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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Investigation into pricing of unbundled network elements.

Docket No. 990649-TP

RECORDS AND REPORTING

Filed: August 21, 2000

PHASE 2 PREHEARING STATEMENT OF TIME WARNER TELECOM OF FLORIDA, L.P.

Time Warner Telecom of Florida, L.P. ("Time Warner"), pursuant to Florida Public Service Commission Order No. PSC-00-1335-PCO-TP, files this Prehearing Statement and states:

A. Witnesses

Time Warner will not call witnesses at the hearing.

B. Exhibits

Time Warner will not offer exhibits at the hearing.

C. Basic Position

BellSouth has submitted recurring and nonrecurring cost studies in response to the Commission's list of issues outlined in its March 16, 2000 Order. The companies have also advanced their proposals for geographically deaveraging UNEs. BellSouth, in particular, argues that the geographic deaveraging of UNE rates should be accompanied by rate rebalancing and the establishment of a State universal service fund.

BellSouth's urgency to establish a state universal service fund in conjunction with the geographic deaveraging of UNEs strays from the purpose of the instant proceeding. There is no mention of rate rebalancing or the establishment of a universal service fund in the Commission's

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list of issues to address in this phase of the proceeding. Furthermore, BellSouth has yet to substantiate the pressure on universal service that they maintain will result in response to the implementation of deaveraged UNE rates. In this proceeding, the Commission's attention and resources should be focused on implementing fair and reasonable permanent rates for unbundled network elements. The more appropriate forum to determine the need, if any, for a universal service support mechanism is in a separate docket.

BellSouth's "rate group to zone mapping" methodology blurs the distinction of cost differences among wire centers and between geographic zones. In order to send the correct pricing and investment signals to CLECs, the companies should geographically deaverage UNE rates based upon a methodology that logically groups wire centers with similar cost characteristics together.

**D.-F. Positions on the Issues**

**ISSUE 1: What factors should the Commission consider in establishing rates and charges for UNEs (including deaveraged UNEs and UNE combinations)?**

**Time Warner Position:** The primary consideration of the Commission in its efforts to establish permanent rates for unbundled network elements and UNE combinations is to base the rates upon fully supported cost studies that closely follow the appropriate costing methodology. If appropriate cost-based rates are developed, then the attendant concerns of regulators, the incumbent local exchange carriers, and other parties should be satisfied. Appropriate cost-based rates will promote fair and responsible competitive entry under the requirements of the Telecommunications Act of 1996 and will protect the incumbent local exchange carriers as the providers of the facilities necessary to provision the unbundled network elements and UNE combinations.

A forward-looking economic cost study is the most appropriate methodology to adopt when the study's objective is to replicate the conditions of a competitive market. If unbundled network elements are priced at the incumbent carrier's forward-looking economic costs, then competing telecommunications service providers should have the opportunity to capture the same types of economies of scale and scope that the incumbent local exchange carrier benefits from. As a result, the telecommunications carriers requesting unbundled network elements should be able to produce more efficiently and compete more effectively – all to the ultimate benefit of the consumer of telecommunications services. In addition, prices based upon a forward-looking costing methodology reduce the ability of the incumbent local exchange carrier to engage in anti-competitive pricing behavior.

However, BellSouth is opposed to the establishment of UNE rates based upon forward-looking, economic costs. BellSouth states that a forward-looking, economic cost methodology will not provide for the full recovery of the carriers' costs in the provision of UNEs.

It is improper to include the embedded costs of the ILEC in the development of UNE rates. By definition, embedded costs reflect historical purchase prices, network configurations, and operating procedures. To the extent that these cost areas reflect any past inefficiencies, prices based upon embedded costs will lead to inappropriate cost recovery and would not be recovered in a competitive market. On the other hand, prices based upon forward-looking, economic costs give the appropriate signals to producers and consumers and ensure efficient entry and utilization of the telecommunications infrastructure.

Additionally, BellSouth states that optimizing competitive development would require prices to be set, at a minimum, to cover the embedded costs incurred by the Incumbent Local

Exchange Carrier ('ILEC')". BellSouth apparently believes that a forward-looking, economic cost methodology prevents it from recovering its shared and common costs.

The incumbent carriers can recover a reasonable share of their forward-looking joint and common costs under the forward-looking, economic cost methodology. Most parties, including CLECs, acknowledge that the incumbent local exchange carriers are entitled to recover an appropriate portion of their forward-looking joint (i.e. shared) and common costs.

Finally, it is BellSouth's perception that a forward-looking, economic cost methodology does not provide BellSouth the opportunity to earn a reasonable profit as permitted by the 1996 Act.

But BellSouth, as well as all other ILECs should not be allowed to include an economic profit in their proposed UNE rates. A more reasonable view with respect to profits that exceed a company's cost of capital holds that such profits are considered supra-normal and temporary. Absent artificial barriers to entry (e.g. monopoly status of the market provider) in the marketplace, the firm will only realize the supra-normal profits in the short-term because other capable firms will be attracted to the prospect of earning supra-normal profits. As more firms enter and compete in the marketplace, prices will be driven back towards the level where only the fair and reasonable cost of capital is being recovered.

Reasonable, forward-looking rates for unbundled network elements should make it possible for CLECs to reach a wider range of consumers because the economies of scale and scope that were referred to earlier will be available on competitive terms. With reasonable, economic cost-based rates, CLECs will be in a better position to profitably serve the average consumer, not just the high revenue-high margin subscriber.

**ISSUES 2(a),(b)(1-4):**

**(a) What is the appropriate methodology to deaverage UNEs and what is the appropriate rate structure for deaveraged UNEs?**

**Time Warner Position:** The FCC requires that incumbent local exchange carriers deaverage rates for those unbundled network elements that exhibit significant geographical cost differences. The FCC specifies that UNE rates deaveraged across three geographic zones is presumptively sufficient. The deaveraging of unbundled network elements and UNE combinations should be based upon a rationale assignment where the underlying costs of providing the UNE are consistent within the geographic zone. For instance, the average cost of a loop can be determined on a wire center basis. Wire centers with similar cost characteristics should be grouped together in order to develop more accurate cost-based rates for each geographic zone.

BellSouth advocates that the wire centers within its existing rate groups be classified into one of three zone designations. BellSouth's rate group to zone mapping approach results in geographic zones that include wire centers with wide-ranging average monthly loop costs. The extent of the low cost/high cost wire center combination within each proposed geographic zone is material and blurs the distinction of cost differences among wire centers and between geographic zones. There should be a more homogenous classification of wire centers to geographic zones based upon the cost characteristics of the individual wire centers.

Time Warner recommends that the methodology adopted as part of the stipulation reached among the parties in support of interim UNE rates in Florida be used for permanent pricing purposes. In the stipulation methodology, the deaveraging of the unbundled loop is based upon the

ratio of an individual wire center's average monthly loop cost to the statewide average monthly loop cost. All wire centers with costs of 0% to 100% of the statewide average loop cost are assigned to Zone 1. All wire centers with average loop costs ranging from 101% to 200% of the statewide average are classified to Zone 2. Finally, all wire centers with average loop costs in excess of 200% of the statewide average cost are placed in Zone 3.

The rates for unbundled network elements and UNE combinations should be structured to recover the ILECs costs in the manner in which they are incurred. In general, recurring costs should be recovered through monthly recurring rates while reasonable, nonrecurring charges should be assessed to recover nonrecurring costs.

By adhering to these general principles of rate design, the appropriate pricing signals will be sent to requesting carriers and assist in their decision to lease or construct their own network facilities. The development of competition should also be encouraged by allowing the competing carriers to incur costs in a manner similar to those incurred by the ILECs.

**ISSUE (b)(1-4): For which unbundled network elements and UNE combinations should deaveraged rates?**

**(1) Loops (all)**

**Time Warner Position:** The rates for an unbundled network element should be deaveraged where significant cost variations are present. For instance, the cost attributes of a loop reflect geographic differences. In highly concentrated urban areas, loop lengths tend to be shorter than in the more sparsely populated rural areas. Since loop length is considered to be a major cost driver in the provision of a loop, it is reasonable for the Commission to geographically deaverage the rates for an unbundled loop.

**(2) Local switching**

**Time Warner Position:** One would not expect switching costs to differ materially between similarly configured switches whether they are deployed in an urban market or a rural wire center.

**(3) Interoffice transport (dedicated and shared)**

**Time Warner Position:** Other UNEs, such as interoffice transport, already have rate structures (i.e. on a per mile basis) that account for geographic cost variations.

**(4) Other (including combinations)**

**Time Warner Position:** The deaveraging of rates for UNE combinations should be based upon the cost characteristics of the underlying network components. Thus, the rate for a UNE combination that depends upon a loop (e.g. unbundled loop and transport) should reflect the deaveraged rate for an unbundled loop.

**ISSUE 3(a)(b):**

- (a) What are xDSL capable loops?
- (b) Should a cost study for xDSL-capable loops make distinctions based on loop length and/or the particular DSL technology to be deployed?

**Time Warner Position:** Time Warner has no position at this time.

**ISSUE 4(a)(b):**

- (a) Which subloop elements, if any, should be unbundled in this proceeding, and how should prices be set?
- (b) How should access to such subloop elements be provided, and how should prices be set?

**Time Warner Position:** Time Warner has no position at this time.

**ISSUE 7(a),(e)-(v):** What are the appropriate assumptions and inputs for the following items to be used in the forward- looking recurring UNE cost studies?

(a) **Network Design (including customer location assumptions):**

**Time Warner Position:** Time Warner recommendation on this issue is limited to the copper/fiber crossover point. Other parties to the proceeding, however, are likely to raise valid concerns challenging additional assumptions and input values that are fundamental to the network configuration design of the ILECs' cost proxy models. A more efficient and cost-effective network configuration may very well be realized from their recommendations. Presumably, the model enhancements resulting from these recommendations will produce lower overall UNE rates.

The copper/fiber crossover point is a user-adjustable input value in each of the ILECs' cost proxy models. The copper/fiber crossover point refers to the threshold where fiber facilities are used in lieu of copper facilities. Each of the ILECs' cost proxy models adopt a default input value of 12,000 feet for the copper/fiber crossover threshold.

The appropriate copper/fiber crossover point should be adjusted to 18,000 feet. A model platform that uses 18,000 foot copper loop lengths will support appropriate quality levels of services in most cases. The 12,000 foot constraint may ensure the provision of all services, including video services, but it burdens the majority of UNE rates with additional and unnecessary costs.

(e) **Structure Sharing:**

**Time Warner Position:** Structure sharing refers to the practice of sharing investments



in poles, trenches, and conduits with other utilities and/or carriers. It is difficult to separately identify the extent of structure sharing assumed in the BellSouth cost proxy model, since BellSouth contends that structure sharing is reflected implicitly in its calculations.

Time Warner recommends that the structure sharing model values for BellSouth be modified to include at least two additional parties sharing pole facilities. The percentage of structure sharing among utilities and other users should increase in the future as more parties require space on a limited number of facilities and rights-of-ways. Time Warner's recommended structure sharing level recognizes that although there will be more carriers seeking the economic benefits of structure sharing, the opportunities for such sharing may be constrained for a number of reasons, including engineering limitations.

(f) **Structure Costs :** Time Warner has no position at this time.

(g) **Fill Factors:**

**Time Warner Position:** The fill factors used in the ILECs' cost proxy models affect the level of investment required to provide services to customers. Lower than necessary utilization rates increase total loop investment because the increase in required capacity associated with lower fill factors increases the amount of loop plant used to deliver telecommunications services. Optimistically robust fill factors may jeopardize the quality of service.

The appropriate fill factor used in the cost proxy models should balance current and expected demand levels as well as accommodate the requirements for administrative and modular related spare capacity over the economic life of the

feeder and distribution facilities. Deploying facilities to satisfy demand that is not expected to materialize until after the facilities have been retired represents poor management judgment. A competitive firm would not be able to overcome such errors of judgment by passing on the higher costs to its customers. The economic lives that the incumbent carriers have assigned to distribution and feeder facilities for capital recovery purposes should be consistent with the fill factors developed as part of the efficient network configured by the cost proxy models. For instance, if the incumbent carriers assign an economic life of 14 years for metallic distribution facilities, then it is not reasonable to size these facilities to satisfy demand levels that may not emerge for 25 to 30 years in the future, long after the facilities are projected to be retired.

- (h) **Manholes:** Time Warner has no position at this time.
- (i) **Fiber Cable:** Time Warner has no position at this time.
- (j) **Copper Cable:** Time Warner has no position at this time.
- (k) **Drops:** Time Warner has no position at this time.
- (l) **Network Interface Device:** Time Warner has no position at this time.
- (m) **Digital Loop Carrier Costs:** Time Warner has no position at this time.
- (n) **Terminal Costs:** Time Warner has no position at this time.
- (o) **Switching Costs and Associated Variables:** Time Warner has no position at this time.
- (p) **Traffic data:** Time Warner has no position at this time.
- (q) **Signaling system costs:** Time Warner has no position at this time.

- (r) **Transport system costs and associated variables:** Time Warner has no position at this time.
- (s) **Loadings:** Time Warner has no position at this time.
- (t) **Expenses:** The operating expenses proposed to be recovered by the ILECs are estimated by massaging base period expense levels through a series of adjustments and factors. The base year expenses may then be adjusted through inflation factors and productivity offsets as well as “normalization” adjustments in an effort to make the baseline data representative of forward-looking conditions. Other adjustments may also be proposed such as an avoided retail expense adjustment, activity based cost adjustments, special study adjustments, and shared and common cost adjustments. Annual charge factors are also developed under a costing pool methodology that assigns individual plant and expense account activity to one or more cost pools.

Time Warner's analysis finds that the operating expenses included in BellSouth's cost studies appear overstated and not representative of forward-looking conditions. For instance, the inflation factor of 3.2% to 3.5% assumed by BellSouth exceeds the productivity offset of 3.1% resulting in a growing level of expenses each year during the forecast period. One would expect lower levels of operating expenses to be projected on a forward-looking basis assuming the network configurations of the cost proxy models embrace reasonable measures to implement the most efficient, least cost technology and engineering and operating practices. The trend of BellSouth's operations indicate declining expense levels on a per access line basis over the last several years. Therefore, an ILEC's proposal to recover a level of operating expenses that exceeds its historical costs should undergo rigorous scrutiny.

(u) **Common costs:** Common costs refer to those costs that are common to all products and services of the ILECs. These costs cannot be identified with the provision of any specific service or group of services.

The carriers propose to recover their projected common costs through a uniform mark-up applied to the unbundled network elements and UNE combinations. BellSouth proposes a mark-up of 6.24%. As part of their effort to develop forward-looking expenses subject to recovery through UNE rates, the carriers have made an adjustment to exclude the retail costs that will be avoided in the wholesale environment. The avoided retail cost adjustment, however, appears to understate the level of costs that should be excluded from the cost studies. The avoided retail cost adjustment should reflect the wholesale percentage discount ordered by the Florida Public Service Commission for each carrier. In the case of BellSouth, the FPSC ordered a resale discount of 21.83% for residential customers and 16.30% for business customers.

(v) **Other:** Time Warner has no position at this time.

**Issue 8(a-f):** What are the appropriate assumptions and inputs for the following items to be used in the forward-looking non-recurring UNE cost studies?

(a) **network design:** Time Warner has no position at this time .

(b) **OSS design:** Time Warner has no position at this time.

(c) **labor rates:** Time Warner has no position at this time.

(d) **required activities:** Time Warner has no position at this time.

(e) **mix of manual versus electronic activities:** Time Warner has no position at this time.

(f) **other:** Time Warner has no position at this time.

**ISSUE 9(a)(1-19):**

- (1) **2-wire voice grade loop:** Time Warner has no position at this time..
- (2) **4-wire analog loop:** Time Warner has no position at this time.
- (3) **2-wire ISDN/IDSL loop:** Time Warner has no position at this time.
- (4) **2-wire xDSL-capable loop:** Time Warner has no position at this time.
- (5) **4-wire xDSL-capable loop:** Time Warner has no position at this time.
- (6) **4-wire 56 kbps loop:** Time Warner has no position at this time.
- (7) **4-wire 64 kbps loop:** Time Warner has no position at this time.
- (8) **DS-1 loop:** Time Warner has no position at this time.
- (9) **high capacity loops (DS3 and above):** Time Warner has no position at this time.
- (10) **dark fiber loop:** Time Warner has no position at this time.
- (11) **subloop elements (to the extent required by the Commission in Issue 4):**  
Time Warner has no position at this time.
- (12) **network interface devices:** Time Warner has no position at this time.
- (13) **circuit switching (where required):** Time Warner has no position at this time.
- (14) **packet switching (where required):** Time Warner has no position at this time.

- (15) **shared interoffice transmission:** Time Warner has no position at this time.
- (16) **dedicated interoffice transmission:** Time Warner has no position at this time.
- (17) **dark fiber interoffice facilities:** Time Warner has no position at this time.
- (18) **signaling networks and call-related databases:** Time Warner has no position at this time.
- (19) **OS/DA (where required):**

**ISSUE 10:** What is the appropriate rate, if any, for customized routing?

**Time Warner Position:** Time Warner has no position at this time.

**ISSUE 11:** When should the recurring and non-recurring rates and charges take effect?

**Time Warner Position:** Time Warner has no position at this time.

**ISSUE 12(a)(b)(1-3):** Without deciding the situations in which such combinations are required, what are the appropriate recurring and non-recurring rates for the following UNE combinations?

(a) “UNE platform” consisting of: loop (all), local (including packet, where required) switching (with signaling), and dedicated and shared transport (through and including local termination);

**Time Warner Position:** Time Warner has no position at this time.

- (b) "extended links," consisting of:
- (1) loop, DSO/1 multiplexing, DS1 interoffice transport;
  - (2) DS1 loop, DS1 interoffice transport;
  - (3) DS1 loop, DS1/3 multiplexing, DS3 interoffice transport.

**Time Warner Position:** Time Warner has no position at this time.

G. **Stipulated Issues**

Time Warner has not stipulated to any issues with any party to the proceeding.

H. **Pending Motions**

Time Warner does not have pending motions or other matters its seeks action upon.

I. **Requirements of Orders**

Previous Ordering Establishing Procedure in this docket do not impose any requirement with which Time Warner cannot comply.

Respectfully submitted this 21<sup>st</sup> day of August, 2000.

  
PETER M. DUNBAR, ESQ.

Fla. Bar No. 146594

KAREN M. CAMECHIS, ESQ.

Fla. Bar No. 0898104

Pennington, Moore, Wilkinson,  
Bell & Dunbar, P.A.

Post Office Box 10095

Tallahassee, Florida 32302-2095

(850) 222-3533

(850) 222-2126 (fax)

Counsel for: Time Warner Telecom  
of Florida, L.P.

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 990649-TP**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing **Phase 2 Prehearing Statement of Time Warner Telecom of Florida, L.P.** has been served by U.S. Mail on this 21<sup>st</sup> day of August, 2000, to the following parties of record:

ALLTEL Communications Services, Inc.  
One Allied Drive  
Little Rock, AR 72203-2177

Blumenfeld & Cohen  
Elise Kiley/Jeffrey Blumenfeld  
1615 Massachusetts Ave., NW  
Suite 700  
Washington, DC 20036

AT&T Communications of the Southern States, Inc.  
Marsha Rule  
101 N. Monroe St., #700  
Tallahassee, FL 32301

Blumenfeld & Cohen  
Gary Cohen  
1625 Massachusetts Ave., NW  
Suite 320  
Washington, DC 20036

AT&T Communications of the Southern States, Inc. (GA)  
Jim Lamoureux, Esq.  
1200 Peachtree St., Suite 8068  
Atlanta, GA 30309

Broadslate Networks of Florida, Inc.  
John Spilman  
675 Peter Jefferson Parkway, Suite 310  
Charlottesville, VA 22911

Ausley Law Firm  
Jeffrey Wahlen  
P.O. Box 391  
Tallahassee, FL 32302

Cleartel Communications, Inc.  
Hope G. Colantonio  
1255 22nd Street, N.W., 6th Floor  
Washington, DC 20037

BellSouth Telecommunications, Inc.  
Ms. Nancy B. White  
c/o Nancy H. Sims  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301-1556

Covad Communications Company  
Catherine F. Boone, Esq.  
Regional Counsel  
10 Glenlake Parkway, Suite 650  
Atlanta, GA 30328-3495

BlueStar Networks, Inc.  
Norton Cutler/Michael Bressman  
401 Church Street, 24<sup>th</sup> Floor  
Nashville, Tennessee 37210

e.spire Communications  
James Falvey  
133 National Business Parkway  
Suite 200  
Annapolis Junction, MD 20701



Florida Cable Telecommunications  
Assoc., Inc.  
Michael A. Gross  
310 N. Monroe St.  
Tallahassee, FL 32301

Florida Competitive Carriers Assoc.  
c/o McWhirter Law Firm  
Joseph McGlothlin/Vicki Kaufman  
117 S. Gadsden St.  
Tallahassee, FL 32301

Florida Digital Network, Inc.  
390 North Orange Ave., Suite 2000  
Orlando, FL 32801

Florida Public Telecommunications Assoc.  
Angela Green, General Counsel  
125 S. Gadsden St., #200  
Tallahassee, FL 32301-1525

Holland Law Firm  
Bruce May  
P.O. Drawer 810  
Tallahassee, FL 32302

Hopping Law Firm  
Richard Melson/Gabriel E. Nieto  
P.O. Box 6526  
Tallahassee, FL 32314

Intermedia Communications, Inc.  
Scott Sappersteinn  
3625 Queen Palm Drive  
Tampa, FL 33619-1309

Kelley Law Firm  
Genevieve Morelli/Eric Jenkins  
1200 19th St. NW, Suite 500  
Washington, DC 20036

KMC Telecom, Inc.  
Mr. John McLaughlin, Jr.  
1755 North Brown Road  
Lawrenceville, GA 30043

MCI WorldCom  
Ms. Donna C. McNulty  
325 John Knox Road, Suite 105  
Tallahassee, FL 32303-4131

MCI WorldCom, Inc.  
Mr. Brian Sulmonetti  
Concourse Corporate Center Six  
Six Concourse Parkway, Suite 3200  
Atlanta, GA 30328

McWhirter Law Firm  
Vicki Kaufman  
117 S. Gadsden St.  
Tallahassee, FL 32301

MediaOne Florida Telecommunications, Inc.  
c/o Laura L. Gallagher, P.A.  
101 E. College Ave., Suite 302  
Tallahassee, FL 32301

Messer Law Firm  
Norman Horton, Jr./Floyd Self  
P.O. Box 1876  
Tallahassee, FL 32302

Network Access Solutions Corporation  
100 Carpenter Drive, Suite 206  
Sterling, VA 20164

Network Telephone Corporation  
Brent E. McMahan  
815 South Palafox Street  
Pensacola, FL 32501-5937

Office of Public Counsel  
Stephen C. Reilly  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399-1400

Rhythms Links Inc.  
Ms. Catherine Muccigrosso  
6933 South Revere Parkway, Suite 100  
Englewood, CO 80112-3981

SBC Telecom, Inc.  
Mark Ortlieb  
130 E. Travis, Rm. 5-K-03  
San Antonio, TX 78205

Shook, Hardy & Bacon LLP  
Rodney L. Joyce  
600 14th Street, N.W., Suite 800  
Washington, DC 20005-2004

Sprint Communications Company Limited  
Partnership  
3100 Cumberland Circle  
Mailstop GAATLN0802  
Atlanta, GA 30339

Sprint-Florida, Incorporated  
Charles J. Rehwinkel  
1313 Blairstone Road  
Tallahassee, FL 32301-3021

Supra Telecommunications and Information  
Systems, Inc.  
Mark E. Buechele  
Koger Center - Ellis Bldg.  
1311 Executive Center Dr., Suite 200  
Tallahassee, FL 32301-5027

Swidler & Berlin  
Russell Blau/M. Rothschild/R. Ridings  
3000 K St. NW, #300  
Washington, DC 20007-5116

Swidler & Berlin Law Firm  
Eric J. Branfman/Morton Posner  
3000 K Street, NW, #300  
Washington, DC 20007-5116

Time Warner Telecom of Florida, L.P.  
Carolyn Marek  
233 Bramerton Court  
Franklin, TN 37069

Verizon Select Services Inc.  
Kimberly Caswell  
P.O. Box 110, FLTC0007  
Tampa, FL 33601-0110

Wiggins Law Firm  
Patrick Wiggins/Charles Pellegrini  
P.O. Drawer 1657  
Tallahassee, FL 32302

Z-Tel Communications, Inc.  
George S. Ford  
601 S. Harbour Island Blvd.  
Tampa, FL 33602-5706

  

---

**KAREN M. CAMECHIS, ESQ.**