access Services and unbundled simple links in its BellSouth Unbundling Order. The same reasoning applies to Sprint's identical proposal.

As the Commission noted in the BellSouth Unbundling Order, the critical failure of special access pricing is that it will not permit economically viable competition through the

unbundling of local loops. To the extent that the Legislature has required unbundling where feasible to encourage the spread of competition, adopting special access pricing would defeat this policy goal. The price squeeze for residence loops would completely foreclose the profitable resale of such loops, and the price squeeze for business lines, particularly when combined with charges MFS will pay for number portability and other Sprint and GTE services, is also likely to completely erode any profit margin on these loops, as well. In addition to the loop, an ALEC will have to pay the cost of providing a number of other services, specifically switching, directory capabilities, 911 capabilities, signaling capability, billing and collection, operator services, etc. By the time an ALEC pays the cost to provide these services, it will most likely be caught in a price squeeze for both residence and business services.

The GTE proposal to recover contribution in rates for unbundled loops is also anticompetitive and unsupported.<sup>17/</sup> "Contribution" is often defined in the industry as the difference between the incremental cost of a service and the price charged for that service. Such charges force ALECs to recover from their customers not only the ALEC's own overhead costs, but also a portion of GTE's overhead costs. Devine, Tr. at 121. This effectively insulates GTE from the forces of competition. One of the most significant benefits of competition is that it forces all market participants, including GTE, to operate efficiently, resulting in lower rates for end users. If GTE receives contribution -- in effect, a subsidy

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<sup>17/</sup> GTE attempts to support this approach based on the dubious economic theory of essential component pricing. Duncan, Tr. at 453-456. No Commission in the United States considering local exchange competition has adopted this theory. Duncan, Tr. at 469-470.

from its new entrant competitors -- GTE's overhead costs will not be subjected to the full effects of competition that result from market pressures. Instead, current inefficiencies in GTE's network will become incorporated into GTE's price floor, locking in current inefficiencies in GTE's operations, despite the introduction of competition. Cornell, Tr. at 265. The Commission should therefore not require ALECs to provide contribution in unbundled loop rates because it would foreclose many of the potential benefits of competition.

The best means of ensuring that a price squeeze cannot be effected is by utilizing LRIC-based local loop rates. The Commission should not consider rates that would effect a price squeeze, when compared with the amount of revenue ALECs can expect to derive from basic service. The only available way to determine such rates in the interim is to adopt the distance-and density-sensitive rates referred to above, until acceptable LRIC cost studies are produced by Sprint and GTE. The cost studies of GTE were largely discredited under cross-examination. Contrary to the well-established definition of LRIC, GTE included in its "LRIC" studies expenses for, *inter alia*, billing and collection, customer contact and marketing, spare capacity inventory, and other volume insensitive costs. Trimble, Tr. at 408-413. Because these expenses are improperly included in GTE's "LRIC" studies, as recognized by Commissioner Deason, and because inclusion of these elements in a cost-based rate for unbundled loops would impose a price squeeze on new entrants, the Commission should exclude the improperly included costs from the GTE cost studies. These rates will at least make it possible for ALECs to begin to provide competitive service utilizing LEC local loops to business and residential customers while ensuring GTE and Sprint of the recovery of their costs.

**4. Issue: What arrangements, if any, are necessary to address other operational issues?**

**Summary of Position:** \*\*\* MFS and GTE have agreed to many operational issues, discussed below, and have agreed to negotiate remaining issues. With respect to Sprint, Sprint should apply all transport-based and switch-based features, grades-of-service, etc. which apply to bundled service to unbundled links as was required of BellSouth in the Commission's BellSouth Unbundling Order. Sprint and GTE should permit any customer to convert its bundled service to an MFS unbundled service with no penalties. Sprint should provide MFS with the appropriate billing and electronic file transfer arrangements.

**Discussion:** MFS believes that, to the extent possible, it is appropriate to address operational issues in advance. If basic operational details are not addressed, MFS' experience has demonstrated it will not be able to utilize unbundled loops on a timely basis. MFS has been negotiating with Sprint since July and these issues have not been resolved. Further, certain operational issues have yet to be resolved between MFS and GTE. It would therefore be appropriate for the Commission to address operational issues in this proceeding, as it did in the BellSouth proceeding. See BellSouth Unbundling Order, at p. 18.

As noted, MFS and GTE have agreed to many operational issues. See Exh. 4. GTE will apply all transport-based and switch-based features, grades-of-service, etc. which apply to bundled service to unbundled links. MFS and GTE did not agree, but MFS submits, that GTE should permit any customer to convert its bundled service to an MFS unbundled service with no penalties. GTE will provide MFS with the appropriate billing and electronic file transfer arrangements. Certain issues remain to be negotiated, and MFS and GTE have agreed to

negotiate them. However, the Commission should leave this portion of the docket open until these issues are fully resolved.

Sprint should be required to apply all transport-based features, functions, service attributes, grades-of-service, and install, maintenance and repair intervals which apply to bundled service to unbundled links. Likewise, Sprint should be required to apply all switch-based features, functions, service attributes, grades-of-service, and install, maintenance and repair intervals which apply to bundled service to unbundled ports. Devine, Tr. at 87.

Both Sprint and GTE should permit any customer to convert its bundled service to an unbundled service and assign such service to MFS, with no penalties, rollover, termination or conversion charges to MFS or the customer other than those actually incurred. Devine, Tr. at 115-116. Sprint and GTE should coordinate the installation of loops with the installation of interim number portability within one hour in order to minimize customer downtime. Sprint should also bill all unbundled facilities purchased by MFS (either directly or by previous assignment by a customer) on a single consolidated statement per wire center. Finally, Sprint should provide MFS with an appropriate on-line electronic file transfer arrangement by which MFS may place, verify and receive confirmation on orders for unbundled elements, and issue and track trouble-ticket and repair requests associated with unbundled elements. Devine, Tr. at 88.

Sprint states that these and other operational issues should be dealt with through negotiations, and that Sprint is willing to work in good faith with MFS to address its operational concerns. Khazraee, Tr. at 504. Sprint ignores the fact that despite negotiations since July, these operational arrangements have not been agreed to. The Commission should

neither encourage nor reward delay and should address these issues now. This delay unnecessarily prevents subscribers in Sprint territory from realizing the benefits of local competition in a timely manner. Accordingly, the Commission should order both Sprint and GTE (to the extent that GTE and MFS fail to reach agreement) to comply with the operational requirements applied to BellSouth in the Commission's BellSouth Unbundling Order.

### **Conclusion**


The MFS unbundling request for two-wire and four-wire analog and digital loops and ports, and for the ability to utilize its own DLC through collocation (or as an alternative, the ability to purchase DLC loop concentration from Sprint), is the same as the request MFS made in its BellSouth petition. The extent of unbundling should be ordered by the Commission in this proceeding as it was ordered in the BellSouth proceeding and agreed to by GTE. This unbundling would permit competitors to extend the range in which the benefits of competition will be available. The inclusion of four-wire analog and digital loops and ports and the use of DLCs will permit competition for all of Sprint's customer base, including sophisticated users with more demanding requirements. To limit unbundling would leave substantial pockets of monopoly control in Sprint's service area in Florida, delaying the implementation of robust competition. By allowing the unbundling of loop concentration facilities, the Commission would also permit ALECs to take advantage of the efficiencies of modern DLC multiplexing systems and to further advance the progress of competition.

All of this is expressly contemplated by Florida statute. The Commission has already ordered this in the BellSouth proceeding and GTE has voluntarily agreed to this. However, unbundled elements must not only be physically unbundled, but they must also be priced

appropriately to encourage competition. MFS advocates pricing bottleneck elements at LRIC, and specifically the distance- and density-sensitive rates produced by Sprint and GTE, the best cost data presently available. The loops and cross-connect bottleneck elements should be priced at LRIC; the non-bottleneck port element should be priced at the bundled dial tone rate minus the LRIC of the loop and the LRIC of the port. Both Sprint and GTE should also be required to conduct new cost studies to determine the cost of each element and to be analyzed in a contested proceeding. In addition, operational issues must be addressed herein, if unbundled loops are going to be put to use by ALECs in the near future. If the Commission addresses these essential elements as it did in the BellSouth proceeding, reasonably priced unbundled elements will become available to ALECs in the near term, enabling widespread competition throughout Florida, consistent with the intent of the Florida Legislature.

Respectfully submitted,

Timothy Devine  
MFS Communications Company, Inc.  
Six Concourse Parkway, Ste. 2100  
Atlanta, Georgia 30328  
(770) 390-6791 (ph.)  
(770) 399-8398 (fax)

  
Richard M. Rindler  
James C. Falvey  
SWIDLER & BERLIN, CHARTERED  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007  
**Attorneys for Metropolitan Fiber  
Systems of Florida, Inc.**

Dated: April 5, 1996



## CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April 1996, copies of the **Posthearing Brief and Statement of Issues and Positions of Metropolitan Fiber Systems of Florida, Inc. (Petitions filed Against Sprint and GTE), Docket No. 950984-TP**, were served via first-class mail, postage prepaid on the following:

Mr. Michael Tye  
AT&T Communications  
of the Southern States, Inc. (T1741)  
101 North Monroe Street, Ste. 700  
Tallahassee, Florida 32301-7733

Mr. Timothy Devine  
Metropolitan Fiber Systems  
of Florida, Inc.  
Six Concourse Parkway, Ste. 1200  
Atlanta, Georgia 30328

Laura L. Wilson, Esq.  
Florida Cable Telecommunications  
Associates, Inc.  
310 North Monroe Street  
Tallahassee, Florida 32302

Peter Dunbar, Esq.  
Charles W. Murphy, Esq.  
Pennington Law Firm  
215 South Monroe Street, Ste. 200  
Tallahassee, Florida 32302

Richard Melson, Esq.  
Hopping Law Firm  
123 South Calhoun Street  
Tallahassee, Florida 32301

Jodie Donovan-May, Esq.  
Teleport Communication Group -  
Washington, D.C.  
2 LaFayette Center  
1133 Twenty-First Street, N.W., Ste. 400  
Washington, D.C. 20036

Kenneth A. Hoffman, Esq.  
Rutledge, Ecenia, Underwood, Purnell &  
Hoffman  
P.O. Box 551  
215 South Monroe Street, Ste. 420  
Tallahassee, Florida 32302

Ms. Jill Butler  
Time Warner Communications  
2773 Red Maple Ridge, Ste. 301  
Tallahassee, Florida 32301

Mr. Michael J. Henry  
MCI Telecommunications Corporation  
(T1731)  
780 Johnson Ferry Road, Ste. 700  
Atlanta, Georgia 30342

Patrick Wiggins, Esq.  
Wiggins Law Firm  
501 East Tennessee Street, Ste. B  
Tallahassee, Florida 32308

Floyd Self, Esq.  
Messer Law Firm  
215 South Monroe Street, Ste. 701  
Tallahassee, Florida 32301

Lee L. Willis, Esq.  
J. Jeffrey Wahlen, Esq.  
McFarlane, Ausley, et al.  
227 South Calhoun Street  
Tallahassee, Florida 32301

Anthony P. Gillman, Esq.\*  
Kimberly Caswell, Esq.  
GTE Florida Incorporated, FLTC0007  
201 North Franklin Street  
Tampa, Florida 33602

Charles Beck, Esq.  
Deputy Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

Patricia Kurlin  
Intermedia Communications of Florida,  
Inc.  
9280 Bay Plaza Blvd., Ste. 720  
Tampa, Florida 33619-4453

Clay Phillips  
Utilities & Telecommunications  
House Office Building, Room 410  
Tallahassee, Florida 32399

David Erwin, Esq.  
Young Law Firm  
P.O. Box 1833  
225 South Adams Street  
Tallahassee, Florida 32302-1833

Nels Roseland  
Executive Office of the Governor  
Office of Planning and Budget  
The Capital, Room 1502  
Tallahassee, Florida 32399-0001

Graham A. Taylor  
TCG South Florida  
1001 West Cypress Creek Road  
Suite 209  
Ft. Lauderdale, Florida 33309-1949

Greg Krasovsky  
Commerce & Economic Opportunities  
Senate Office Building, Room 426  
Tallahassee, Florida 32399

John Murray  
Payphone Consultants, Inc.  
3431 N.W. 55th Street  
Ft. Lauderdale, Florida 33309-6308

H.W. Goodall  
Continental Fiber Technologies, Inc.  
4455 BayMeadows Road  
Jacksonville, Florida 32217-4716

Richard A. Gerstemeier  
Time Warner AxS of Florida, L.P.  
2251 Lucien Way, Ste. 320  
Maitland, Florida 32751-7023

Steven D. Shannon  
MCI Metro Access Transmission Services,  
Inc.  
2250 Lakeside Boulevard  
Richardson, Texas 75082

Gary T. Lawrence  
City of Lakeland  
501 East Lemon Street  
Lakeland, Florida 33801-5079

Marsha Rule, Esq.  
Wiggins & Willacorta  
P.O. Drawer 1657  
501 East Tennessee  
Tallahassee, Florida 32302

Kimberly Caswell, Esq.\*  
c/o Richard M. Fletcher  
GTE Florida Incorporated  
106 East College Avenue, Ste. 1440  
Tallahassee, Florida 32301-7704

F. Ben Poag  
Sprint/United-Florida  
Sprint/Centel-Florida  
555 Lake Border Drive  
Apopka, Florida 32703

J. Phillip Carver, Esq.  
c/o Nancy H. Sims  
Southern Bell Telephone & Telegraph  
Company  
150 South Monroe Street, Ste. 400  
Tallahassee, Florida 32301

Robin Dunsan, Esq.  
AT&T Communications  
1200 Peachtree Street, N.E.  
Promenade I, Room 4038  
Atlanta, Florida 30309

Donald L. Crosby, Esq.  
Continental CableVision, Inc.  
7800 Belfort Parkway  
Suite 270  
Jacksonville, Florida 32256-6925

Bill Tabor  
Utilities & Telecommunications  
Houst Office Building, Room 410  
Tallahassee, Florida 32399

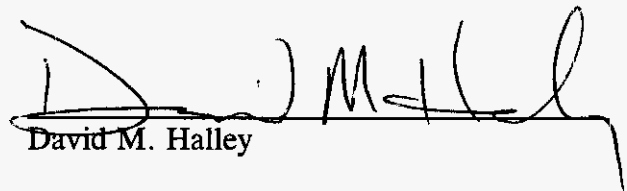
Brian Sulmonetti  
LDDS Communications, Inc.  
1515 South Federal Highway, #400  
Boca Raton, Florida 33432-7404

Sue E. Weiske, Esq.  
Senior Counsel  
Law Department  
Time Warner Communications  
160 Inverness Drive West  
Englewood, Colorado 80112

C. Everett Boyd, Jr., Esq.  
Ervin, Varn, Jacobs, Odom & Ervin  
305 South Gadsden  
Post Office Drawer 1170  
Tallahassee, Florida 32302

Benjamin Fincher, Esq.  
Sprint Communications Company  
Limited Partnership  
3065 Cumberland Circle  
Atlanta, Georgia 30339

Donna Canzano, Esq.\*  
Staff Attorney  
Legal Department  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850



David M. Halley