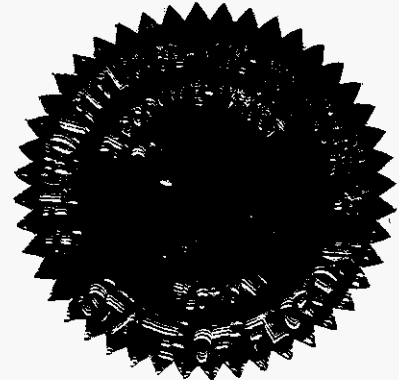


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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 In the Matter of : DOCKET NO. 970808-TL
 :
 Petition of BellSouth :
 Telecommunications, Inc. to :
 remove interLATA access :
 subsidy received by :
 St. Joseph Telephone & :
 Telegraph Company. :



PROCEEDINGS: HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON
 COMMISSIONER J. TERRY DEASON
 COMMISSIONER SUSAN F. CLARK
 COMMISSIONER JOE GARCIA
 COMMISSIONER E. LEON JACOBS, JR.

DATE: Wednesday, May 20, 1998

TIME: Commenced at 9:40 a.m.
 Concluded at 11:25 a.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting

DOCUMENT NUMBER-DATE

05652 MAY 21 88

FPSD-RECORDS/REPORTING

1 **APPEARANCES:**

2 **NANCY B. WHITE**, c/o Nancy H. Sims, 150 South
3 Monroe Street, Suite 400, Tallahassee, Florida,
4 appearing on behalf of **BellSouth Telecommunications,**
5 **Inc.**

6 **DAVID B. ERWIN**, 127 Riversink Road,
7 Crawfordville, Florida 32327, appearing on behalf of
8 **GTC, Inc.**

9 **TRACY HATCH**, 101 North Monroe Street, Suite
10 700, Tallahassee, Florida 32301, appearing on behalf
11 of **AT&T Communications of the Southern States, Inc.**

12 **BETH KEATING**, Florida Public Service
13 Commission, Division of Legal Services, 2540 Shumard
14 Oak Boulevard, Tallahassee, Florida 32399-0870,
15 appearing on behalf of the **Commission Staff.**

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I N D E X

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P R O C E E D I N G S

1
2 **CHAIRMAN JOHNSON:** We're going to begin the
3 proceeding. Counsel, could you read the notice.

4 **MS. KEATING:** My notice issued April 21st,
5 1998, this time and place have been set for a hearing
6 in Docket No. 970808-TL. The purpose is as set forth
7 in the notice.

8 **COMMISSIONER CLARK:** Thank you. We'll take
9 appearances.

10 **MR. ERWIN:** My name is David B. Erwin. My
11 address is 127 Riversink Road, Crawfordville, Florida
12 32327, and I'm appearing here on behalf of GTC, Inc.

13 **MS. WHITE:** Nancy White, 150 West Monroe
14 Street, Tallahassee, representing BellSouth
15 Telecommunications.

16 **MR. HATCH:** Tracy Hatch, 101 North Monroe
17 Street, Suite 700, appearing on behalf of AT&T
18 Southern States, Inc.

19 **MS. KEATING:** Beth Keating appearing for
20 Commission Staff.

21 **COMMISSIONER CLARK:** Are there any
22 preliminary matters?

23 **MS. KEATING:** Just a couple, Madam Chairman.
24 The first one is in the order of witnesses,
25 BellSouth's witness, Mr. Lohman, is listed twice; once

1 going on direct and once on rebuttal. Counsel has
2 suggested that Mr. Lohman's direct and rebuttal
3 testimony be taken up at the same time.

4 **COMMISSIONER CLARK:** And there's no
5 objection to that? Okay. We'll take direct and
6 rebuttal when he comes forth to testify. I guess he's
7 our first witness.

8 **MS. KEATING:** Yes, ma'am.

9 **COMMISSIONER CLARK:** Any other preliminary
10 matters?

11 **MS. KEATING:** The second is Staff has
12 prepared a list of orders that Staff and counsel for
13 the parties would like the Commission to take official
14 recognition of. In lieu of reading this entire list
15 into the record, Staff would ask that this simply be
16 marked as Staff Exhibit 1.

17 **COMMISSIONER CLARK:** We'll mark that as
18 Staff Exhibit 1.

19 **MS. KEATING:** And Staff would move
20 Exhibit 1.

21 **COMMISSIONER CLARK:** Show it admitted
22 without objection, with a short title -- I said Staff
23 Exhibit 1, "Official Recognition List." Any other
24 preliminary matters?

25 (Exhibit 1 marked for identification and

1 received in evidence.)

2 **MS. KEATING:** That's all Staff is aware of.

3 **COMMISSIONER CLARK:** No.

4 **CHAIRMAN JOHNSON:** At this time I'll swear
5 in all of the witnesses.

6 (Witnesses collectively sworn.)

7 **COMMISSIONER CLARK:** Madam Chairman, can I
8 ask one thing? Has BellSouth withdrawn the request
9 for the escrow?

10 **MS. WHITE:** No. We asked -- it was on the
11 agenda for yesterday and we asked it be deferred until
12 after the hearing.

13 **COMMISSIONER CLARK:** Okay.

14 **MS. WHITE:** That a decision on it be
15 deferred until after the hearing.

16 **COMMISSIONER CLARK:** Thank you.

17 **CHAIRMAN JOHNSON:** Any other preliminary
18 matters or questions? Okay. BellSouth.

19 **MS. WHITE:** BellSouth calls Tom Lohman to
20 the stand.

21 - - - -

22

23

24

25

1 **THOMAS F. LOHMAN**
2 was called as a witness on behalf of BellSouth
3 Telecommunications, Inc. and, having been duly sworn,
4 testified as follows:

5 **DIRECT EXAMINATION**

6 **BY MS. WHITE:**

7 **Q** Mr. Lohman, would you please state your name
8 and address?

9 **A** Thomas F. Lohman. My business address is
10 675 West Peachtree Street, Atlanta, Georgia.

11 **Q** Which whom are you employed and in what
12 capacity?

13 **A** BellSouth Telecommunications, as a senior
14 director in the Finance Department dealing in the
15 regulatory reporting and testifying.

16 **Q** And have you previously caused to be
17 prepared and prefiled in this case direct testimony
18 consisting of 22 pages, rebuttal testimony of
19 consisting of eight pages and surrebuttal consisting
20 of six pages?

21 **A** Yes, I have.

22 **Q** Do you have any additions or changes to that
23 testimony at this time?

24 **A** Yes. I have one typographical correction to
25 Schedule TFL-1 with the direct testimony --

1 Q We're not there yet, so. Do you have any to
2 your testimony itself?

3 A No, not to the testimony.

4 Q If I were to ask you the same questions that
5 are contained in your direct, rebuttal and surrebuttal
6 testimony today would your answers be the same?

7 A Yes.

8 **MS. WHITE:** I'd like to have the direct,
9 rebuttal and surrebuttal testimony of Mr. Lohman
10 inserted into the record as if read from the stand.

11 **CHAIRMAN JOHNSON:** It will be so inserted.

12 Q **(By Ms. White)** Did you prepare two
13 exhibits with your direct testimony, TFL-1 and 2?

14 A Yes, I did.

15 Q Were those exhibits prepared by you or under
16 your direction or supervision?

17 A Yes, they were.

18 Q I understand you have a correction to one of
19 those exhibits?

20 A Yes, the one I tried to make a minute ago,
21 to Schedule TFL-1, on the ALLTEL block, on the third
22 order, which was "PSC-941176," that should have been
23 "931176."

24 Q Do you have any other changes or corrections
25 to your exhibits?

1 **A** No, I do not.

2 **MS. WHITE:** Madam Chairman, I'd like to have
3 the exhibits TFL-1 and 2 that were attached to
4 Mr. Lohman's direct testimony marked for
5 identification.

6 **CHAIRMAN JOHNSON:** It will be marked and
7 identified as a composite exhibit consisting of TFL-1
8 and 2.

9 (Exhibit 2 marked for identification.)

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BELLSOUTH TELECOMMUNICATIONS, INC.

TESTIMONY OF T. F. LOHMAN

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 970808-TL

MARCH 9, 1998

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS, AND
POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC..**

A. My name is Thomas F. Lohman. My business address is
675 West Peachtree Street N. E., Atlanta, Georgia.
My title is Senior Director in the Finance Department
of BellSouth Telecommunications, Inc. (hereinafter
referred to as "BellSouth" or "the Company").

**Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND PROFESSIONAL
BACKGROUND.**

A. I received a Bachelor of Science Degree (Accounting
and Finance majors) from Florida State University in
1972. I am a Certified Public Accountant and a
current member of both The American and Florida
Institutes of Certified Public Accountants.

1 I was employed by Southern Bell Comptrollers in
2 Jacksonville, Florida in 1972, and have held various
3 Comptrollers positions of increasing responsibility
4 since that time. I have been involved with Florida
5 regulatory accounting operations since 1980.

6

7 **Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

8

9 A. I am responsible for BST's multi-state regulatory
10 accounting operations and budget functions, including
11 Florida. The regulatory operations include
12 preparation of the monthly surveillance reports as
13 well as the annual reports required by this and other
14 Commissions. In addition, I am responsible for
15 providing financial data required in regulatory
16 dockets, Florida Public Service Commission (FPSC) and
17 Federal Communications Commission (FCC) audits, as
18 well as informal requests for data.

19

20 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

21

22 A. Yes. I provided testimony in Docket No. 930485-TL
23 regarding inside wire services, Docket No. 890190
24 concerning Southern Bell's cost allocation procedure,

25

1 and Docket Nos. 970172 and 970281 concerning
2 BellSouth's deregulation of pay telephones.

3

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

5

6 A. My testimony addresses all of the issues related to
7 St. Joseph Telephone (GTC) interLATA subsidy and
8 whether it should be eliminated.

9

10 Issue 1: What is the interLATA access subsidy and why was
11 the interLATA access subsidy established?

12 Issue 1b: What is the history of the interLATA access
13 subsidy and how has Commission policy regarding the
14 subsidy evolved since the subsidy was established?

15 Issue 2: Was the interLATA access subsidy pool intended
16 to be a permanent subsidy? If not, what criteria
17 should be used for ending the interLATA access
18 subsidy pool?

19

20 **Q. WHAT WAS THE ORIGINAL PURPOSE OF THE INTERLATA ACCESS**
21 **SUBSIDY PAYMENT?**

22

23 A. The "temporary" subsidy payments were established by
24 Order No. 14452, June 10, 1985 almost 13 years ago as
25 a transition from the pooling of access revenues to a

1 ``more appropriate approach of each company keeping
2 the revenue it receives for use of its local
3 facilities''. Order at page 13. This Commission
4 recognized that all of their access plans could not
5 be implemented at that time, for example bill and
6 keep of LEC toll was not yet completed and therefore,
7 established this ``temporary'' subsidy plan so that
8 there was a ``wash'' on companies earnings at that
9 time. The order stated on page 12 that the
10 ``temporary subsidy pool is required and is in the
11 public interest. The pool will be funded by each LEC
12 contributing a portion of the access revenue it
13 receives for use of its local network.'' On page 13,
14 the Commission stated that, ``Doing away with pooling
15 of access revenues is in the public interest in that
16 the inequities inherent in pooling are being replaced
17 with the more appropriate approach of each company
18 keeping the revenue it receives for use of its local
19 facilities. We recognize that discontinuance of the
20 access pool is not complete because we have
21 established a temporary subsidy pool. However, our
22 implementation plan is an important first step in
23 this complex process.'' The Commission went on to
24 state on page 14 that, ``We believe it would not be
25 logical to provide a subsidy to a LEC that is in an

1 overearnings position" and that "all subsidy pool
2 contributions and receipts are subject to refund."

3

4 Q. DID THIS COMMISSION INTEND FOR THE SUBSIDY PAYMENT TO
5 BE PERMANENT WHEN THE INTERLATA SUBSIDY POOL WAS
6 ESTABLISHED?

7

8 A. **No, definitely not!** Order No. 14452 states on page
9 12 that "a temporary subsidy pool is required" and
10 then very explicitly acknowledges the temporary
11 nature of the subsidy by stating on page 13 that, "we
12 recognize that discontinuance of the access pool is
13 not complete because we have established a temporary
14 subsidy pool. (emphasis added) However, our
15 implementation plan is an important first step in
16 this complex process." Page 15 again refers to
17 "the temporary subsidy pool we have established."
18 The ordering paragraph itself on page 16 orders that
19 there "be a temporary subsidy pool as set forth in
20 the body of this order". Based on the order, I can
21 unequivocally state that the subsidy pool established
22 in 1985 was never intended to be a permanent subsidy.
23
24 Commission orders rendered after Order No. 14452 also
25 refer to the temporary nature of the subsidy pool:

1 No. 15327 page 5 ``we established a temporary
2 subsidy pool'';

3 No. 21954 page 2 ``the interLATA subsidy
4 mechanism was established as a transition
5 mechanism'';

6 No. PSC-92-0028-FOF-TL page 3 ``subsidy mechanism
7 to keep LECs whole during the transition. It
8 was never envisioned that the access subsidy
9 would be permanent. It was intended to last
10 only until we were presented with an opportunity
11 to address each company's particular
12 circumstances in a rate case or other
13 proceeding.'' ; (emphasis added)

14 No. PSC-93-0562-FOF-TL page 28 ``subsidy pool was
15 established as a temporary mechanism to ease the
16 transition'';

17 No. PSC-93-1176-FOF-TL page 2 ``it is appropriate
18 to continue to reduce ALLTEL's interLATA
19 subsidy, consistent with the Commission goal of
20 placing each LEC on a true bill and keep basis'';

21 No. PSC-94-0383-FOF-TL page 5 ``subsidy pool was
22 established as a temporary mechanism to ease the
23 transition''; and

24

25

1 No. PSC-95-0486-FOF-TL page 1 ``subsidy pool was
2 established as a temporary mechanism to ease the
3 transition''.

4

5 Q. HAS THIS COMMISSION VIEWED THE SUBSIDY PAYMENTS AS
6 PERMANENT SINCE THE ORDER ESTABLISHING THE INTERLATA
7 SUBSIDY POOL?

8

9 A. No, this Commission has been proactive in eliminating
10 the subsidy payments. The original pool had six
11 companies (Alltel, Gulf, Indiantown, Northeast, GTC
12 and United) receiving subsidy payments. All of these
13 companies, except GTC, have had their interLATA
14 subsidies eliminated. My schedule TFL-1 provides the
15 chronological history of the removal of these
16 companies from the temporary interLATA subsidy pool.

17

18 Q. WHAT CRITERIA HAS THE COMMISSION UTILIZED IN REMOVING
19 THE TEMPORARY SUBSIDY?

20

21 A. Gulf, in 1988, was the first company receiving this
22 temporary subsidy to have it eliminated by the
23 Commission. Order No. 19692 states on page 1, ``we
24 noted that, at the same time Gulf was overearning,
25 the Company was also receiving a subsidy from the

1 interLATA access subsidy pool." Order at page 1. The
2 Order went on to state that, "In light of Gulf's 1986
3 earnings level it appears that Gulf is financially
4 healthy indeed. Therefore, we find it inappropriate
5 that Gulf should receive an interLATA access charge
6 subsidy in light of its current earnings posture. It
7 is clear that Gulf no longer needs the current access
8 subsidy to support its current earnings.
9 Accordingly, effective August 1, 1988, Gulf shall no
10 longer receive a subsidy from the interLATA access
11 charge subsidy pool." Order at page 1.

12

13 Indiantown's temporary subsidy was removed in 1989.
14 Order No. 21954 states on page 2 that, "In light of
15 Indiantown's current and anticipated earnings
16 situation, we find it inappropriate that Indiantown
17 should continue to receive an interLATA access charge
18 subsidy. Accordingly, effective September 1, 1989,
19 Indiantown shall no longer receive a subsidy from the
20 interLATA access subsidy mechanism." The Order also
21 states, page 1, that, "the interLATA subsidy
22 mechanism was established as a transition mechanism
23 to keep LECs whole in going from a pooling to access
24 bill and keep."

25

1 Northeast's temporary subsidy was removed in 1993.
2 Order No. PSC-93-0228-FOF-TL states on page 2 that,
3 ``Based on Northeast's level of earnings and the
4 stimulation which is occurring with the \$.25 calling
5 plan from MacClenny to Jacksonville, Northeast's
6 remaining interLATA subsidy shall be eliminated and
7 Northeast shall be removed from the interLATA subsidy
8 pool, effective January 1, 1993.''

9
10 Alltel's subsidy was reduced several times in
11 disposing of their various years of overearnings,
12 then eliminated completely in 1995. Reductions
13 started with Order No. PSC-92-0028-FOF-TL, pages 3-4,
14 which states that Alltel will dispose of its 1991
15 overearnings in the following manner: ``ALLTEL will
16 reduce its interLATA subsidy \$472,000 annually,
17 effective April 1, 1992.''. Order No. PSC-95-0486-FOF-
18 TL states on page 2 that, ``subsidy receipts and
19 payments do not change each year except by specific
20 action of the Commission. We have reduced subsidies
21 and removed LECs from the interLATA subsidy pool when
22 it appeared that the LEC no longer needed the
23 subsidy.'' (emphasis added). The Order also states on
24 page 2 that, ``ALLTEL's 1994 earnings in excess of its
25 cap are sufficient to warrant a reduction to the

1 Company's current interLATA access subsidy''. The
2 Order holds that, ``ALLTEL's remaining interLATA
3 subsidy receipts shall be eliminated effective July
4 1, 1995. This will remove ALLTEL from the interLATA
5 access subsidy pool.'' Page 3. Basically, the
6 Commission has removed the subsidy payment when
7 circumstances change and the company no longer needs
8 it.

9
10 **Q. HAS THE INTERLATA SUBSIDY FOR GTC BEEN REDUCED DUE TO**
11 **GTC EARNINGS?**

12
13 **A.** Yes. In 1989 the GTC subsidy was reduced by \$300,000
14 effective January 1, 1990. According to the Staff
15 Analysis included on page 13 of the memorandum dated
16 November 20, 1989 regarding Docket No. 820537-TP -
17 Access Charges, ``St. Joseph Telephone has proposed to
18 reduce its interLATA subsidy by \$300,000. This
19 action is consistent with action approved by the
20 Commission for Gulf Telephone and Indiantown
21 Telephone. Gulf and Indiantown's subsidies were
22 eliminated because the companies were overearning and
23 the overearnings were expected to continue into the
24 foreseeable future. As discussed in the
25 recommendation in Docket No. 891238-TL, Investigation

1 into St. Joseph Telephone's Authorized Return on
2 Equity and Earnings, we believe that St. Joe will
3 have sufficient earnings to absorb this reduction in
4 its subsidy and still earn within its newly
5 authorized range.'" Order No. 22284 on page 2 states
6 that, ``St. Joe has proposed to reduce its revenues by
7 \$400,000 annually through a reduction in its
8 interLATA subsidy of \$300,000 and a reduction in its
9 intraLATA subsidy of \$100,000. These reductions will
10 reduce the Company's ROE by 2.96%. Based on the
11 Company's current and expected earnings level, we
12 believe that this proposal will bring the Company's
13 achieved earnings within its newly authorized ROE
14 range to 12.91%. Therefore, we hereby accept the
15 Company's proposal to reduce its revenues.'"

16

17 **Q. TO YOUR KNOWLEDGE HAS THERE BEEN ANYTHING IN THE**
18 **RECORD STATING THAT THIS WAS TO BE A PERMANENT**
19 **SUBSIDY?**

20

21 **A.** No. All references in the record describe this as a
22 temporary subsidy.

23

24 **Q. WHAT CRITERIA SHOULD BE USED FOR ENDING THIS**
25 **TEMPORARY INTERLATA ACCESS SUBSIDY POOL?**

1
2 A. To date the subsidy pool has been reduced either due
3 to companies asking to be relieved from participating
4 in the pool or companies experiencing changed
5 circumstances, such as an excess of earnings,
6 sufficient for the Commission to order their
7 elimination from the pool. As Frontier Communications
8 of the South, Inc. ("Frontier") recognized, election
9 of price regulation is a changed circumstance.
10 Frontier states in its Petition for a Limited Scope
11 Proceeding to Change its Existing Rate Relationships,
12 dated June 26, 1996, "Before Frontier Communications
13 of the South, Inc. and BellSouth become competitors,
14 Frontier Communications of the South, Inc. must
15 eliminate its reliance upon revenue from BellSouth,
16 but in order to achieve this necessary goal, Frontier
17 Communications of the South, Inc. must rearrange its
18 rate relationships to generate the revenue that will
19 be lost by eliminating its LEC toll bill and keep
20 subsidy." Pages 3-4.
21
22 In Order No. PSC-92-0028-FOF-TL, page 3, the
23 Commission states that, "It was never envisioned that
24 the access subsidy would be permanent. It was
25 intended to last only until we were presented with an

1 opportunity to address each company's particular
2 circumstances in a rate case or other proceeding."
3 (emphasis added). I believe that these criteria -
4 earnings or other changes in circumstances - as
5 envisioned by the Commission are appropriate for
6 discontinuing the subsidy, and should be the criteria
7 utilized in this proceeding.

8

9 Issue 3: What is the legal authority for the BellSouth
10 Telecommunications, Inc.'s proposal to eliminate the
11 interLATA access subsidy of GTC, Inc.?

12

13 **Q. WHAT IS THE LEGAL AUTHORITY FOR THE BELLSOUTH**
14 **TELECOMMUNICATIONS, INC.'S PROPOSAL TO ELIMINATE THE**
15 **INTERLATA ACCESS SUBSIDY OF GTC, INC.?**

16

17 **A.** I am not an attorney, and I know that BellSouth will
18 address this issue in the brief of this case.
19 However, the Commission had the authority to impose
20 the subsidy in the first place, and I believe they
21 have the authority to eliminate the subsidy. As
22 discussed herein, there are various factors that the
23 Commission may consider in their decision. BellSouth
24 believes GTC's choice of price cap regulation is one
25 of those factors. The Commission, in eliminating the

1 subsidy, is not changing any rates that GTC is
2 charging its customers nor engaging in rate of return
3 regulation. The Commission has plainly stated in
4 past orders that the subsidy was intended to last
5 only until each company's particular circumstances
6 could be addressed in a rate case or other
7 proceeding. GTC's election of price regulation is
8 certainly a major change in circumstances that
9 eliminates any need for BellSouth's customers to
10 provide GTC's shareholders a subsidy.

11

12 In addition, if the election of price regulation
13 removes the subsidy payment from this Commission's
14 authority, then BellSouth could unilaterally
15 eliminate the payment. Although BellSouth has not
16 advocated that the Commission does not have authority
17 over the subsidy payment between two price regulated
18 companies, if this becomes the legal finding, then
19 there is no need for continuing this proceeding.

20

21 Issue 4: Considering that the rates of a small LEC
22 electing price cap regulation may not be altered
23 during the period rates are frozen, except as
24 provided for in Section 364.051(5), Florida Statutes,
25 may the subsidy in effect at the time price cap

1 regulation was elected be discontinued during the
2 period rates are frozen?

3

4 Q. ARE YOU AWARE OF ANY AVENUE THAT GTC MAY USE TO
5 RESTRUCTURE THEIR RATES TO COMPENSATE FOR LACK OF
6 OVEREARNINGS TO COVER THE SUBSIDY ELIMINATION?

7

8 A. Yes, Florida Statutes, Section 364.051(5) states
9 that, ``any local exchange telecommunications company
10 that believes circumstances have changed
11 substantially to justify any increase in the rates
12 for basic local telecommunications services may
13 petition the commission for a rate increase''.
14 Depending on the amount of GTC earnings, the above
15 section would apply.

16

17 Issue 5: Should the interLATA access subsidy received by
18 GTC, Inc. be removed?

19

20 Q. SHOULD THE INTERLATA ACCESS SUBSIDY RECEIVED BY GTC
21 BE REMOVED?

22

23 A. Yes, GTC's interLATA access subsidy should be
24 removed. BellSouth and its customers should not

25

1 continue to send money to GTC's owners now that both
2 companies are price regulated.

3

4 Q. WHY DO YOU THINK GTC ELECTED TO OPEN ITS TERRITORY TO
5 COMPETITION FIVE YEARS BEFORE IT WAS REQUIRED TO DO
6 SO?

7

8 A. Although I have no personal knowledge of GTC's
9 decision making process, I believe the only logical
10 explanation is that they expected to earn in excess
11 of their authorized rate of return. Why else would
12 they voluntarily open their market to competition?
13 Also, they knew that excessive earnings would
14 eliminate the ``temporary'' subsidy payments from
15 BellSouth. It appears, based on their arguments in
16 this case, they hoped that price regulation election
17 would turn the temporary subsidy into a permanent
18 one, thus assuring their owners of a windfall at
19 BellSouth's expense.

20

21 Q. IS GTC EARNING IN EXCESS OF ITS AUTHORIZED RETURN?

22

23 A. Because GTC has not responded to our discovery
24 requests, I am unable to state with certainty that
25 they are over earning. However, my assumption is

1 that they are earning above a reasonable return.

2 This assumption is based on the following:

3

4 1. There is absolutely no reason for their early
5 election of price regulation if they did not
6 anticipate earnings above the authorized level.

7 Opening their territory to competition before it is
8 required does not make economic sense otherwise.

9 2. I remember reading that the new owners planned to
10 reduce the number of employees and streamline
11 operations. These steps would obviously improve
12 earnings.

13 3. GTC overearned in 1989 and their subsidy receipt
14 was reduced by \$300,000. The annual STATISTICS OF
15 THE FLORIDA LOCAL EXCHANGE COMPANIES report,
16 published by the Florida Public Service Commission,
17 was used to develop my schedule TFL-2. With the
18 exception of 1995, it shows that GTC has had from
19 3.42% to 11.02% annual growth rate since the
20 subsidy reduction 1/1/90. They exceeded the state
21 of Florida average for five out of the seven years
22 displayed. It should be noted they had a strong
23 come back in 1996 when Florida was 5.50% and GTC
24 was 11.02%.

25

1 When GTC responds to the discovery requests, this
2 Commission will be able to determine whether they are
3 overearning.

4

5 Q. **SHOULD THE SUBSIDY PAYMENT BE REMOVED EVEN IF GTC IS**
6 **NOT OVEREARNING BY THE FULL AMOUNT OF THE PAYMENT?**

7

8 A. Yes. This Commission has always stated that the
9 subsidy was temporary and should be removed as each
10 company's circumstances changed. GTC's election of
11 price regulation is a 180 degree change of
12 circumstances from rate base regulation. Because GTC
13 received price regulation approval effective June 25,
14 1996, it should not be eligible to receive this
15 ``temporary'' subsidy.

16

17 Issue 6: If the access subsidy being paid to GTC, Inc. is
18 eliminated, should BellSouth Telecommunications, Inc.
19 be directed to cease collection of the access subsidy
20 funds? If the access subsidy being paid to GTC, Inc.
21 is eliminated, and collection of the access subsidy
22 funds is not terminated, what disposition should be
23 made of the funds?

24

25

1 Q. IF THE ACCESS SUBSIDY BEING PAID TO GTC, INC. IS
2 ELIMINATED, HOW SHOULD BELLSOUTH TELECOMMUNICATIONS,
3 INC. BE DIRECTED ON THE DISPOSITION OF THE RELATED
4 FUNDS?

5

6 A. Order No. 14452 stated on page 12 the ``temporary
7 subsidy pool ... will be funded by each LEC
8 contributing a portion of the access revenue it
9 receives for use of its local network.'' The original
10 surplus for BellSouth was \$2.7 million. BellSouth
11 has completely eliminated its ``surplus'' by reducing
12 access charges by well over this amount since 1985,
13 when the ``surplus'' was created by going to Bill and
14 Keep for access charges. In fact, just since August,
15 1995, BellSouth has reduced switched access rates by
16 over \$130 million dollars. The surplus of \$2.7
17 million has not existed for many years; therefore,
18 there is no surplus remaining for disposition. The
19 payment is just a subsidy from BellSouth to GTC.
20 However, because BellSouth was under a sharing
21 requirement through 1997, BellSouth will commit to
22 refunding to its customers any refund that it
23 receives from GTC for any year subject to the sharing
24 requirement (See Issues 7, 8, and 9).

25

1 Issue 7: If the subsidy should be removed, should it be
2 removed entirely at one time, or should the subsidy
3 be phased out over a certain time period?

4 Issue 8: If the subsidy should be removed entirely at one
5 time, on what date should the removal be effective?

6 Issue 9: If the subsidy should be phased out, over what
7 time period should the phase out take place and how
8 much should the reduction of the subsidy be in each
9 period?

10

11 **Q. IF THE SUBSIDY SHOULD BE REMOVED, SHOULD IT BE**
12 **REMOVED ENTIRELY AT ONE TIME, OR SHOULD THE SUBSIDY**
13 **BE PHASED OUT OVER A CERTAIN TIME PERIOD?**

14

15 A. The subsidy should be eliminated entirely at one time
16 as was the case with both Gulf and Indiantown. Since
17 Order No. 14452 states that, "all subsidy pool
18 contributions and receipts are subject to refund",
19 GTC should refund to BellSouth all subsidies received
20 from the date GTC first had overearnings or June 25,
21 1996 when price regulation was effective, whichever
22 is earlier.

23

24 If the Commission decides to phase out the subsidy,
25 the phase out period should be equally over 3 years

1 starting from the earlier of when GTC first
2 overearned or when GTC price regulation was effective
3 (June 25, 1996).

4

5 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

6

7 A. This Commission established the subsidy payment to
8 GTC (and others) almost 13 years ago in 1985 and
9 described it as a temporary, transition related
10 payment that would be eliminated as circumstances
11 changed. The intent of the subsidy was to eliminate
12 fluctuations in the rates companies charged
13 customers, as the Commission worked its way through
14 Bill and Keep for toll and access. The subsidy
15 payments were never intended to be permanent nor
16 extend beyond the transition to a full Bill and Keep
17 system.

18

19 GTC is the only company currently receiving an
20 interLATA subsidy payment, they have elected price
21 regulation, and the transition to Bill and Keep for
22 both toll and access has been completed. The
23 Commission should eliminate the payment to GTC
24 effective on the date it became price regulated (or
25

1 earlier if they were overearning). This "temporary"
2 subsidy has now run its course.

3

4

5 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

6

7 A. Yes.

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BELLSOUTH TELECOMMUNICATIONS, INC.

REBUTTAL TESTIMONY OF T. F. LOHMAN

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 970808-TL

APRIL 22, 1998

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC..

A. My name is Thomas F. Lohman. My business address is 675 West Peachtree Street N. E., Atlanta, Georgia. My position is Senior Director for the Finance Department of BellSouth Telecommunications, Inc. (hereinafter referred to as "BellSouth" or "the Company").

Q. ARE YOU THE SAME THOMAS F. LOHMAN WHO FILED DIRECT TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony on behalf of BellSouth on March 9, 1998.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

1 A. My testimony addresses several issues presented in
2 Mr. Mailhot's direct testimony filed April 15, 1998.

3

4 Q. DO YOU AGREE WITH MR. MAILHOT'S STATEMENT THAT THE
5 INTERLATA SUBSIDY POOL WAS ESTABLISHED AS A TEMPORARY
6 MECHANISM?

7

8 A. Yes. The subsidy pool was established in 1985 as a
9 temporary, transitional measure as the industry moved
10 to bill and keep of access revenues. This issue was
11 addressed at length in my direct testimony and I
12 arrived at the same conclusion. In fact, GTC's
13 Counsel at a recent agenda also agreed the subsidy
14 was intended to be temporary.

15

16 Q. DO YOU AGREE WITH MR. MAILHOT'S TESTIMONY THAT IF THE
17 COMMISSION DETERMINES THAT EARNINGS ARE THE
18 APPROPRIATE CRITERIA AND THAT EARNINGS ARE SUFFICIENT
19 THEN THE SUBSIDY SHOULD BE REMOVED?

20

21 A. Yes. This was also addressed extensively in my
22 direct testimony and I will not repeat my earlier
23 arguments other than to state my agreement with Mr.
24 Mailhot.

25

1 Q. DOES THE COMMISSION HAVE TO CONDUCT AN EARNINGS
2 REVIEW TO ELIMINATE THE PAYMENT?

3

4 A. No, it does not. Although the Commission has, for
5 rate of return regulated companies, utilized earnings
6 as the basis for eliminating the payments, it has
7 also recognized that it could address the issue in
8 either a rate case or "other proceeding" (Docket No.
9 911108-TL Order No. PSC-92-0028-FOF-TL). The
10 Commission's approval of price regulation for GTC is
11 certainly a Commission action that provides the
12 impetus to eliminate a "temporary" payment to GTC.

13

14 Q. MR. MAILHOT STATES IN HIS ALTERNATE APPROACH, THAT
15 BELLSOUTH "... COLLECTS ACCESS CHARGES WHICH IT
16 PASSES ON TO GTC, INC. AS SUBSIDY PAYMENT". DO YOU
17 AGREE WITH THIS DESCRIPTION?

18

19 A. No, I do not. Mr. Mailhot's statement describes the
20 conditions existing when the original Docket No.
21 820537-TP Orders No. 14452, No. 15821 and No. 17321
22 were issued. BellSouth at that point (Order No.
23 17321) was a contributor to the pool of \$2.391
24 million and had a surplus of \$2.534 million (Order
25 No. 17321 Appendix A Chart 6). As Mr. Mailhot

1 stated, the Commission set uniform, statewide access
2 rates at that point and established the subsidy pool
3 to make revenue changes a "wash".

4

5 Q. DOES BELLSOUTH STILL HAVE AN ACCESS REVENUE "SURPLUS"
6 FROM MOVING TO BILL AND KEEP FOR ACCESS CHARGES?

7

8 A. No, definitely not. The above "surplus" was based on
9 1987 revenues and recognition of previous Commission
10 actions. The calculation led to BellSouth's making
11 subsidy payments of \$2.391 million that were passed
12 on to other companies based on the uniform access
13 rates and financial effect on each company at that
14 point in time. However, "collecting and passing on"
15 access revenues ceased being a valid description of
16 the process once the Commission stopped requiring
17 uniform statewide rates. As Mr. Mailhot stated,
18 beginning in 1988, access rates were no longer
19 uniform, varying from company to company.

20

21 BellSouth has reduced access rates by well over \$200
22 million since the "surplus" of about \$2.5 million was
23 calculated in 1987. Obviously, Commission actions
24 subsequent to Order No. 17321 rendered in 1987 have
25 eliminated the "surplus" many times over. BellSouth

1 is no longer collecting access revenues for GTC as
2 described by GTC and Mr. Mailhot.

3

4 Q. MR. MAILHOT STATES THAT IF THE COMMISSION ELIMINATES
5 THE SUBSIDY PAYMENT THEN BELLSOUTH SHOULD REDUCE SOME
6 RATES BY AN EQUAL AMOUNT IN ORDER TO BE KEPT WHOLE
7 AND NOT BE ALLOWED ANY WINDFALL. DOES BELLSOUTH
8 RECEIVE A WINDFALL FROM GOING TO BILL AND KEEP IF IT
9 DOESN'T REDUCE RATES UPON ELIMINATION OF THE SUBSIDY
10 PAYMENT?

11

12 A. No. Companies in Florida no longer have uniform
13 rates and, as shown above, BellSouth has reduced
14 rates by many times the potential windfall created by
15 implementing bill and keep in 1985. There is
16 currently no surplus or windfall that would benefit
17 BellSouth, therefore, BellSouth should be allowed to
18 keep the dollars it has been paying to GTC since it
19 long ago eliminated the windfall by reducing access
20 rates.

21

22 Q. DO YOU BELIEVE, AS SUGGESTED IN MR. MAILHOT'S
23 ALTERNATE APPROACH, THAT GTC SHOULD BE ALLOWED TO
24 INCREASE ACCESS RATES?

25

1 A. No, not without an earnings review. BellSouth and
2 all the other companies involved except GTC have
3 eliminated any windfall or shortfall created by
4 moving to bill and keep. The Commission never
5 anticipated allowing a company to increase rates due
6 to bill and keep without an earnings review to
7 determine their financial needs. It does not seem
8 reasonable that GTC can escape this requirement by
9 electing price regulation.

10

11 Q. DOES THE COMMISSION HAVE THE AUTHORITY TO ALLOW GTC
12 TO INCREASE ACCESS RATES AND REQUIRE BELL SOUTH TO
13 REDUCE ITS ACCESS CHARGES AS SUGGESTED IN MR.
14 MAILHOT'S ALTERNATIVE APPROACH?

15

16 A. No. Although I am not an attorney, based on my
17 reading of Section 364.163, Florida Statutes, I
18 believe the election of price regulation by GTC
19 freezes their access rates for three years from the
20 election of price regulation and allows only limited
21 increases after that time. Also, based on Section
22 364.163, Florida Statutes, I do not believe the
23 Commission has the authority to order BellSouth, who
24 has also elected price regulation, to reduce access
25 rates.

1

2 Q. SINCE BELLSOUTH HAS REDUCED ACCESS RATES BY WELL OVER
3 \$200 MILLION (THUS IS NO LONGER COLLECTING REVENUES
4 FOR GTC), SHOULD BELLSOUTH REDUCE ACCESS RATES IF GTC
5 IS ALLOWED TO INCREASE THEIR ACCESS RATES?

6

7 A. No. As previously explained, actions by this
8 Commission and BellSouth have reduced access rates by
9 over \$200 million since the implementation of bill
10 and keep for access charges. These subsequent
11 Commission actions have eliminated any windfall
12 created by moving to the bill and keep system.

13

14 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

15

16 A. Mr. Mailhot is correct in stating that BellSouth's
17 payment to GTC was intended to be temporary and
18 should be eliminated by the Commission. The payment
19 was created in 1985 in a rate of return regulated
20 telecommunication industry and was never intended to
21 be a permanent payment. All thirteen Florida
22 telephone companies were originally in the pool and
23 all payment recipients except GTC have been
24 eliminated from receiving a subsidy payment.
25 BellSouth is currently paying GTC \$1.2 million a year

1 due to a potential "windfall" calculated in 1987 that
2 has long ago been eliminated due to BellSouth's
3 subsequent access reductions of over \$200 million.
4 Because of those reductions, there is no potential
5 windfall and BellSouth is not collecting GTC's access
6 revenues and paying it to them as GTC has argued.

7
8 The time has come for the Commission to bring closure
9 to this "temporary" payment. Both GTC and BellSouth
10 are price regulated companies and potential
11 competitors. Therefore, there is no reason for
12 BellSouth to continue subsidizing GTC's operations.
13 GTC has chosen price regulation and this decision
14 provides the Commission the opportunity to complete
15 the transition of access charges to a bill and keep
16 basis as described so many years ago in Order No.
17 14452 rendered June 10, 1985.

18

19 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

20

21 A. Yes.

22

23

24

25

- 1 **BELLSOUTH TELECOMMUNICATIONS, INC.**
2 **SURREBUTTAL TESTIMONY OF T. F. LOHMAN**
3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
4 **DOCKET NO. 970808-TL**
5 **MAY 15, 1998**
6
7
8 Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION
9 WITH BELLSOUTH TELECOMMUNICATIONS, INC..
10
11 A. My name is Thomas F. Lohman. My business address is
12 675 West Peachtree Street N. E., Atlanta, Georgia.
13 My position is Senior Director in the Finance
14 Department of BellSouth Telecommunications, Inc.
15 (hereinafter referred to as "BellSouth" or "the
16 Company").
17
18 Q. ARE YOU THE SAME THOMAS F. LOHMAN WHO FILED DIRECT
19 TESTIMONY IN THIS DOCKET?
20
21 A. Yes. I filed direct testimony on behalf of BellSouth
22 on March 9, 1998 and rebuttal testimony on April 22,
23 1998.
24
25 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

1

2 A. My testimony addresses several issues presented in
3 Mr. Guedel's direct testimony filed May 8, 1998.

4

5 Q. DO YOU AGREE WITH MR. GUEDEL'S STATEMENT THAT
6 BELLSOUTH WOULD ENJOY "WINDFALL PROFIT" IF IT DOES
7 NOT REDUCE ACCESS RATES WHEN THE SUBSIDY PAYMENT IS
8 ELIMINATED?

9

10 A. No. Mr. Guedel's logic is faulty and is based on
11 several incorrect assumptions. First, he states that
12 the subsidy pool was revenue neutral to the Local
13 Exchange Carriers (LECs), involved access revenues
14 and therefore, it was funded by the Interexchange
15 Carriers (IXCs). The facts are that, although the
16 original subsidy pool was established to be revenue
17 neutral for the LECs, it was a "wash" for the IXCs as
18 well. As discussed in Order No. 14452 page 5, the
19 Florida Public Service Commission (Commission) found
20 that 1984 access charge revenues were \$454,963,000
21 and that 1985 access charge rates should be set to
22 achieve a target revenues of \$431,419,000. This
23 target reflects adjustments to the 1984 access
24 charges (\$454,963,000) to recognize previously
25 approved Commission changes. This 1985 target was

1 utilized in the setting of access rates associated
2 with implementing bill and keep and involved no
3 funding by the IXCs.

4
5 This "neutral" target revenue goal was stated again
6 in Order No. 15821 page 2, "As stated previously, we
7 set access rates for 1985 at a level which would
8 allow the LECs to achieve the access charge revenue
9 target which in turn was based on the preliminary
10 1984 settlements data." The goal was that both LECs
11 and IXCs were to be held revenue neutral due to
12 implementing bill and keep. There was no funding by
13 the IXCs; they were required to pay for their access
14 to the local network at the same level they paid
15 before the bill and keep system was implemented.

16
17 Mr. Guedel states that the IXCs "were the true
18 funding agents of the pool." In fact, the Commission
19 itself stated that the LECs were funding the pool.
20 Order No. 14452 page 12 states, "The pool will be
21 funded by each LEC contributing a portion of the
22 access revenue it receives for use of its local
23 network." AT&T pays access charges in return for
24 access to the local network, it does not fund the
25

1 subsidy pool. The AT&T testimony is shown to be
2 incorrect by the Commission's own words in the order.

3

4 Second, Mr. Guedel states that "... BellSouth has
5 never been required to compromise its earnings to
6 fund the pool." As discussed above, it is true that
7 neither BellSouth nor AT&T compromised their earnings
8 at the point when the bill and keep pool was
9 originally established under statewide uniform access
10 rates. However, this revenue neutrality was
11 eliminated starting in 1988 as uniform access rates
12 were transitioned to LEC specific rates. BellSouth's
13 earnings are lower due to its bill and keep payment
14 to GTC after the subsequent \$200 million of access
15 reductions are considered.

16

17 Q. IS MR. GUEDEL CORRECT IN STATING THAT THE MAJOR
18 BELLSOUTH ACCESS REDUCTIONS WERE ACCOMPLISHED BECAUSE
19 THE COMMISSION DETERMINED THAT BELLSOUTH HAD EXCESS
20 EARNINGS?

21

22 A. No, once again he has not correctly stated prior
23 Commission actions. The majority of the access
24 reductions (over \$185 million) have been implemented
25 since July 1, 1994. These reductions were the result

1 of Order No. 940172 and the Commission did not make a
2 determination that BellSouth had "excess earnings".
3 The Commission approved a settlement stipulation for
4 the involved dockets that, among other things,
5 included rate reductions. The stipulation did not
6 establish an intrastate earnings level or "excess
7 earnings" that created access reductions.

8

9 The access reductions made by BellSouth has changed
10 the revenue neutral nature of access revenues
11 established in the original bill and keep order.
12 There is no windfall to BellSouth when it is merely
13 returned to the revenue neutral position that was
14 lost once LEC specific rates were implemented and the
15 Company reduced access rates.

16

17 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

18

19 A. Mr. Guedel's testimony is incorrect on several items.
20 He has stated that the IXCs fund the subsidy payment
21 even though the Commission's own order states that
22 the LECs fund it. He also stated that the majority
23 of the access reductions made by BellSouth were the
24 result of an earnings review and the subsequent
25 finding of excess revenues. In fact, \$185 million or

1 over 90% of the reductions were determined by this
2 Commission in an order approving a stipulation that
3 did not establish either an authorized or achieved
4 level of earnings and therefore could not have
5 determined there were "excess earnings" resulting in
6 rate reductions. Mr. Guedel's characterization is
7 plainly and factually incorrect.

8

9 There is no "windfall" to BellSouth from the
10 elimination of the payment because its previous
11 revenue access reductions of over \$200 million have
12 far exceeded the \$1.2 million subsidy payment that
13 was established in 1985 as being revenue neutral.

14

15 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

16

17 A. Yes.

18

19

20

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24

25

1 Q (By Ms. White) Mr. Lohman, would you
2 please give your summary.

3 A Yes, ma'am.

4 Commissioners, we're here today to address
5 the bill and keep temporary subsidy pool that was
6 established in 1985. I believe most of the
7 Commissioners -- I believe all of the Commissioners
8 have been involved in this area at some point between
9 1985 and now in looking at the original subsidy
10 payment, through all of the adjustments that have been
11 made to it, recognizing the various companies'
12 circumstances.

13 I believe the key to looking at this is to
14 recognize that from Day One this was set up to be a
15 temporary payment as the companies and the Commission
16 in the state of Florida transitioned from a rate of
17 return monopoly regulation world into a competitive
18 world.

19 It was set up following divestiture and the
20 implementation of access charges. The recognition
21 that pooling of revenues was no long the -- pooling by
22 the independent and Bell Telephone Company was no
23 longer the way to go; that it should be on a bill and
24 keep. You bill for the services you provide your
25 customers; you receive the revenues and keep them.

1 But the Commission recognized that there
2 were many other things happening at the same time as
3 we moved to a bill and keep situation, and set up a
4 temporary pool, recognizing that the move to bill and
5 keep should be a wash for the companies involved, both
6 the LECs and the IXCs.

7 The revenues at the implement of bill and
8 keep, the access revenues, were based on 1984 actual
9 revenues, adjusted for known Commission action since
10 that point in time. It basically lowered the revenues
11 from 1984 to 1985 target revenues. There were no new
12 funds involved. It was just looking at access, saying
13 here's what you billed in '84. Let's target the
14 revenues for '85 at the same level, adjusting for
15 known Commission actions in the meantime.

16 Because of that there were several true-ups
17 to the original pool, the latest setting of the
18 original, beginning of it. Probably the most
19 important one is the 1987 Order that just trued up
20 some various items that had been being decided at the
21 time. Several cases were before the Supreme Court in
22 Florida to decide on previous Commission actions. So
23 once those were settled, those were rolled into this
24 1987 order. But the intent as stated in the order was
25 to provide a wash to the LECs, and because you were

1 charging the same access revenues in '85 that you were
2 in '84, it was also -- implementation of bill and keep
3 was a wash to the IXCs at the time.

4 In noting that this was a temporary pool,
5 the Commission basically said we're going to have this
6 bill and keep subsidy payment as we move out of rate
7 of return into the new world until the
8 circumstances -- and look at the circumstances of
9 particular companies. That's the point at which it
10 would be eliminated or changed.

11 As it moved forward, the Commission has done
12 that. Out of the 13 companies that were originally
13 involved either as paying into the pool or taking out
14 of the pool on a net basis, only two are left:
15 BellSouth and GTC. It was originally "St. Joseph" but
16 I'll refer to it as "GTC "for the remainder of the
17 hearing.

18 The Commission looked at changed
19 circumstances and basically said when a company no
20 longer needs the subsidy, it won't get it. And as
21 used -- at that point in time primarily used earnings
22 as way of determining whether the subsidy payment
23 should continue or not. Remember, that was in the
24 rate-of-return regulated world and earnings was the
25 normal way. At no point did the Commission say

1 earnings were the only criteria that would be
2 utilized. Basically the statement in order after
3 order, it would depend on the particular circumstances
4 of each company, and it would be decided in a rate
5 case or other proceeding.

6 The election -- as we moved to a competitive
7 world, the election of price regulation by the only
8 two companies remaining, BellSouth and GTC, I believe
9 is a major change in circumstances for the particular
10 companies, and this is the other proceeding in which
11 this subsidy payment should be eliminated.

12 Both companies are totally out of
13 rate-of-return regulation. They've elected on their
14 own accord to move to a price regulation-type
15 situation. 13 years after the temporary pool was
16 begun, I believe it's time to end it.

17 BellSouth will not receive a windfall, in my
18 estimation, based on how the Commission used that term
19 in the orders. The Commission looked at it as a
20 washed and they looked at a lot of different
21 Commission actions and how it affected each company;
22 not just what was in the bill and keep docket.

23 Since that point in time, in eliminating the
24 subsidies, and in addressing the companies paying into
25 the pool, they consistently looked at other Commission

1 actions and how they affected the companies. Some of
2 these were depreciation, some of them -- Centel had a
3 rate reduction of 15 million. So that rate reduction
4 was considered in whether they needed to continue
5 contributing to the pool or not. The Commission has
6 not limited itself to just earnings, but looked at
7 things like depreciation, like rate reductions; those
8 areas.

9 BellSouth, looking at that, has reduced
10 rates tremendously since 1987, which was the
11 finalization of the bill and keep pool. Our million
12 two that we're currently paying for GTC is far less
13 than the almost 200 million access reductions we have
14 made since that point in time, plus many reductions to
15 other services.

16 I don't believe there's a windfall to
17 BellSouth. When you take into account all the other
18 Commission actions since 1987, we've reduced rates
19 many times, to 1.2. In my estimation, when we
20 eliminate this payment, that basically just makes up
21 part of the loss we're currently incurring.

22 I believe, looking at another issue that's
23 involved in the hearing, is does the Commission have
24 the authority to eliminate the payment? I don't think
25 there's any question that the elimination of this

1 payment is within the Commission's authority. This
2 was stated in all of the orders addressing it as a
3 temporary subsidy payment. Nowhere was it meant to be
4 permanent. In fact, all of the parties appear to
5 agree that it was not intended to be permanent.

6 The price regulation -- 364 and price
7 regulation, I believe, primarily addresses rates
8 charged to customers. And I think there is a
9 question -- the fact is I'm not a lawyer -- but my
10 interpretation of 364 does not give the authority to
11 the Commission to allow GTC to raise its access rates
12 except under that Section 364.051(5), where a company
13 that has elected price regulation can come to you and
14 request, in effect, a docket to address whether
15 earnings should be raised or not.

16 By the same token I don't believe the
17 Commission under 364 has the authority to order
18 BellSouth to reduce rates.

19 These are legal questions, and I'm sure
20 Ms. White is going to brief them as all the other
21 attorneys do. But since those were issues we're
22 addressing I wanted to talk about them.

23 There's also been an argument the IXCs
24 funded this access payment. The IXCs, as I talked
25 about earlier, did not increase rates at all in the

1 access docket due to going to bill and keep. There
2 was a revenue neutrality, both for the LECs and
3 keeping 1985 equal with 1984, which was before going
4 to bill and keep. The orders addressed the LECs being
5 revenue neutral. It never says the IXCs are neutral.
6 But if you're looking at the order where you're
7 targeting '85 revenues to equal '84 revenues, absent
8 known changes the Commission made, I think it's
9 obvious it was a wash for all parties, not just the
10 LECs.

11 As a matter of fact, if you look at the
12 Order, the Commission states there the LECs are
13 funding the subsidy payments through revenues they
14 receive for use of their -- connection of their local
15 network. So the Commission Order itself stated who
16 was funding the payment, the subsidy payments.

17 In summary, the Commission has been looking
18 at this temporary pool actively since 1985. Both
19 companies have elected price regulation. Both
20 companies, therefore, have completed their move to a
21 competitive world. I believe it's time to eliminate
22 the payment. Thank you.

23 **MS. WHITE:** Mr. Lohman is available for
24 cross examination.

25 **COMMISSIONER CLARK:** Mr. Lohman, I'd like to

1 ask you a question.

2 You entered into a settlement of a rate case
3 back in 1992?

4 **WITNESS LOHMAN:** I believe the settlement
5 was in '93, but it was a '92 docket.

6 **COMMISSIONER CLARK:** How long did that last
7 that you have -- is it a sharing of revenues?

8 **WITNESS LOHMAN:** Yes, ma'am. The
9 stipulation ran through the year 1997.

10 **COMMISSIONER CLARK:** Refresh my memory as to
11 what that provides for?

12 **WITNESS LOHMAN:** It basically provided for
13 many items. I guess the sharing piece of it, that we
14 would share revenues over a certain level of earnings.
15 That level changed, depending on some terms within the
16 agreement.

17 **COMMISSIONER CLARK:** All right. So there is
18 a -- have we completed a look at 1996? Have we
19 determined there is a sharing of revenues?

20 **WITNESS LOHMAN:** There was a preliminary
21 sharing of about 50 million.

22 **COMMISSIONER CLARK:** Okay.

23 **WITNESS LOHMAN:** We're currently in
24 negotiations with Public Counsel on the -- if there's
25 any additional sharing.

1 **COMMISSIONER CLARK:** '96.

2 **WITNESS LOHMAN:** We always revise it.

3 **COMMISSIONER CLARK:** You say it goes through
4 '97.

5 **WITNESS LOHMAN:** Yes, ma'am.

6 **COMMISSIONER CLARK:** Do we know anything
7 about '97 yet?

8 **WITNESS LOHMAN:** Yes, ma'am. The Commission
9 has voted to refund earnings in '97 of about
10 \$123 million.

11 **COMMISSIONER CLARK:** As I understand your
12 testimony you said that you want this to go back to
13 1996; is that --

14 **WITNESS LOHMAN:** What I basically said is
15 that I believe that the subsidy payment should be
16 eliminated at the point GTC elected price regulation.

17 **COMMISSIONER CLARK:** Okay.

18 **WITNESS LOHMAN:** And because we were in the
19 sharing at those points in times, and it looked like
20 we had been sharing in '97 at the time I did my
21 testimony -- basically said we would refund that to
22 the customers for those years.

23 **COMMISSIONER CLARK:** It seems to me you
24 agree with the notion it ought to be refunded to the
25 customers, so why shouldn't it be IXC's customers who

1 actually paid it?

2 **WITNESS LOHMAN:** I don't believe the IXCs
3 actually paid it.

4 **COMMISSIONER CLARK:** I think their customers
5 did.

6 **WITNESS LOHMAN:** I believe when you start
7 looking at subsidies -- I believe -- can I take it a
8 step back?

9 **COMMISSIONER CLARK:** Yes.

10 **WITNESS LOHMAN:** That access rates are set
11 above cost. I don't think there's any question by the
12 parties, although it's argued quite a bit -- I think
13 part of the question is, is it incremental cost or is
14 it fully distributed cost? What's the proper cost
15 methodology to use?

16 But once those dollars are received -- and
17 hypothetically, let's say there's a subsidy involved
18 there -- that covers a lot of different things. That
19 covers local service. That covers universal service.
20 It covers all the people who we believe are paying
21 less than the cost of their 1-FR. So I don't think
22 you can say this particular payment, just because it's
23 an excess revenue pertains just to the IXC's
24 customers.

25 **COMMISSIONER CLARK:** You're saying we can't

1 track this revenue as being access revenue.

2 **WITNESS LOHMAN:** Yes, ma'am. I believe once
3 a payment is received, and it's acknowledged there's a
4 subsidy involved, it goes to all services. You cannot
5 track it. I believe that was the Commission finding,
6 dealing in the payphone question a while back, that
7 you can't track subsidies. I may be wrong in the
8 exact wording, but it was something like that.

9 **COMMISSIONER CLARK:** I'm sure we -- you
10 know, but instituting the bill and keep and providing
11 for the subsidy was specifically an access charge
12 related decision. And initially it was revenue
13 neutral. And it's your position it's changed over
14 time. It may be revenue neutral at the time you
15 implement it but then it immediately is not revenue
16 neutral.

17 **WITNESS LOHMAN:** Once we left uniform
18 statewide rates, it was no longer revenue neutral.
19 And once we lowered access rates over \$200 million, we
20 were no longer receiving access rates -- I mean, if
21 you want to say it was specifically access, I say
22 we're no longer receiving those access rates. That
23 we've lowered -- and the Commission has consistently
24 looked and recognized other Commission actions in
25 eliminating -- in how to eliminate the payment.

1 One more point. When you look at the orders
2 and it's talking about setting up the pool, it's
3 really saying we don't want to change local rates at
4 this point in time because we don't know what else is
5 going to happen, yet the bill and keep of toll coming
6 in at the same time. In fact, the GTE, they were
7 paying into -- they were a net contributor to the
8 interLATA pool. Yet when you look at the intraLATA
9 pool, it went the other way; they had a loss.
10 Commission aid okay, net those two items, and you're
11 out of both pools basically.

12 It wasn't just access. The purpose of
13 putting it in was all over the place. We don't want
14 to lower or raise local rates until all of this is
15 finished.

16 **COMMISSIONER CLARK:** Clarify one more thing
17 for me. How much money are we talking about in 1996
18 and how much in '97?

19 **WITNESS LOHMAN:** In the sharing?

20 **COMMISSIONER CLARK:** No, in --

21 **WITNESS LOHMAN:** In this? About -- I will
22 say \$600,000 for '96, it would be half of a million
23 two, and all of it for '97.

24 **COMMISSIONER CLARK:** Will that entire amount
25 go to the overearning, to --

1 **WITNESS LOHMAN:** Under the terms of the
2 stipulation, the entire amount for '97 would. Due to
3 the relatively small amount in '96, and it would be
4 60% sharing, my testimony said we'd refund the whole
5 amount to our customers.

6 **COMMISSIONER CLARK:** Okay.

7 **WITNESS LOHMAN:** I believe.

8 **COMMISSIONER CLARK:** So the issue is really
9 what customers get it?

10 **WITNESS LOHMAN:** On the piece between '96
11 and now?

12 **COMMISSIONER CLARK:** Yeah.

13 **WITNESS LOHMAN:** Yes, ma'am.

14 **COMMISSIONER CLARK:** After '98 you're no
15 longer subject to this --

16 **WITNESS LOHMAN:** I'm no longer subject to
17 sharing.

18 **COMMISSIONER CLARK:** Okay. Thank you.

19 **WITNESS LOHMAN:** After '97, starting in '98.

20 **COMMISSIONER CLARK:** That's what I
21 understood. Thank you.

22 **CHAIRMAN JOHNSON:** Any other questions,
23 Commissioners? Mr. Hatch.

24 **MR. HATCH:** Just a very few questions.

25

CROSS EXAMINATION

1

2 **BY MR. HATCH:**

3 Q Mr. Lohman, just to follow up on a couple of
4 questions that Commissioner Clark had asked, would it
5 be more correct to say that it was access revenues and
6 an access revenue target that was the initial
7 mechanism by which the amounts were put into the pool?

8 A I'm not sure I understand the question,
9 Mr. Hatch. Would you ask me again?

10 Q I believe in response to a question from
11 Commissioner Clark you said it was access rates that
12 funded the pool, and that those rates have gone down,
13 therefore, that you had reduced any potential windfall
14 that you could get. Would that be a correct
15 characterization?

16 A Basically. But I don't believe I said that
17 the access rates, therefore, the IXCs were funding the
18 pool. I said that the pool -- the access rates were
19 targeted for 1985 at the same level they were in 1984.
20 And that was the target. So it was a wash for the
21 IXCs at that point.

22 Then the Commission looked at the relative
23 effect on each company within the pool. And it also
24 addressed items like directory assistance increase and
25 pay telephone increase. All of those were part of the

1 revenues that were addressed in the pool itself. So
2 that's what the dollars were on the original pool.

3 Q Would I be correct to say that the original
4 access subsidy pool was a static mechanism? That
5 there were no changes made over time, either related
6 to access revenues increasing or access expenses
7 decreasing for any company in the pool?

8 A I don't think so, but I'd have to look the
9 each order. Because every time the pool changed,
10 every time a company was added or removed, it
11 recognized other Commission actions. I don't know if
12 any of those other Commission actions were part of an
13 access reduction or increase to another company.

14 Q Was the amount of an access subsidy to any
15 company ever increased by the Commission to your
16 knowledge?

17 A I can't answer the question. I don't know.
18 I'd have to look at how the piece-parts of each change
19 affected it. And I really haven't looked at that for
20 other companies, other than seeing what actions the
21 Commission did recognize where it was stated they'd
22 recognize a rate change. But I didn't go beyond that
23 to see what the rate change reflected.

24 Q You're familiar with the old pooling
25 mechanism for toll, would that be fair to say?

1 A I'm familiar with it but it's been since
2 1985, so it was quite a while ago.

3 Q Would it be correct to say that under the
4 old toll pool, for each year each LEC took all of its
5 toll revenues and took all of its toll expenses, put
6 them all together and came up with a revenue target,
7 and so that everything netted out equal on a statewide
8 basis. Would that be just a fair simple
9 characterization? I realize that's very simplistic
10 but would that be a fair assessment?

11 A Yeah. Accountants hate to give an answer, a
12 yes, to something that -- basically a pooling
13 arrangement is everybody put in their revenues;
14 everybody put in their expenses. The profit was then
15 shared among the members of the pool. I think that's
16 what you said but I'd rather state it that way.

17 Q That's fine. I agree with that. Now, with
18 respect -- and that was done on an ongoing basis and
19 that would account for each company's change of
20 position, both as to revenues and expenses related to
21 toll. Would that be correct?

22 A In the entirety, yes.

23 Q Now, with respect to the access mechanism,
24 that was not done, was it? It was done one time and
25 one time only. Would that be correct?

1 A Well, I think I'm going to have to go back
2 to my original statement, that the payments and
3 receipts from the pool changed over time. BellSouth
4 lowered amounts it was paying into the pool, and it
5 had reductions -- and I'm not sure whether any of
6 those were access or not -- due to that. So I don't
7 think I agree. I just have to determine whether any
8 of the changes to it were access related. And I don't
9 know the answer to that. But it recognized a lot of
10 Commission actions in how they change companies'
11 revenues and expenses.

12 Q Would it be fair to say that all of those
13 actions that the Commission recognized were not
14 related to the access subsidy mechanism itself either
15 as to access revenues or access expenses?

16 A I don't think so when you look at how the
17 Commission set up the access payment system, access
18 subsidy payment system and basically said, "We're not
19 finished. We are going to continue to look at all of
20 these other items, and take people out of the pool and
21 adjust what they get or put in based on our decisions
22 in these other items, such as toll, bill and keep,
23 just everything that went on.

24 So I don't think it was, in effect, a static
25 pool. The pool -- the payments from each company or

1 to each company varied based on Commission action.

2 Q After the initial establishment of the
3 access subsidy pool, did the Commission ever, after
4 1985-86, that time frame, access bill and keep was
5 implemented, did they ever go and reestablish a new
6 access revenue target?

7 A I don't know of a change that was called in
8 any order an access revenue target. However, the way
9 the Commission treated it, it wasn't truly a pool
10 other than in name. It wasn't the situation where you
11 took all of your revenues and put it in there; you
12 took all of your expenses and put it in the pool. It
13 was these companies will contribute X amount to the
14 pool. These companies will take X amount out of the
15 pool. As a matter of fact, it was a net. There was a
16 gross amount and a net amount; you put some in, you
17 got some out.

18 So in the context of that, which is really
19 the pool you're talking about, what each company was
20 putting in and what each company was taking out, yes,
21 there was definite changes to that amount.

22 I believe the problem in your and my
23 communication on this is you're looking at it, it was
24 still this huge pool that all of the revenues --
25 access revenues and expenses went into. That's not

1 what happened. It set up a target revenue -- a
2 subsidy payment is probably a better way to term it
3 than subsidy pool, but a very small subset of all of
4 those revenues and expenses were identified, and
5 BellSouth would contribute this much to it, GTE would
6 contribute this much; these companies would get this
7 much out. I believe that's the pool we're talking
8 about. And that's the pool that has changed
9 consistently recognizing Commission actions.

10 Q After the initial implementation of the
11 access subsidy mechanism, was there any consideration
12 of any LEC's access revenues or expenses, any changes
13 in either of those two, that were taken into
14 consideration by the Commission in changing either its
15 contribution to the pool or its net receipt from the
16 pool?

17 A I believe there were. As I've stated
18 earlier, I don't know of the particular instances for
19 the independents, because I haven't looked at every
20 revenue item that affected receipts and payments from
21 the pool.

22 I know for BellSouth there were cases where
23 money were set aside and utilized in other dockets. I
24 don't know for a fact that any of those were access
25 but they very well could have been.

1 Q Let's turn to Page 5 of your surrebuttal
2 testimony. This is down at the bottom, lines 19
3 through 25, where your criticizing Mr. Guedel's
4 testimony for faulty assumption. And that assumption
5 is, as I understand the way you've portrayed it, that
6 Mr. Guedel is incorrect in his testimony that the
7 reductions in access were made by BellSouth pursuant
8 to access earnings. Would that be a fair assessment?

9 A Yes. I do not believe the Commission had a
10 finding of BellSouth having excess earnings.

11 Q Now, with respect to all of the cases where
12 BellSouth has made reductions in subsidy payments,
13 would it be fair to say that those were in the context
14 of either excess earnings or just Commission earnings
15 investigations; either a finding of excess earnings or
16 a stipulation to reduce subsidy payments as a result
17 of an earnings investigation?

18 A I don't believe so. The Commission has
19 specifically set aside amounts where other companies
20 were no longer receiving it and said handle this in
21 another docket. It wasn't dependent upon an earnings
22 level being reached in a docket. To the best of my
23 have memory. I won't say that absolutely for each one
24 of them, but that's to the best of my memory.

25 The dockets that we have had, we haven't had

1 an excess earnings finding. We've reviewed earnings,
2 we've reviewed many other items. You go back to
3 the -- I guess the early '90s, '91-92, we basically
4 rolled forward an incentive earnings plan with no
5 review of earnings but there were reductions that came
6 out of that issue. I don't believe that there's a
7 Commission finding anywhere of excess earnings. Now,
8 did the Commission feel that BellSouth was able to
9 improve its earnings by moving towards an incentive
10 regulation plan? I think so. I think the Commission
11 felt some of those could be returned. But I don't
12 think anywhere there was a finding of excess earnings
13 on BellSouth's part other than the agreed to sharing
14 that we shared.

15 Q Would the reductions to access that Bell
16 made, were they made in the course of an earnings
17 review?

18 A I believe some were and some were not. I
19 don't remember the move from incentive -- the first
20 incentive regulation plan to the extension of it for
21 two years. I'm sure earnings were something that were
22 discussed. I just don't -- there have not a hearing.
23 There was not a finding of an approved rate of return.
24 There was not a finding of an achieved rate of return.
25 There was not a finding of excess earnings, to my

1 knowledge. As a matter of fact, if you look -- you're
2 talking about access. I don't believe access is the
3 only thing to look at.

4 If you've look at what we've done, in 1995,
5 I believe September, we reduced toll rates by
6 30-31 million that was not related to any docket
7 whatsoever. It was a move to meet competition. To
8 look -- as we moved to the competitive world, we think
9 that that was an area we needed to reduce rates.

10 So if you say have you reduced rates due to
11 something other than a Commission investigation or
12 Commission review? The answer is definitely yes.
13 We've reduced toll rates 31 million in a effort to
14 meet competition.

15 Q Have you ever reduced access rates for no
16 other reason than because you thought it was a good
17 thing to do?

18 A Well, I guess that becomes kind of
19 subjective question. Because we filed -- we had an
20 option of filing rates and could or could not have
21 used access. I'd have to go back and look, did we
22 make any -- on our own volition -- make an access
23 reduction over and above what the Commission had
24 ordered in handling the discretionary revenue
25 reductions that came out of the stipulation. I don't

1 know, we may have. I just don't know the answer to
2 that. I know of all of the rate reductions we made in
3 the last three years the vast majority of them have
4 been access reductions.

5 Q Would it be accurate to say that all of
6 those access reductions were pursuant to the
7 stipulation because that's what BellSouth agreed to
8 do?

9 A I think they were pursuant to the
10 stipulation. They were not -- the original is set up
11 access amounts; it was additional amounts over and
12 above that.

13 Q And those are the discretionary amounts?

14 A Those are the discretionary amounts.

15 Q But all of those reductions, either through
16 the discretionary or earmarked reductions were all
17 pursuant to the settlement of an earnings review by
18 the Commission?

19 A No, sir. That stipulation settled many
20 things other than an earnings review.

21 Q Oh, I would agree with you that there are
22 many pieces of that stipulation that dealt with other
23 than an earnings review. But all of the reductions in
24 access were pursuant to the settlement that resolved
25 the earnings review?

1 **A** And the other dockets. Do I not agree with
2 you that the access reductions or any of the
3 reductions were due to just carving out a very small
4 piece of four dockets and saying that that was the
5 reason. I do not believe that's correct.

6 **Q** Do you recall what those other three dockets
7 were?

8 **A** Sure. They were a period of time that we're
9 not particularly proud of, but it was the repair
10 question; the dockets dealing with accusations that we
11 had not acted properly.

12 **MR. HATCH:** That's all I've got. Thank you.

13 **CHAIRMAN JOHNSON:** Mr. Erwin.

14 **MR. ERWIN:** Before I begin, I have a Motion
15 to Strike portions of Mr. Lohman's testimony that I'd
16 like to have the Commission entertain.

17 I'd move to strike testimony beginning on
18 Page 16 of his direct testimony, beginning with
19 Line 8. This is the part of the testimony that begins
20 with "Although I have no personal knowledge of GTC's
21 decision making process" and continues on from there.

22 If you'll take a look at this testimony
23 you'll see that it's objectionable because it's
24 speculation on the part of the witness. And there's
25 some situations where opinion testimony is

1 permissible, but if the opinion is nothing more than
2 speculation, it's not admissible.

3 Looking to Professor Ehrhardt's Florida
4 Evidence 1998 on Page 519 for that proposition. And
5 also in the aim the Drackett Products Company versus
6 Blue 152 So.2d 463 at Page 465, Florida Supreme Court
7 case of 1963, quoted by Professor Ehrhardt, this case
8 states in part as follows: "The law seems well
9 established that testimony consisting of guesses,
10 conjecture or speculation, suppositions without a
11 premise of fact, are clearly inadmissible in the trial
12 of causes in the courts of this country."

13 And that is true about this testimony from
14 Page 16, Line 8 through Page 17, Line 9. From Lines 9
15 through 12 that testimony is objectionable not only on
16 the basis of conjecture but also on the basis of
17 hearsay.

18 So I would move to strike those portions of
19 his direct testimony.

20 **CHAIRMAN JOHNSON:** The Ehrhardt and the
21 court case that you referenced, were those dealing
22 with administrative law proceedings?

23 **MR. ERWIN:** No. He doesn't differentiate
24 that into administrative law proceedings. This is
25 addressing the admission of evidence, you know, in a

1 civil trial.

2 **CHAIRMAN JOHNSON:** And are the standards the
3 same in this kind of thing?

4 **MR. ERWIN:** Well, if you want to have any
5 kind of decision come out of this Commission that, you
6 know, looks like it's based on something solid, I
7 would not want to see you make a decision based on
8 conjecture and speculation and that kind of an
9 opinion. I just don't think that even though this is
10 an administrative proceeding, that that sort of
11 testimony is justified.

12 I mean, he prefaces his testimony by saying
13 he doesn't really know what he's talking about.
14 "Although I have no personal knowledge of GTC's
15 decision making process" he believes such and such.
16 He believes -- then he says -- he then attributes his
17 findings to the fact that he apparently knows what GTC
18 is thinking about various things and assuming reasons
19 why they might have done some certain action.

20 It's not the kind of -- you know, it doesn't
21 rise to the level of the sort of information I think
22 you should use to make a decision even in a
23 administrative proceeding.

24 **CHAIRMAN JOHNSON:** Okay. Do you want to go
25 item by item? Do you have some other --

1 **MR. ERWIN:** That's it. That's it.

2 **CHAIRMAN JOHNSON:** I'm sorry. I missed the
3 second part. I know you said up to Line 9 --

4 **MR. ERWIN:** Starts on Page 16 at Line 8, and
5 would continue on through Page 17 at Line 12. The
6 thing that was different was that on Page 17, from
7 Lines 9 through 12, I said in addition to that being
8 conjecture, it is also hearsay. It's something that
9 he read in the newspaper, or thinks he read in the
10 newspaper.

11 **CHAIRMAN JOHNSON:** BellSouth.

12 **MS. WHITE:** I guess I have a couple of
13 responses back to that.

14 First, I think it's -- Mr. Erwin waited for
15 a heck of a time to make this objection when this
16 testimony was filed back in March of 1998 to wait for
17 the day of the hearing.

18 Second of all, BellSouth believes that this
19 Commission can take this testimony for what it is
20 worth, give it the weight that it deserves.

21 I don't believe BellSouth is asking that
22 this Commission make a decision in this case based on
23 Page 16 -- based solely on Page 16, Lines 8 through 25
24 and Page 17, Lines 1 through 12. There are many other
25 reasons that BellSouth has given for the Commission

1 to -- upon which the Commission can base the decision.

2 Secondly, with regard to hearsay, the
3 Commission's own rules -- and I'm sorry I do not have
4 the specific cite with me -- but allow for hearsay to
5 be used as evidence, but it states that the Commission
6 can not solely base its decision on that matter.

7 So I think that this testimony could be
8 taken given the weight that the Commission feels it
9 deserves.

10 I would also remind Mr. Erwin that
11 Mr. Lohman is speaking here with 20-some-odd years of
12 experience and education and training in finance and
13 in the telecommunications industry. So I believe he
14 has a solid background and basis upon which to state
15 this testimony.

16 **CHAIRMAN JOHNSON:** Staff, any
17 recommendation?

18 **MS. KEATING:** Well, I guess I ought to point
19 out first that this testimony has already been moved
20 into the record, and the objection wasn't made at that
21 time. But having reviewed those portions that
22 Mr. Erwin has indicated, I think your question about
23 whether the cases that he cited related to
24 administrative law was very pertinent. And I think
25 this testimony should be admitted and the Commission

1 can simply give it the weight that it's due.

2 **CHAIRMAN JOHNSON:** I'm going to admit the
3 testimony. And the arguments that you raised,
4 Mr. Erwin, will go to the weight but not the
5 admissibility. The information will not be stricken
6 from the record. It will be as it was inserted as
7 read.

8 Any other questions, Mr. Erwin, for the
9 witness?

10 **MR. ERWIN:** No, I have no cross examination.

11 **CHAIRMAN JOHNSON:** Okay. Staff.

12 **CROSS EXAMINATION**

13 **BY MS. KEATING:**

14 Q Good morning.

15 A Good morning.

16 Q I really just have a few questions. Many of
17 them are clarification and follow-up on some other
18 questions you have been requested.

19 The first one is on Page 12 of your direct
20 testimony, and on that Frontier's petition for a
21 limited scope proceeding.

22 A Yes, ma'am.

23 Q And just to clarify, didn't that petition
24 relate to the intraLATA subsidy rather than the
25 interLATA subsidy?

1 A I thought it was the interLATA subsidy. And
2 this was the case where they were electing price
3 regulation, and recognized that when you're in
4 competition, two companies are price regulated, one
5 shouldn't be paying the other the subsidy. If you
6 have a minute, I'll look at the order. (Pause)

7 Yes, I'm sorry, you are correct. It is
8 intraLATA. It is not "inter." However, it's the same
9 concept. They are both pools that were set up as
10 transition mechanisms. I didn't mean for that to be
11 misleading.

12 Q Just to further clarify, isn't Frontier
13 receiving that intraLATA subsidy?

14 A Yes. But there's a negotiated settlement
15 that reduced the amount. And basically it's the
16 equivalent of a phase out of the payment. It
17 recognized they went to price regulation and reached
18 an agreement with us and Office of Public Counsel that
19 the subsidy payments had a definite end and should --
20 it's a set amount. It won't continue forever. The
21 temporary subsidy has been eliminated at a date
22 certain.

23 Q Okay. Turning now to Page 19 of your
24 direct. On Page 10 you identify the original subsidy
25 of 2.7 million?

1 A Correct.

2 Q Could you just clarify, does that include
3 BellSouth's contribution? (Pause)

4 A Part of my problem is that these charts have
5 been changed many times. I'm looking at the chart
6 attached to Order 14452, Appendix 4, Chart 2, which
7 shows a payment of 4.7; subsidy contribution by
8 Southern Bell of 4.7. I'm looking at another document
9 that shows the same Order 14452-A, same docket,
10 Appendix 4, Chart 1. It shows a Southern Bell
11 payment -- (Pause) -- well, that's dealing with the
12 bill and keep shortfall. It shows the 6 million. Let
13 me move to the one that was the final decision. I'll
14 take, subject to check, which one that was.

15 If you go to Order -- I can not read --
16 sorry, I can't read my copy of it. Let me find the --
17 (Pause) -- I've got it in my backup. (Pause)

18 Unfortunately, I can't put my hands on it.
19 If I could ask someone who helped me prepare this and
20 knows more about the filing than I do, I could get
21 that data for you.

22 Q That's fine.

23 A Because it's definitely the 2 --

24 (Unidentified person comes from audience and
25 aids the witness.)

1 **WITNESS LOHMAN:** Commissioner, subject to
2 check, I will accept that.

3 **MS. KEATING:** That's fine. Thank you
4 Mr. Lohman.

5 **WITNESS LOHMAN:** What I'm sure of is I'm
6 paying 1.233 million, and the original amount was
7 basically a net of the 2.7. These charts have changed
8 so many times that I can not lay any hands on the
9 exact one.

10 **MR. ERWIN:** I think the amount he's certain
11 of is only 1.223 million.

12 **WITNESS LOHMAN:** Excuse me.

13 **MS. KEATING:** Thank you for that
14 clarification.

15 **CHAIRMAN JOHNSON:** Do you want to take a
16 five-minute break?

17 **MS. KEATING:** Thank you.

18 **CHAIRMAN JOHNSON:** We'll take a five-minute
19 break.

20 (Brief recess taken.)

21 - - - -

22 **CHAIRMAN JOHNSON:** Go back to the record.
23 Staff.

24 **MS. KEATING:** My apologies to the
25 Commissioners and the witness and counsel. All I can

1 say is the perils of contacts and mascara are very
2 bad. (Laughter)

3 Q (By Ms. Keating) Just to go back to the
4 discussion of Frontier, I wanted to clarify one other
5 point.

6 Did the Commission ever make a final
7 decision on Frontier's petition or did Frontier
8 withdrew that petition? Would you accept, subject to
9 check, that Frontier withdrew that petition?

10 A Subject to check, yes.

11 Q Now, Mr. Lohman, in the past when the
12 interLATA subsidy has been reduced or terminated,
13 hasn't BellSouth been required to reduce charges in
14 some area? Or to make some other type of reduction?

15 A I believe that's been the basic item. I'm
16 not sure in the very first one or two that that was
17 required.

18 After that point in time, the Commission
19 made it as another set-aside. As you know in the
20 dockets we had going we had many set-asides to be used
21 for various purposes. That was moved into one of the
22 set-aside items. At that point we were under
23 rate-of-return sharing obligations. I believe that's
24 changed as we've moved to a price regulated.

25 Q Have the set-asides been disposed of that

1 you're aware of?

2 **A** Yes. To my knowledge they have been. I
3 don't remember if they were all rate reductions or
4 some of them could have been depreciation, I just
5 don't remember. Because once it went into a
6 set-aside, just whatever happened, happened.

7 **Q** Could you identify some of the areas where
8 BellSouth has been required to make reductions when
9 the interLATA subsidy has been reduced or terminated?

10 **A** I'd have to look at each Order. I believe
11 the most recent ones were just put into a set-aside
12 amount for the Commission to decide later.

13 **Q** Has the Commission ever ordered BellSouth to
14 reduce access charges when the interLATA subsidy has
15 been reduced or terminated?

16 **A** I don't know the answer. I'd have to look
17 at each one. I have the Orders if you'd like for me
18 to do that.

19 **Q** That's fine.

20 You would agree, though, that the Commission
21 has required BellSouth to make some reductions in the
22 past?

23 **A** Yes. When we were in the rate-of-return
24 regulated mode, yes. The Commission had set aside
25 some of the amounts.

1 Q Well, do you believe that it would be
2 consistent if the Commission does terminate or
3 eliminate the interLATA subsidy to St. Joe, would it
4 be consistent with past Commission orders for
5 BellSouth not to be required to make a reduction in
6 some area?

7 A I think it would be to the extent the
8 Commission recognized other reductions that BellSouth
9 had made in its rates. I believe that's consistent
10 with how the Commission has recognized the other pool
11 members. If they have had other rate reductions or
12 other rate increases to expense authorized or ordered
13 by the Commission, they were allowed to use those to
14 offset, so to speak, reductions. Centel is the
15 company that comes to mind. They had a 300,000
16 reduction, something like that, reduction. And the
17 Commission took note that they had made a 15 million
18 rate reduction and said because of that we believe
19 this has been taken care of.

20 So I believe looking at the level of
21 reductions BellSouth has made since 1987, it would be
22 consistent with how other companies have been treated.

23 Q Would you agree, though, those orders never
24 addressed the actual access charge in-take that was
25 related to the interLATA subsidy pool?

1 A I don't know where Centel made the
2 15 million reduction. I don't know if it was in local
3 service or access rates or anything else. But I
4 believe if you're looking at it all together --
5 because I know the Commission has allowed additional
6 depreciation to be recognized as an offset to
7 eliminating a payment.

8 So I believe the Commission has looked at
9 various things in deciding what to do with it. I'd
10 also point out, these were all within a rate of return
11 or/sharing in our situation type of regulation.

12 Q I'd like you to refer you now to
13 Mr. Guedel's testimony.

14 A Yes, ma'am.

15 Q Page 8, Lines 13 through 16, Mr. Guedel
16 states that it's possible that increasing intrastate
17 access charges may be in conflict of Section 364.163.
18 I realize that you're not an attorney, but in your
19 opinion do you agree with Mr. Guedel's assessment?

20 A Yes, I do. I believe he also addresses that
21 they have, at GTC, would have an alternative under --
22 I believe it was 364.165 -- 0515 -- something like
23 that. It's the section that says if you go into price
24 regulation and all of a sudden your world goes to pot,
25 you can come in and ask the Commission to increase

1 rates. I can find that section. 364.051(5) Florida
2 Statutes. Accountants don't keep up with these
3 statutes very well.

4 **MS. KEATING:** Thank you, Mr. Lohman. Those
5 are all the questions Staff has.

6 **COMMISSIONER JACOBS:** I have one brief
7 question. It really goes back to the question that
8 Staff asked.

9 That the consideration of the removal of
10 subsidy payments under your theory were part and
11 parcel of the consideration of your earnings. Is that
12 your theory? Or were they separate?

13 **WITNESS LOHMAN:** In removing the items in
14 the past as the -- the ones where it was removed or
15 set aside, the Commission did not have an earnings
16 finding at that point in time.

17 **COMMISSIONER JACOBS:** Okay. So the
18 consummation of the stipulations regarding your
19 earnings likewise had no findings as to the
20 consideration of the subsidy payments. Is that a fair
21 statement?

22 **WITNESS LOHMAN:** I guess I'll step back just
23 a second.

24 The findings in the settlement earning did
25 not have any findings of earnings one way or the

1 other, including the bill and keep pooling or
2 payments.

3 **COMMISSIONER JACOBS:** Okay.

4 **COMMISSIONER DEASON:** I have a question on
5 Page 14 of your direct testimony, Lines 12 through 15,
6 you make a statement there concerning the effect of
7 choosing price regulation. And I think you're making
8 the observation that it's your position that mere
9 electing of price regulation does not affect the
10 Commission's authority to remove the sub-subsidy; is
11 that correct?

12 **WITNESS LOHMAN:** That's correct.

13 **COMMISSIONER DEASON:** Then you go on to make
14 the observation that if it did, then it's your opinion
15 that BellSouth could just unilaterally eliminate the
16 payment; is that correct?

17 **WITNESS LOHMAN:** Yes.

18 **COMMISSIONER DEASON:** So you're saying that
19 under either scenario then either the Commission has
20 the authority, or else if we no longer have the
21 authority, well, then we have no say over it and
22 you're no longer obligated to make the payment.

23 **WITNESS LOHMAN:** Yes. Although in filing
24 our petition our first thought is because this was a
25 temporary subsidy set up, that you had the authority

1 to end it. But if the argument that has been made,
2 that you don't have the authority to do that, then
3 obviously I don't believe you have the authority to
4 require us to continue paying it. The sword cuts both
5 ways.

6 **COMMISSIONER DEASON:** Okay. Thank you.

7 **CHAIRMAN JOHNSON:** Any other questions,
8 Commissioners? Redirect?

9 **MS. WHITE:** No redirect. May Mr. Lohman be
10 excused?

11 **CHAIRMAN JOHNSON:** Exhibits.

12 **MS. WHITE:** I move Exhibit 2.

13 **CHAIRMAN JOHNSON:** Show that admitted
14 without objection. You're excused.

15 (Exhibit 2 received in evidence.)

16 **WITNESS LOHMAN:** Thank you.

17 (Witness Lohman excused.)

18 - - - - -

19 **MR. HATCH:** AT&T would call Mike Guedel to
20 the stand.

21 **MR. ERWIN:** Excuse me. I'm going to object
22 to some of his testimony.

23 **CHAIRMAN JOHNSON:** Okay.

24 **MR. ERWIN:** And it seems to me to be
25 disruptive to do it at this point in the proceedings,

1 and that my tactic before of doing it as a motion to
2 strike after it's already been inserted into the
3 record is better than to object now. But if you want,
4 I'll just object at this point before you even know
5 what he's going to say.

6 **MR. HATCH:** I think the appropriate time of
7 the objection is at the point where I move to have his
8 testimony inserted. But if you want to fight about it
9 now, that's okay too.

10 **COMMISSIONER DEASON:** Is Mr. Guedel going to
11 give a summary?

12 **MR. ERWIN:** Let me say this if it isn't --

13 **COMMISSIONER DEASON:** Mr. Erwin, I have a
14 question pending. Thank you.

15 **MR. ERWIN:** I'm sorry.

16 **MR. HATCH:** Technically the summary is given
17 after his testimony is inserted into the record,
18 Commissioner.

19 **COMMISSIONER DEASON:** Oh.

20 **CHAIRMAN JOHNSON:** We'll go ahead, but we
21 understand, Mr. Erwin, that you will have an objection
22 and I'll entertain that at the appropriate time. But
23 I do appreciate that statement and understand why.

24 **MR. ERWIN:** Okay. Thank you.

25

MIKE GUEDEL

1
2 was called as a witness on behalf of AT&T
3 Communications of the Southern States, Inc. and,
4 having been duly sworn, testified as follows:

DIRECT EXAMINATION

5
6 **BY MR. HATCH:**

7 **Q** Mr. Guedel, could you state your name and
8 address for the record, please?

9 **A** My name is Mike Guedel. My address is 1200
10 Peachtree Street NE, Atlanta, Georgia 30309.

11 **Q** By whom are you employed and in what
12 capacity?

13 **A** I'm employed by AT&T as a manager in the
14 Network Services Division.

15 **Q** Did you prepare and cause to be filed direct
16 testimony consisting of 10 pages in this proceeding?

17 **A** Yes, I did.

18 **Q** Do you have any changes or corrections to
19 your testimony?

20 **A** No, I do not.

21 **Q** If I asked you the same questions as are in
22 your direct testimony, would your answers be the same
23 today?

24 **A** Yes, they would.

25 **MR. HATCH:** Madam Chairman, I request that

1 the direct testimony of Mr. Guedel be inserted into
2 the record as though read.

3 **MR. ERWIN:** Okay. And I object.

4 **CHAIRMAN JOHNSON:** Okay. Go ahead.

5 **MR. ERWIN:** I would object to inserting into
6 the record his testimony from Page 8, Line 18 through
7 Page 9, Line 4.

8 **MR. HATCH:** Can I get those references
9 again, Dave?

10 **MR. ERWIN:** Page 8, Line 18 through Page 9,
11 Line 4. Since you haven't inserted this in the record
12 you don't know what it is I'm objecting to but I can
13 tell you.

14 **CHAIRMAN JOHNSON:** Okay.

15 **MR. ERWIN:** This is Mr. Guedel's attempt to
16 give you a legal opinion about some legislation that
17 passed in the current session. And I would object to
18 his being able to provide that legal opinion about
19 what the intent of the legislature was in this
20 particular bill inasmuch as Mr. Guedel, to the best of
21 my knowledge, is not a lawyer and does not have the
22 skill to provide to you an opinion about the intent of
23 the legislature with regard to this particular
24 legislation.

25 If you would like, I could ask him some

1 questions on voir dire to try to determine whether or
2 not he has the expertise to make the statement that
3 he's making. But let me, before we do that, just give
4 you the basis for my objection. Also, I'm going to
5 refer to a few cases, and to Florida Evidence by
6 Professor Ehrhardt in the 1998 version.

7 And I think this testimony is objectionable
8 because it's opinion testimony about a subject for
9 which the witness is not qualified as expert, i.e. a
10 lawyer. The witness is giving a legal conclusion that
11 he's not qualified to give.

12 The case of Goodyear Tire and Rubber
13 Company, Inc. vs Ross at 660 So.2d 1109, which is a
14 Fourth District Court of Appeals case, states that,
15 quote, "A witness must be qualified as an expert on
16 the discrete subject on which he is asked to opine."

17 Ehrhardt states in his book at Page 557
18 that, quote, "When a witness is asked to express an
19 opinion which applies a legal standard to a set of
20 facts, the opinion testimony is generally
21 inadmissible." That's the gist of my argument. And
22 if you would like to find out whether or not this
23 witness is, or could be qualified as an expert for the
24 purpose of giving his opinion as to the intent of the
25 legislature in a particular piece of legislation, I

1 could ask him a number of questions to try to help you
2 ascertain that fact.

3 **MR. HATCH:** May I respond?

4 **CHAIRMAN JOHNSON:** Yes.

5 **MR. HATCH:** First, my response is very
6 similar to BellSouth's in the sense that Mr. Guedel
7 has extensive time and experience in the
8 telecommunications industry. He reads both cases and
9 orders and legislation, and in his capacity as
10 particularly a witness for AT&T on policy matters,
11 he's expected to divine as a layman his view of what
12 those documents portend. To that extent, he need not
13 be an expert in legislation. He's free to give his
14 expert opinion as to -- his lay opinion as to what
15 legislation is, what statutory language is; as to
16 other technical matters.

17 It is a relatively common practice here in
18 terms of policy proceedings, not particularly factual
19 ones, when you get into the regulatory arena,
20 particularly before this body where you're making
21 policy as compared to establishing who pulled the
22 trigger that caused the bullet to exit the barrel of
23 the gun to kill the person. You deal in far more than
24 simple factual matters. And in that sense, the
25 Commission has, and has always, exerted broad latitude

1 in the kinds of testimony that they will accept.

2 He is qualified by training and experience
3 to render an opinion on these matters.

4 **CHAIRMAN JOHNSON:** Let me ask you a question
5 on the testimony. It's referencing the bill that is
6 currently sitting on the Governor's desk --

7 **MR. HATCH:** Yes, ma'am.

8 **CHAIRMAN JOHNSON:** -- that is not yet law.

9 **MR. HATCH:** With respect to the language in
10 Mr. Guedel's testimony, Mr. Erwin can ask him that you
11 can review the text of that provision itself. I think
12 that the legislative finding is -- with respect to
13 access charges is what supports his notion of what
14 intent is. I think that's fairly clear. There's not
15 much pulling it out of thin air on that one.

16 **CHAIRMAN JOHNSON:** Okay. Staff?

17 **MS. KEATING:** Well, I have to admit that I
18 had some hesitation with regard to this particular
19 portion. But it doesn't appear to be particularly
20 prejudicial to any of parties and it is legislation
21 that's been wildly discussed in the media and the
22 industry. So Staff would just recommend it be
23 admitted and that the Commission simply give it the
24 weight that it's due.

25 **CHAIRMAN JOHNSON:** Okay. What about the --

1 it wasn't raised in this way, but the relevancy, given
2 the fact that it's not law yet -- I guess there hasn't
3 been a relevancy argument or objection raised.

4 **MR. ERWIN:** I raise one right now.

5 (Laughter)

6 **COMMISSIONER CLARK:** Madam Chair, can I make
7 a comment?

8 **CHAIRMAN JOHNSON:** Uh-hum.

9 **MR. ERWIN:** Yes.

10 **COMMISSIONER CLARK:** It seems to me -- let
11 me ask a question, where it says "the legislature
12 found charges for interstate switched access services
13 may be above cost." Is that a direct quote from the
14 legislation?

15 **MR. HATCH:** Yes, ma'am.

16 **COMMISSIONER CLARK:** So the only sentence
17 we're talking about as far as I can tell is the last
18 sentence. And he's just making a comment on -- it
19 would seem like it's in conflict with it. You know, I
20 don't -- I think it's harmless.

21 **MR. ERWIN:** It may be harmless. I mean,
22 he's talking about things in here such as whether such
23 an increase is warranted.

24 A crucial part of our entire argument in
25 this case is that there isn't an increase. If you

1 were to reduce access charges on one side and increase
2 access charges on the other side, that the net effect
3 is zero, that there isn't any increase. That's
4 another objectionable part of this thing. And the
5 whole thrust of the argument --

6 **COMMISSIONER CLARK:** But your objection
7 is --

8 **MR. ERWIN:** -- is objectionable to me and is
9 prejudicial to my client's position at least, contrary
10 to what Staff attorney thinks.

11 **COMMISSIONER CLARK:** It seems your objection
12 is to his opinion, which is not a legal opinion.

13 **MR. ERWIN:** Well, it may be. That might be
14 a legal opinion. There are many, many other instances
15 in here -- and I decided not to move to strike any of
16 those, or to object to them -- but throughout the
17 testimony that particular supposition, or assumption
18 on his part, could rise to the level of a legal
19 objection to me. But I concluded that I would not do
20 that. But I still think when he's talking about the
21 intent of the new legislation --

22 **COMMISSIONER CLARK:** I guess what I'm saying
23 is I don't think he's talking about -- you think he's
24 talking about the intent because he's saying it would
25 be in conflict with it.

1 **MR. ERWIN:** With the intent of it. Right.
2 I mean, I've looked at this legislation. And I've
3 seen summaries of it where various people have tried
4 to describe what the meaning of this new legislation
5 is. And I'm not sure that it's all that clear to
6 anyone at this point. And certainly we don't need to
7 rely on a nonlawyer, even though he admittedly is an
8 expert in other areas -- and I don't question that --
9 for in purpose. Anyway, that's all I have.

10 **CHAIRMAN JOHNSON:** Okay. I'm going to allow
11 the language to come in and allow the objection as it
12 was stated. I believe that will go more to the weight
13 and not the admissibility.

14 I do have some concern, but, again, it goes
15 to weight. Because we are perhaps looking at the
16 intent of the legislation that may not even end up
17 becoming law, but I guess we can deal with that at the
18 time when we're analyzing and reviewing this. To the
19 extent that it doesn't become law, it probably
20 wouldn't be as relevant. But I'm going to allow it in
21 given the latitude that we generally give with these
22 kind of issues. And we'll proceed. That was it?

23 **MR. ERWIN:** That's it. Thank you.

24 **MR. HATCH:** Mr. Guedel -- I'd request that
25 the testimony be inserted as though read.

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CHAIRMAN JOHNSON: It will be inserted as
though read.

1 **DIRECT TESTIMONY OF MIKE GUEDEL**
2 **ON BEHALF OF AT&T COMMUNICATIONS**
3 **OF THE SOUTHERN STATES INC.**

4
5 **BEFORE THE**
6 **FLORIDA PUBLIC SERVICE COMMISSION**
7 **DOCKET NO. 970808-TL**
8 **FILED: MAY 8, 1998**

9
10
11 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

12
13 **A.** My name is Mike Guedel and my business address
14 is AT&T, 1200 Peachtree Street, NE, Atlanta,
15 Georgia, 30309. I am employed by AT&T as
16 Manager-Network Services Division.

17
18
19 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
20 **WORK EXPERIENCES.**

21
22 **A.** I received a Master of Business Administration
23 with a concentration in Finance from Kennesaw
24 State College, Marietta, GA in 1994. I
25 received a Bachelor of Science degree in

1 Business Administration from Miami University,
2 Oxford, Ohio. Over the past years, I have
3 attended numerous industry schools and seminars
4 covering a variety of technical and regulatory
5 issues. I joined the Rates and Economics
6 Department of South Central Bell in February of
7 1980. My initial assignments included cost
8 analysis of terminal equipment and special
9 assembly offerings. In 1982, I began working
10 on access charge design and development. From
11 May of 1983 through September of 1983, as part
12 of an AT&T task force, I developed local
13 transport rates for the initial NECA interstate
14 filing. Post divestiture, I remained with
15 South Central Bell with specific responsibility
16 for cost analysis, design, and development
17 relating to switched access services and
18 intraLATA toll. In June of 1985, I joined
19 AT&T, assuming responsibility for cost analysis
20 of network services including access charge
21 impacts for the five South Central States
22 (Alabama, Kentucky, Louisiana, Mississippi, and
23 Tennessee).

24
25

1 **Q. PLEASE DESCRIBE YOUR CURRENT RESPONSIBILITIES.**

2

3 A. My current responsibilities include directing
4 analytical support activities necessary for
5 AT&T's provision of intrastate communications
6 services in Florida and other southern states.
7 This includes detailed analysis of access
8 charges and other Local Exchange Company (LEC)
9 filings to assess their impact on AT&T and its
10 customers. In this capacity, I have
11 represented AT&T through formal testimony
12 before the Florida Public Service Commission,
13 as well as regulatory commissions in the states
14 of Georgia, Kentucky, North Carolina, and South
15 Carolina.

16

17

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

19

20 A. The purpose of my testimony is to address the
21 issues related to the current interLATA subsidy
22 (or pooling) arrangements between BellSouth and
23 GTC, Inc.(GTC). Specifically, I recommend that
24 the Commission: 1) eliminate the current
25 interLATA subsidy pool as it applies to

1 BellSouth and GTC, 2) require BellSouth to
2 reduce switched access charges by an amount
3 equal to its relief from subsidy payments and,
4 3) offer no relief to GTC pending a showing by
5 GTC that an increase is justified consistent
6 with Section 364.051(5), Florida statutes.
7
8

9 **Q. SHOULD THE CURRENT INTERLATA SUBSIDY POOL BE**
10 **ELIMINATED?**
11

12 A. Yes. The pool was clearly intended to be a
13 temporary institution and the Commission has
14 over the course of the years taken appropriate
15 action to eliminate the subsidy draw of all of
16 the original drawing companies with the
17 exception of GTC. The Commission should take
18 the final step through this proceeding to
19 completely and finally eliminate the subsidy
20 pool. GTC should not be allowed to use price
21 cap regulation as a shield to forever protect
22 the continued flow of subsidy dollars - subsidy
23 dollars that were clearly intended for support
24 only during a transitory phase.
25

1 Q. SHOULD BELLSOUTH BE REQUIRED TO REDUCE ITS
2 SWITCHED ACCESS CHARGES BY AN AMOUNT EQUAL TO
3 THE RELIEF IT RECEIVES FROM THE DISCONTINUATION
4 OF SUBSIDY PAYMENTS?

5
6 A. Yes. In making this determination the
7 Commission should consider two facts. First,
8 the original subsidy pool was established in a
9 manner such that each local exchange company's
10 earnings would be unaffected - i.e., the fund
11 was a revenue "wash." In other words,
12 BellSouth has never been required to compromise
13 its earnings to fund the pool. Second, the
14 pool was funded by contributions of a portion
15 of BellSouth's access revenue. In other words,
16 Interexchange carriers (payers of access
17 charges) were the true funding agents of the
18 pool. BellSouth and other contributing LECs
19 merely performed a "clearinghouse" function.
20 Thus, if the subsidy pool is to be eliminated,
21 BellSouth should be required to reduce other
22 charges to avoid enjoying a windfall profit,
23 and it should reduce access charges - charges
24 that have been and continue to be the real
25 source of the subsidy revenues.

1

2 Q. DOES THE FACT THAT BELLSOUTH HAS SIGNIFICANTLY
3 LOWERED SWITCHED ACCESS CHARGES SINCE 1985
4 RELIEVE IT OF THE RESPONSIBILITY TO LOWER
5 ACCESS CHARGES IN CONJUNCTION WITH THE
6 ELIMINATION OF THESE SUBSIDY PAYMENTS?

7

8 A. No. The major BellSouth access reductions were
9 accomplished in conjunction with earnings
10 reviews. Because the subsidy payments were
11 part of BellSouth's intrastate operations at
12 the time of these reviews, presumably these
13 subsidy payments were included in the
14 determination of intrastate earnings. In other
15 words, previous rate reductions reflected
16 excess earnings determined after the
17 recognition of the subsidy payments. Thus,
18 previous access reductions have not compromised
19 the "revenue neutral" character of the pool or
20 eliminated would-be surpluses if the subsidy
21 requirements were terminated. Therefore, even
22 after recognizing previous reductions,
23 BellSouth would still clearly enjoy a financial
24 windfall from the subsidy relief if it does not
25 further reduce other rates. BellSouth should

1 not be permitted to reap these windfall
2 profits.

3

4

5 **Q. SHOULD THE COMMISSION GRANT GTC ANY RATE**
6 **INCREASES IN CONJUNCTION WITH THE ELIMINATION**
7 **OF THE SUBSIDY PAYMENTS?**

8

9 A. No. To my knowledge GTC has made no showing
10 before this Commission of a need to increase
11 other service rates. The fact that GTC will
12 loose certain revenues if the subsidy fund is
13 eliminated does not constitute sufficient
14 justification for any rate increase under price
15 cap rules. If at some point GTC feels that
16 price increases are necessary it can exercise
17 its options under Section 364.051(5), Florida
18 statutes.

19

20

21 **Q. IF THE COMMISSION DID DECIDE TO PROVIDE SOME**
22 **RATE RELIEF TO GTC, SHOULD SUCH RELIEF INCLUDE**
23 **AN INCREASE IN ACCESS CHARGES?**

24

1 A. No. GTC's current switched access charges are
2 approximately 12.7 cents per minute (for two
3 ends of access). This rate is over two and one
4 half times the rate that BellSouth charges for
5 intrastate switched access and is among the
6 highest access rates in the state. These rates
7 simply should not be increased. The Commission
8 has recognized on numerous occasions that the
9 appropriate direction for access charges is
10 down. The Commission should hold to that
11 position and not approve any increase in
12 switched access charges in conjunction with
13 this docket. Further, it appears that an
14 increase in intrastate access charges may be in
15 conflict with Section 364.163, Florida
16 Statutes.

17
18 In addition, increasing access charges for GTC
19 runs counter to the newly enacted legislation
20 that just passed the Florida Legislature. In
21 House Bill 4785, the Legislature found that
22 charges for intrastate switched access services
23 may be set above cost in order to provide an
24 implicit subsidy to residential basic local
25 telecommunications service. Automatically

1 raising switched access charges for GTC without
2 determining whether such an increase is
3 warranted would seem to be in conflict with the
4 intent of the new legislation.

5

6

7 **Q. HOW DO GTC'S ACCESS RATES COMPARE WITH THE**
8 **UNDERLYING COST OF PROVIDING SWITCHED ACCESS**
9 **SERVICES?**

10

11 A. AT&T does not have specific information
12 regarding GTC's cost of providing access
13 service. However, information made available
14 through Florida Public Service Commission
15 Docket No. 950985-TP indicates that both
16 BellSouth and GTE incur costs of less than
17 \$.0025 per access minute of use - perhaps as
18 low as \$.002 or less. Even if we assume that
19 GTC's costs could be twice as high as those of
20 the larger companies, GTC is still enjoying a
21 mark-up above cost of well over 1000% on its
22 switched access services. This mark-up is
23 significantly higher than the mark-up GTC
24 enjoys on any other major revenue producing
25 service that it offers.

1

2 Q. WILL AT&T FLOW THROUGH NET ACCESS REDUCTIONS
3 THAT IT RECEIVES THROUGH THIS DOCKET?

4

5 A. Yes.

6

7 Q. WOULD YOU SUMMARIZE YOUR TESTIMONY?

8

9 Yes. It is appropriate at this time for the
10 Commission to eliminate the interLATA subsidy pool.
11 However, in so doing, the Commission should ensure
12 that the benefits of their action are enjoyed by the
13 rate payers of the state. To this end, the
14 Commission should: 1) require BellSouth to reduce
15 switched access charges by an amount equal to its
16 relief from subsidy payments and, 2) offer no relief
17 to GTC pending a showing by GTC that an increase is
18 justified consistent with Section 364.051(5) of the
19 Florida statutes.

20

21 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

22

23 A. Yes.

1 BY MR. HATCH:

2 Q Mr. Guedel, do you have a summary of your
3 testimony?

4 A Yes, I do.

5 Q Could you give that now?

6 A Madam Chairman, Commissioners, I make three
7 points in my testimony.

8 First, I support BellSouth's petition to
9 eliminate the interLATA subsidy fund. Intercompany
10 payments, or cross-subsidies, are dinosaurs of an age
11 that we've left some 14 years ago.

12 There appears to be no dispute among the
13 parties that the Commission's intent was to make these
14 subsidies temporary. The Commission has taken the
15 initiative to eliminate these subsidies over the years
16 for all Florida companies except GTC. We encourage
17 the Commission to take the step, the final step today,
18 and end all interLATA subsidy payments in Florida.

19 Second, we must realize that when BellSouth
20 is relieved of its current obligation to subsidize
21 GTC, BellSouth will enjoy a windfall profit.
22 BellSouth should not be permitted to keep that
23 revenue. Rather, the Commission should elect a course
24 to see that those dollars flow back to Florida
25 ratepayers.

1 To this these extent, I encourage the
2 Commission to order BellSouth to reduce its switched
3 access charges to the extent of the current subsidy
4 payments.

5 I make that recommendation not only in the
6 light of historical consideration where access charges
7 clearly supported the subsidy, but also in light of
8 contemporary issues. Access still provides BellSouth
9 a contribution in excess of cost of over a thousand
10 percent, even using BellSouth's estimates of cost.

11 Further, access charges at current levels
12 deter competition by setting up economic price squeeze
13 situations favoring incumbent LECs. And access
14 charges are clearly the least likely to be positively
15 affected by competitive pressures in the future.

16 Access charges must come down. And the
17 Commission should take this opportunity to make
18 further progress in that direction.

19 Finally, and for all of the reasons
20 discussed above with respect to BellSouth's access
21 situation, the Commission should not permit GTC to
22 increase switched access charges. GTC clearly has a
23 legal recourse to come before this Commission for rate
24 relief if, in indeed, they desire it. But they
25 haven't presented such a case today. However, if the

1 Commission were to decide, now or at some future
2 point, that some rate relief is in order, the
3 Commission should select other services for rate
4 increases.

5 Commissioners, I've had the opportunity to
6 appear before this Commission on many occasions over
7 the past ten years regarding access issues. In that
8 experience I cannot recall one instance when this
9 Commission has allowed an increase in switched access
10 charges for any company in Florida.

11 I believe that to be the case because I
12 believe that this Commission has consistently
13 recognized that access charges are high, and the
14 proper direction for access charges is down. If
15 competition is closer to us today than it has ever
16 been before, then that direction is even more
17 important, more compelling than it ever was before.

18 I encourage the Commission to continue its
19 traditions and not allow an increase in switched
20 access today.

21 That concludes my summary.

22 **MR. HATCH:** Tender the witness for cross.

23 **CROSS EXAMINATION**

24 **BY MS. WHITE:**

25 **Q** Good morning, Mr. Guedel. My name is Nancy

1 White. I represent BellSouth.

2 A Good morning.

3 Q Are you familiar with the Orders that
4 established the bill and keep subsidy?

5 A Somewhat.

6 Q Okay. Based on your understanding of those
7 Orders, were access rates increased due to the
8 creation of the bill and keep subsidy?

9 A Probably not directly. Access charges were
10 established based on a statewide revenue requirement,
11 as I understand it, and the fact that a subsidy
12 existed did not change that.

13 Q Okay. So would you agree that the
14 Commission, in their original orders, specifically
15 targeted access rates to generate the same revenues in
16 1985 that were generated in 1984?

17 A I believe that to be the case.

18 Q And the Commission adjusted those revenues
19 by about 23 million from the 1984 level?

20 A I don't recall the 23 million number.

21 Q Didn't the Commission state in its original
22 Order on the access bill and keep subsidy, in Order
23 No. 14452, that the pool would be funded by each LEC
24 contributing a portion of the access revenues it
25 receives for use of its local network?

1 A Yes. And let me point out I clearly stated
2 that in my testimony. At Page 5, Line 13, I say
3 "Second, the pool is funded by contributions of a
4 portion of BellSouth's access revenue."

5 That has never been in dispute. I simply
6 added an additional fact, and that fact is that
7 interexchange carriers were, indeed, those parties
8 paying the access charges. So I was curious at
9 Mr. Lohman's attempt at rebuttal of this statement,
10 but I don't disagree with that statement.

11 Q Well, you would agree that interexchange
12 carriers pay access charges in order to receive use of
13 the LEC's local network, wouldn't you?

14 A Yes. But let me clarify that in concept of
15 this fund.

16 As I understand the creation, access charges
17 or access revenue requirement was created on a
18 statewide basis. Access rates for all companies
19 originally were set the same. Because of that
20 situation, some companies had a surplus and some
21 companies had a shortfall and that's what led to the
22 subsidy.

23 In BellSouth's case they had a revenue
24 surplus, which means that access charges flowing to
25 BellSouth were greater than the amount this Commission

1 determined BellSouth should receive for compensation
2 for local access service. And that's why that subsidy
3 was passed on to other companies. So that amount came
4 directly from interexchange carriers. It was not in
5 compensation for BellSouth's services provided. It
6 was to subsidize other companies who are not receiving
7 the amount of money that they were supposed to receive
8 or determined to receive by this Commission.

9 Q Do you know what BellSouth's access charges,
10 switched access rates were in 1995? A rough estimate?

11 A No. They were significantly higher than
12 they are today, I will concede.

13 Q What are they today?

14 A Approximately 4.8 cents for two ends of
15 access.

16 Q And when you say in 1985 they would have
17 been significantly higher, would that been over 10
18 cents per end?

19 A It would not surprise me. Certainly over 8.
20 And there was also a busy hour minute of capacity
21 charge.

22 Q Now, you stated in your testimony that AT&T
23 would flow through any access charge reductions that
24 this Commission ordered. Can you tell me what group
25 of customers would receive this reduction?

1 A No. I do not have knowledge on what our
2 marketing department would decide on how to flow
3 through the dollars.

4 Q All right. Based on AT&T's market share in
5 Florida, can you tell me if AT&T decided to distribute
6 the \$1.223 million to residential customers, how much
7 that would be per residential customer?

8 A No, I do not.

9 Q Would you agree it would be pretty tiny?

10 A Well, to the extent it's a tiny amount, it's
11 a tiny amount --

12 Q Do you know --

13 A -- on both sides.

14 Q I'm sorry. I didn't mean to interrupt.

15 Do you know whether the other interexchange
16 carriers will flow through a reduction if it's
17 ordered?

18 A No, I don't. But then that really doesn't
19 matter to the consumers, because if we lower our
20 rates, they can take our service. They don't have to
21 take the high-priced brand.

22 Q Now, you state in your testimony that if GTC
23 believes price increases are necessary, that they can
24 exercise their options under Section 364 that states
25 they can come back to the Commission if extraordinary

1 changes happen. Is that a fair statement?

2 A That's a fair statement.

3 Q And I believe you testified that based on
4 your understanding -- I know you're not a lawyer --
5 but based on your understanding of Section 364, as it
6 relates to a price regulated company, you believe this
7 Commission does not have the authority to order an
8 access rate increase by GTC; is that correct?

9 A Could you restate that, please?

10 Q Yes. Based on your understanding of Section
11 364, as it relates to a price regulated company, do
12 you believe that this Commission has the authority to
13 order an access rate increase by GTC?

14 MR. ERWIN: Excuse me. I want to object to
15 the question as being somewhat misleading since she's
16 only asking for one-half of the equation in this case.

17 The question might better be phrased about
18 an increase in conjunction with a decrease, since
19 that's what seems to be under discussion here today,
20 rather than simply asking for a legal conclusion from
21 this witness about one-half of the equation.

22 MS. WHITE: Well, Mr. Erwin has anticipated
23 my next question after Mr. Guedel answers this one.

24 CHAIRMAN JOHNSON: You may proceed.

25 Q (By Ms. White) I'm asking, with your

1 experience, background, training and all of the
2 wonderful things that Mr. Hatch said about you, do you
3 believe that this Commission has the authority to
4 order an access rate increase by GTC?

5 A No. And I think in my testimony I point to
6 two reasons for that. One was Section 364.163, which
7 was the price cap section on access. And the other is
8 that before this Commission can make any rate
9 adjustments to a price cap company, it's my
10 understanding the price cap company has to demonstrate
11 a need. And I don't believe that need has been
12 demonstrated.

13 Q Okay. Then if you believe that the
14 Commission has no authority to order an access rate
15 increase by a price regulated company, why do you
16 believe the Commission has the authority to order a
17 price regulated company to make an access charge
18 reduction?

19 A I think in carrying out the original order
20 of eliminating the subsidy, an order that was enacted
21 in '84, the Commission has the authority to do that.
22 Again, that's my opinion.

23 Q Okay. What is the difference, again based
24 on your training and experience -- what's the
25 difference between the authority that they don't have

1 to increase access charges and your belief that they
2 have the authority to decrease access charges?

3 **A** My discussion on why they could not increase
4 GTE's access charges I just explained. My feeling is
5 that in carrying out this Order, in carrying out the
6 elimination of the subsidy pool, the Commission would
7 be doing exactly what it has done in the past with
8 implementing that Order by removing part of the
9 subsidy, and using that windfall profit to reduce
10 rates for the payor company. I think that's a matter
11 of tradition in implementing this order. And,
12 therefore, I think it's reasonable that they would do
13 that today.

14 **MS. WHITE:** Thank you. I have nothing
15 further.

16 **MR. ERWIN:** I have into questions.

17 **CHAIRMAN JOHNSON:** Okay.

18 **CROSS EXAMINATION**

19 **BY MS. KEATING:**

20 **Q** I just have one question. In your opinion
21 are there areas other than access charges that the
22 Commission could or should require BellSouth to reduce
23 if this subsidy is terminated?

24 **A** Not in my opinion. I think access is the
25 area that they need to reduce for a variety of

1 reasons. Is it within the scope of possibility that
2 they could select another service? Yes, I believe
3 they have the authority to do that. I don't think
4 that would be the right choice.

5 **MS. KEATING:** Thank you, Mr. Guedel.

6 **WITNESS GUEDEL:** Thank you.

7 **CHAIRMAN JOHNSON:** Any other questions,
8 Commissioners?

9 **COMMISSIONER DEASON:** I have a question. If
10 the Commission requires the subsidy to be eliminated,
11 requires BellSouth to reduce its access charges by a
12 like amount, and allows GTC to increase its access
13 charges by like amount, does that constitute an
14 increase in access charges?

15 **WITNESS GUEDEL:** In my opinion it does. And
16 the absolute access charges of GTC would be going up.
17 That is an increase in access charges.

18 **COMMISSIONER DEASON:** Even though there is a
19 like amount reduction by BellSouth, you still consider
20 that an access charge increase?

21 **WITNESS GUEDEL:** Yes, I do. I don't
22 disagree with you, Commissioners, that under the
23 scenario you describe there would be a netting effect,
24 and some may benefit and some may not under that
25 netting. But in an absolute sense we would be raising

1 the access charges of GTC, and I oppose that.

2 **CHAIRMAN JOHNSON:** Any other questions? And
3 there are no exhibits.

4 **MR. HATCH:** No, ma'am.

5 **CHAIRMAN JOHNSON:** Any redirect?

6 **MR. HATCH:** No redirect.

7 **CHAIRMAN JOHNSON:** You're excused.

8 **WITNESS GUEDEL:** Thank you.

9 (Witness Guedel excused.)

10 **MS. KEATING:** Staff calls Dale Mailhot.

11 - - - - -

12 **DALE N. MAILHOT**

13 was called as a witness on behalf of the Commission
14 Staff and, having been duly sworn, testified as
15 follows:

16 **DIRECT EXAMINATION**

17 **BY MS. KEATING:**

18 **Q** Mr. Mailhot, could you please state your
19 name for the record?

20 **A** My name is Dale Mailhot. And my business
21 address is 2540 Shumard Oak Boulevard, Tallahassee,
22 Florida.

23 **Q** And by whom are you employed?

24 **A** The Florida Public Service Commission.

25 **Q** And what is your position with the

1 Commission?

2 **A** Chief of the Bureau of Revenue Requirements.

3 **Q** And did you cause to be prepared and filed
4 in this docket four pages of direct testimony?

5 **A** Yes.

6 **Q** Do you have any changes or corrections to
7 that testimony?

8 **A** No.

9 **Q** And, Mr. Mailhot, you did not prepare any
10 exhibits; is that correct?

11 **A** That's correct.

12 **Q** And if I asked you the same questions
13 contained in your testimony today, would your answers
14 be the same?

15 **A** Yes.

16 **MS. KEATING:** Chairman Johnson, I'd ask
17 Mr. Mailhot's direct testimony be inserted into the
18 record as though read.

19 **CHAIRMAN JOHNSON:** It will be so inserted.

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DIRECT TESTIMONY OF DALE N. MAILHOT

1 |
2 | Q. Please state your name and business address.

3 | A. My name is Dale N. Mailhot. My business address is 2540 Shumard Oak
4 | Boulevard, Tallahassee, Florida, 32399-0865.

5 | Q. By whom are you presently employed and in what capacity?

6 | A. I am employed by the Florida Public Service Commission as the Chief,
7 | Bureau of Revenue Requirements, Division of Auditing and Financial Analysis.

8 | Q. How long have you been employed by the Commission?

9 | A. I have been employed by the Florida Public Service Commission for
10 | approximately 19 years.

11 | Q. Briefly review your educational and professional background.

12 | A. I graduated from Florida State University in 1976 with a Bachelor of
13 | Science Degree in Accounting. I was employed by the Auditor General's Office
14 | of the State of Florida for almost two years as an auditor. I became a
15 | Certified Public Accountant in 1978. I began working as an auditor for the
16 | Florida Public Service Commission in 1979. I became the Tallahassee Audit
17 | Supervisor and then the Chief, Bureau of Accounting, Division of
18 | Communications.

19 | Q. Please describe your current responsibilities.

20 | A. Currently, as the Chief, Bureau of Revenue Requirements, I am
21 | responsible for the accounting and revenue requirements of the local exchange
22 | telecommunications companies, the investor owned electric utilities and the
23 | investor owned gas companies.

24 | Q. Have you presented expert testimony before this Commission or any other
25 | regulatory agency?

1 A. Yes. I have presented testimony before this Commission.

2 Q. What is the purpose of your testimony today?

3 A. The purpose of my testimony is to address issues 2, 5, and 6.

4 Q. Was the interLATA access subsidy pool intended to be a permanent subsidy
5 (Issue 2)?

6 A. No. The interLATA subsidy pool was established as a temporary mechanism
7 to ease the transition from an access charge pooling environment to a bill and
8 keep environment for access charges. Currently, the interLATA subsidy pool
9 consists of only BellSouth making subsidy payments to GTC, Inc., formerly St.
10 Joseph Telephone and Telegraph. All the remaining local exchange companies
11 have been removed from the subsidy pool by prior Commission action.

12 Q. What criteria should be used for ending the interLATA access subsidy
13 pool (Issue 2)?

14 A. Prior to the beginning of price cap regulation, the earnings of the
15 subsidy recipient were the only criteria used by the Commission for ending the
16 subsidy. If a company had sufficient or excess earnings, then the subsidy was
17 often eliminated by specific action of the Commission in a Modified Minimum
18 Filing Requirements docket or in an over earnings investigation.

19 Since the beginning of price cap regulation, GTC, Inc. has been the only
20 company receiving an interLATA subsidy. In the next section of my testimony,
21 I discuss an alternative approach to using earnings criteria for ending the
22 subsidy payments.

23 Q. Should the interLATA access subsidy received by GTC, Inc. be removed
24 (Issue 5)?

25 A. If the Commission determines that it is appropriate to use GTC, Inc's.

1 | earnings as the criteria for removal of the subsidy and the Commission finds
2 | that GTC, Inc.'s. earnings are sufficient, then the subsidy should be removed.
3 | This is consistent with prior Commission decisions for ending a company's
4 | subsidy.

5 | Q. Is there an alternative approach to eliminating the interLATA access
6 | subsidy payments from BellSouth to GTC, Inc.?

7 | A. Yes. The Commission could allow GTC, Inc. to increase its access
8 | charges and to cease collecting subsidy payments from BellSouth. When the
9 | subsidy pool was established, the payments made into the pool by each company,
10 | including BellSouth, came from its access charges. In effect, BellSouth
11 | collects access charges which it passes on to GTC, Inc. as subsidy payments.

12 | Q. Why would it be reasonable to eliminate the subsidy payments?

13 | A. One of the primary reasons for establishing the subsidy payments was to
14 | maintain uniform statewide access charges when the interLATA access charge
15 | pooling arrangement ended. It was commonly believed that uniform statewide
16 | access charges were needed to avoid having IXC's serve only those parts of the
17 | state which have low access charges. However, by late 1988, access charge
18 | rates began to vary between companies and have continued to vary ever since.
19 | The Commission could have adjusted each company's access charges to eliminate
20 | the subsidy system in a generic proceeding, once access charges became non-
21 | uniform. The Commission's method of eliminating the subsidy by reviewing
22 | earnings on a case by case basis was working and there appeared to be no need
23 | for a generic proceeding.

24 | With the change in Florida Law in 1995 allowing for price cap
25 | regulation, the lack of regular earnings information from price cap companies.

1 | and the non-uniform access charges already in place, there is no reason to
2 | maintain the interLATA access charge subsidy pool.

3 | Q. If the access subsidy being paid to GTC, Inc. is eliminated, should
4 | BellSouth Telecommunications, Inc. be directed to cease collection of the
5 | access subsidy Funds (Issue 6)?

6 | A. Yes. In prior cases when the Commission has eliminated the payment of
7 | the subsidy to a company due to the company's earnings, the Commission has
8 | ordered the payor of the subsidy to reduce some rate by an amount equal to the
9 | subsidy payment. In this way the payor of the subsidy was kept whole and not
10 | allowed any windfall, which was one of the original goals of the bill and keep
11 | docket. If the Commission reduces or eliminates the subsidy payment to GTC,
12 | Inc. due to GTC, Inc.'s earnings, based on consistency with prior Commission
13 | decisions, the Commission should also require BellSouth to reduce its rates
14 | by an amount equal to the reduced or eliminated subsidy payment.

15 | If the Commission follows my alternative approach to eliminate the
16 | subsidy payment and allows GTC, Inc. to increase its access charges, then the
17 | Commission should require BellSouth to reduce its access charges so that there
18 | is no net increase in access charges on a statewide basis.

19 | Q. Does this conclude your testimony?

20 | A. Yes, it does.

21 |

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1 Q (By Ms. Keating) Now, Mr. Mailhot, did you
2 prepare a summary of your testimony?

3 A Yes, I did.

4 Q Would you give that, please?

5 A Yes. Issues 3 and 4 address the
6 Commission's authority to deal with or modify the
7 interLATA access subsidy pool. If the Commission
8 determines that it has the authority to address the
9 interLATA access subsidy pool, then there are several
10 methods for modification open to the Commission.

11 BellSouth's and AT&T's witnesses have each
12 proposed a method for eliminating the subsidy pool. I
13 have proposed a third method or option. However, the
14 primary purpose of my testimony is to recommend that
15 if the subsidy payments are eliminated, then
16 consistent with this Commission's prior decisions,
17 BellSouth's rates should be reduced by an amount equal
18 to the subsidy it was paying to GTC.

19 Q Does that conclude your summary?

20 A Yes.

21 **MS. KEATING:** The witness is tendered for
22 cross.

23 **CHAIRMAN JOHNSON:** Okay.

24 - - - -

25

1 access charges.

2 Q In the context of reducing subsidies to the
3 various net subsidy recipients over the years, has the
4 Commission ever allowed the company just to keep a net
5 contributor to just keep the excess contributions once
6 the subsidy payments were reduced?

7 A Generally, the Commission has required some
8 rate reduction on the part of the contributor. In the
9 short-term there have been times where the Commission
10 may have set money aside and applied it to
11 depreciation until such time as a permanent rate
12 change could be implemented. I believe in GTE's case
13 that might be what happened.

14 Q But in every instance in which you are
15 aware, the Commission has disposed of the excess
16 subsidy payments once a subsidy was reduced for a net
17 payee; would that be correct?

18 A Yes.

19 MR. HATCH: No further questions.

20 CHAIRMAN JOHNSON: Okay.

21 CROSS EXAMINATION

22 BY MS. WHITE:

23 Q Good morning, Mr. Mailhot. Nancy White for
24 BellSouth Telecommunications.

25 You stated in your testimony that prior to

1 price regulation the only criteria used by the
2 Commission to eliminate a subsidy was the company's
3 earnings; is that correct?

4 A That's true.

5 Q And do you know of any Commission Order
6 where it was specifically stated that this was the
7 only criteria available to the Commission?

8 A No.

9 Q So earnings just happens to be the criteria
10 utilized during the period of rate-of-return
11 regulation?

12 A That is correct.

13 Q Have you done any study of GTC's earnings in
14 connection with this case?

15 A No, I have not. I haven't received any
16 earnings information.

17 Q In your alternative approach in your
18 testimony, GTC would receive an increase in access
19 rates due to the elimination of the subsidy; is that
20 correct?

21 A By itself, yes, GTC would.

22 Q Okay. And I know you're not a lawyer --

23 **COMMISSIONER CLARK:** I'm sorry. I didn't
24 would you ask your question again?

25 **MS. WHITE:** Yes. In Mr. Mailhot's

1 alternative approach as set forth in his testimony,
2 GTC would be allowed to increase their access charges
3 if the subsidy was eliminated.

4 **COMMISSIONER CLARK:** You said received.

5 **MS. WHITE:** Oh, I'm sorry. Then I misspoke.

6 **COMMISSIONER CLARK:** Which changes it.

7 **MS. WHITE:** I misspoke.

8 **Q (By Ms. White)** In your testimony you state
9 that if your alternative approach is adopted, GTC
10 would be allowed to increase access charges and
11 eliminate the subsidy; is that correct?

12 **A** That's correct.

13 **COMMISSIONER CLARK:** The elimination of the
14 subsidy won't increase their access charges.

15 **MR. MAILHOT:** Not by itself.

16 **MS. WHITE:** Right.

17 **Q (By Ms. White)** So is it your understanding
18 that this Commission has the authority to order that
19 increase in access charges?

20 **A** I believe that if you look at this in total,
21 the flow of funds, that the current situation is, is
22 that BellSouth is receiving access charge revenue
23 essentially on behalf of GTC. And that's why I would
24 say that if you were to allow GTC to collect those
25 funds directly through access charges and require

1 BellSouth to reduce their access charges by a like
2 amount, that I don't believe that's really an increase
3 in access charges, or it doesn't have to be viewed
4 that way. I believe if you simply allowed GTC to
5 increase their access charges, and BellSouth did not
6 have to decrease theirs, then, yes, you would have an
7 increase in access charges.

8 Q Just so I'm not confused, you believe that
9 the Commission doesn't have the authority to do one
10 but it has the authority to do both; the increase and
11 the decrease?

12 A Yes. Or it may have the authority. I'm not
13 trying to address the legal issues but I believe it
14 may.

15 Q Are you familiar with Order No. 19692 from
16 July 19th of 1988, which was the order eliminating the
17 interLATA access subsidy for Gulf Telephone Company?

18 A Somewhat.

19 Q In that Order do you recall whether Southern
20 Bell at that time was -- was ordered to do anything
21 with the subsidy monies that were eliminated from
22 payment to Gulf?

23 A What was the date of that order?

24 Q And I can give you a copy of the order.

25 A If you could just tell me the date.

1 Q July 19th, 1998.

2 A I don't believe that BellSouth was
3 specifically ordered to do anything with that money.
4 However, the Company was in the middle of a rate
5 proceeding at the time, and rates overall were being
6 reset in Docket 880069.

7 Q But would you agree that Order No. 19692
8 makes no statement as to whether Southern Bell, or any
9 other contributor to the pool, what they should do
10 with the money when Gulf was no longer to receive the
11 subsidy?

12 A I believe that's true.

13 Q I believe you stated earlier that there had
14 been no change in access revenues. Wouldn't you agree
15 that BellSouth has reduced access charges by
16 approximately \$200 million over the last six years?

17 A Yes.

18 Q And wouldn't you agree that over the years
19 the Commission has recognized that other Commission
20 actions may be used to eliminate any potential surplus
21 from the subsidy? For example, they've stated you
22 could put the subsidy on additional depreciation,
23 implementing intraLATA bill and keep, reducing local
24 service rates, that type of thing?

25 A Yes.

1 Q Okay.

2 MS. WHITE: Thank you. That's all I have.

3 CROSS EXAMINATION

4 BY MR. ERWIN:

5 Q Mr. Mailhot, is the effect of your
6 alternative approach to eliminating the interLATA
7 access payments to keep all parties in the position
8 they are in today?

9 A I believe that would occur, yes.

10 MR. ERWIN: Thank you. That's the only
11 question I have.

12 CHAIRMAN JOHNSON: Commissioners? Redirect?

13 REDIRECT EXAMINATION

14 BY MS. KEATING:

15 Q I just have one question on redirect and
16 it's a follow-up question.

17 Mr. Mailhot, do you view your proposal as
18 amounting to an actual increase or decrease to access
19 charges, or do you view this as an adjustment?

20 A I view it more as an adjustment to where one
21 company, instead of collecting the access charges on
22 behalf of another company, as what I view the current
23 situation, would allow -- it would allow GTC to
24 collect those access charges directly.

25 And I believe this may be reasonable because

1 I think in the past, you know, the Commission has had
2 to make decisions concerning access charges that may
3 not have been strictly in compliance with the law but
4 was a reasonable solution.

5 **COMMISSIONER CLARK:** Mr. Mailhot, let me ask
6 you a question. What I understand you to say is that
7 one way we could handle it is -- they collect it
8 directly which means they would increase their access
9 charge rates by 1.2 million.

10 **MR. MAILHOT:** That's correct.

11 **COMMISSIONER CLARK:** Why shouldn't they do
12 that if they are overearning?

13 **MR. MAILHOT:** We don't know if they are. I
14 mean, this is just one approach.

15 **COMMISSIONER CLARK:** Let me ask you, has the
16 fact that they've gone under price regulation tied our
17 hands in your opinion?

18 **MR. MAILHOT:** I don't believe so.

19 The way this docket started, it started with
20 BellSouth asking for earnings information from GTC in
21 order to pursue the traditional approach that we've
22 used, which is to review a company's earnings to
23 determine if the subsidy could be reduced.
24 Essentially no earnings information has been
25 presented. And so this is just an alternative that

1 the Commission could consider without looking at
2 earnings. It's not necessarily what I think is the
3 best approach but it is an alternative.

4 **COMMISSIONER DEASON:** Why have there not be
5 any earnings information produced?

6 **MR. MAILHOT:** I don't know.

7 **COMMISSIONER DEASON:** Mr. Erwin, why has
8 there not been any earnings information produced?

9 **MR. ERWIN:** It's not fair to say that there
10 has been no earnings information produced. I think we
11 answered the second set of interrogatories from
12 BellSouth. We did not answer the first set. There
13 was never any, you know, motion for any kind of
14 sanctions or anything for not doing that. I assume
15 that BellSouth was content to get what they got. This
16 is, of course, just discovery.

17 **COMMISSIONER DEASON:** And there's nothing in
18 the record. Obviously we're creating the record today
19 and there's nothing in any of witnesses' testimony
20 addressing GTC's current earning situation.

21 **MR. ERWIN:** That's correct. But you've got
22 to remember that the law was, in fact, changed in
23 1995. And one of the things that happened was that if
24 a small local exchange company chose price regulation
25 before July 1st, that was very close to the time that

1 you all had been looking very closely at their
2 earnings, and it was simply presumed that they were
3 not overearning. And I don't think there's any
4 indication anywhere that they were overearning at the
5 time they chose price regulation. And at that
6 point --

7 **COMMISSIONER DEASON:** I don't need all of
8 that information. I just wanted to know if
9 information that this Commission ordered to be
10 produced was ever produced. And I guess it's up to
11 the parties whether they want to put that the record
12 or not. You're saying it was produced.

13 **MR. ERWIN:** I'm saying some was and some was
14 not.

15 **COMMISSIONER DEASON:** Is there any pending
16 Motion to Compel concerning that?

17 **MS. WHITE:** No, there's not. BellSouth,
18 since it went through the motions for reconsideration,
19 at that point in time it was so close to the hearing
20 that we felt, you know, by the time we got it I don't
21 know what much we could do with it.

22 But I will challenge Mr. Erwin on the second
23 set of interrogatories --

24 **COMMISSIONER DEASON:** Mr. Erwin lost the
25 battle but won the war.

1 **MS. WHITE:** Sort of, yes. The second set of
2 interrogatories, there was not earnings information
3 given. There was some financial information but it
4 was not about earnings.

5 **MR. ERWIN:** I'm sorry, I would correct that.
6 They presented some financial information to
7 us and asked for questions about that which we then
8 responded to. I don't know whether there was actually
9 any earnings stuff in there; probably not, but I'm not
10 real sure. I don't even know what kinds of earnings
11 information you would want at this point since there
12 isn't any kind of traditional earnings information. I
13 don't know how you calculate anything, how you work it
14 out, anything like that. So I mean that's part of the
15 problem for us.

16 **COMMISSIONER DEASON:** Commissioner Clark, I
17 think I interrupted a question.

18 **COMMISSIONER CLARK:** No. Thank you very
19 much for the interruption.

20 **CHAIRMAN JOHNSON:** Anything else?

21 **COMMISSIONER CLARK:** I was curious too. I
22 mean, I thought we had ordered it and I was curious as
23 to why it didn't at least appear in Mr. Lohman's
24 testimony, but --

25 **MR. HATCH:** Madam Chairman, may I ask one

1 follow-up question that was prompted by a question
2 both from Ms. Culpepper and from Commissioner Clark?

3 **CHAIRMAN JOHNSON:** Go ahead.

4 **RECROSS EXAMINATION**

5 **BY MR. HATCH:**

6 **Q** In describing whether -- in describing your
7 option to reduce BellSouth's access and raise GTC's
8 access, do you know whether that would be revenue
9 neutral to AT&T?

10 **A** No, I do not.

11 **Q** The only way that that would be revenue
12 neutral to AT&T would be if the access units of AT&T
13 and its market share were equal with respect to
14 BellSouth and with respect to GTC. Would that be
15 correct?

16 **A** I think so.

17 **MR. HATCH:** Thank you, Madam Chairman.

18 **MR. ERWIN:** Could I ask a question to follow
19 up on that?

20 Is there any evidence in this record to show
21 that they aren't equal?

22 **MR. MAILHOT:** I don't know of any.

23 **MR. ERWIN:** Okay. Thank you.

24 **CHAIRMAN JOHNSON:** And there are no
25 exhibits?

1 **MS. KEATING:** That's correct.

2 **CHAIRMAN JOHNSON:** Okay. The witness is
3 excused.

4 (Witness Mailhot excused.)

5 - - - - -

6 **COMMISSIONER DEASON:** Any other matters to
7 come before the Commission?

8 **MS. KEATING:** The only thing is I'd like to
9 point out that the transcripts will be due to the
10 27th. Briefs are due June 10th. This is scheduled to
11 have a recommendation filed on July 9th. And it's
12 scheduled to come before the Commission on July 21st.

13 **CHAIRMAN JOHNSON:** Thank you. Is that it?

14 **MS. KEATING:** That's it.

15 **CHAIRMAN JOHNSON:** This hearing is
16 adjourned. Thank you much.

17 (Thereupon, the hearing concluded at
18 11:25 a.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

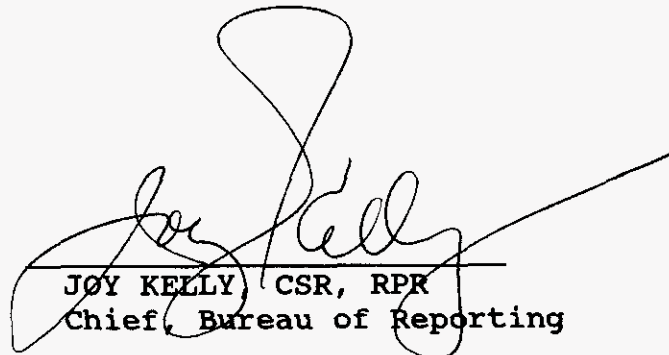
3 I, JOY KELLY, CSR, RPR, Chief, Bureau of
4 Reporting, Official Commission Reporter,

5 DO HEREBY CERTIFY that the Hearing in Docket
6 No. 97080-TL was heard by the Florida Public Service
7 Commission at the time and place herein stated; it is
8 further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed by me; and that this transcript,
12 consisting of 135 pages, constitutes a true
13 transcription of my notes of said proceedings.
14 and the insertion of the prescribed prefiled
15 testimony of the witnesses.

16 DATED this 21st day of May, 1998.

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JOY KELLY, CSR, RPR
Chief, Bureau of Reporting

(904) 413-6732

OFFICIAL RECOGNITION LIST

1. Order No. 12765, issued in Docket No. 820537-TP, on December 9, 1983.
2. Order No. 13934, issued in Docket No. 820537-TP, on December 21, 1984.
3. Order No. 14232, issued in Docket No. 820537-TP, on March 25, 1985.
4. Order No. 14452, issued in Docket No. 820537-TP, on June 10, 1985.
5. Order No. 14452A, issued in Docket No. 820537-TP, on June 10, 1985.
6. Order No. 15327, issued in Docket No. 820537-TP, on November 4, 1985.
7. Order No. 15821, issued in Docket No. 820537-TP, on March 11, 1986.
8. Order No. 17321, issued in Docket No. 820537-TP, on March 24, 1987.
9. Order No. 19692, issued in Docket No. 820537-TP, on July 19, 1988.
10. Order No. 21678, issued in Docket No. 820537-TP, on August 3, 1989.
11. Order No. 21954, issued in Docket No. 820537-TP, on September 27, 1989.
12. Order No. 22421, issued in Docket No. 820537-TP, on January 16, 1990.
13. Order No. 22378, issued in Docket No. 891238-TL, on January 8, 1990.
14. Order No. 22284, issued in Docket No. 891238-TL, issued December 11, 1989.
15. Order No. 22421, issued in Docket No. 820537-TP, on January 16, 1990.
16. Order No. PSC-92-0028-FOF-TL, issued in Docket No. 911108, on March 10, 1992.
17. Order No. PSC-92-0337-FOF-TL, issued in Docket No. 910731-TL, on May 12, 1992.
18. Order No. PSC-92-0368-FOF-TP, issued in Docket No. 910731-TL, on May 14, 1992.
19. Order No. PSC-93-0228-FOF-TL, issued in Docket No. 910731-TL, on February 10, 1993.

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 970808-TL EXHIBIT NO. 1
COMPANY/ Staff
WITNESS: Staff
DATE: 05-20-98

20. Order No. PSC-93-0562-FOF-TL, issued in Dockets Nos. 920188-TL and 920193-TL, on April 13, 1993.
21. Order No. PSC-93-1176-FOF-TL, issued in Dockets Nos. 920193-TL and 920260-TL, on August 10, 1993.
22. Order No. PSC-94-0383-FOF-TL, issued in Docket No. 920260-TL, on March 31, 1994.
23. Order No. PSC-95-0486-FOF-TL, issued in Docket No. 920260-TL, on April 13, 1994.
24. Order No. PSC-97-1312-FOF-TL, issued in Dockets Nos. 970281-TL, 970172-TP, and 970173-TP, on October 22, 1997.

**HISTORY
 REMOVAL OF COMPANIES RECEIVING PAYMENTS
 FROM INTERLATA SUBSIDY POOL**

	Order Number	Effective Date	(000) INTERLATA SUBSIDY		
			Original	Reduction	Current
ALLTEL	PSC-92-0028- FOF-TL	4/1/92	\$1,899	\$472	
	PSC-93-0562- FOF-TL	4/1/93		\$690	
	PSC- ⁹³ 94-1176- FOF-TL	10/1/93		\$140	
	PSC-94-0383- FOF-TL	1/1/95		\$443	
	PSC-95-0486- FOF-TL	7/1/95		Balance	\$0
GULF	19692	8/1/88	\$7	Balance	\$0
INDIANTOWN	21954	9/1/89	\$117	Balance	\$0
NORTHEAST	PSC-92-0337- AS-TL	7/1/92	\$137	\$23	
	PSC-93-0228- FOF-TL	7/1/93		Balance	\$0
UNITED	21954	9/1/89	\$675	Balance	\$0

Since July 1995 the Only Company Still Receiving Payments from Interlata Subsidy Pool

GTC	22421	1/1/90	**	\$1,523	\$300	\$1,223
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** Amount reflected is net of \$17 subsidy contribution.

FLORIDA PUBLIC SERVICE COMMISSION
 DOCKET
 NO. 970808-TL EXHIBIT NO. 2
 COMPANY/
 WITNESS: Lohman
 DATE: 5-20-98

Florida Access Line Statistics

Year	No. of Exchanges	<u>St. Joe/ GTC</u>		% Annual Growth Rate	<u>FLORIDA</u> % Annual Growth Rate
		FL Access Lines	Percent of State		
1990	13	21,666	0.28%	4.30%	4.00%
1991	13	22,408	0.28%	3.42%	5.84%
1992	13	23,821	0.29%	6.31%	3.29%
1993	13	24,974	0.29%	4.84%	4.38%
1994	13	26,889	0.30%	7.67%	3.71%
1995	13	27,016	0.29%	0.47%	5.10%
1996	13	29,994	0.30%	11.02%	5.50%

Source: STATISTICS OF THE FLORIDA LOCAL EXCHANGE COMPANIES,
 published by the FPSC

