Louisiana Public Service Commission

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April 12, 1996

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1919 M Street, N. W.
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

In Re: Comments - Federal-State Joint Board on Universal Services
FCC 96-93
CC Docket No. 96-45

Dear Sir:

Enclosed are comments of the Louisiana Public Service Commission on CC Docket No. 96-45, Federal-State Joint Board on Universal Services.

I would appreciate these comments being filed with your Commission.

Sincerely yours,

Gayle T. Kellner
Senior Staff Attorney

GTK/atg

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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of	)	**FCC 96-93**
	)	
Federal -State Joint Board on Universal Services	)	**CC Docket No. 96-45**
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DOCKET FILE COPY ORIGINAL

COMMENTS OF THE
LOUISIANA PUBLIC SERVICE COMMISSION

I. INTRODUCTION

The Louisiana Public Service Commission (" LPSC") hereby submits the following comments in response to the Federal Communications Commission ("FCC") Notice of Proposed Rulemaking and Order Establishing Joint Board ("NPRM") issued on March 8, 1996.[1] This Notice was issued in order to implement the Congressional directive set out in Section 254 of the Telecommunications Act of 1996 (1996 Act),[2] in particular, (1) define the service that will be supported by Federal universal support mechanisms; (2) define those support mechanisms; and (3) recommend changes to FCC regulations in order to implement universal service pursuant to the 1996 Act.[3] The Louisiana Public Service Commission has been considering the general

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[1] *In The Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking and Proposed Order Establishing Joint Board, FCC 96-93 (Adopted March 8, 1996).

[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 State. 56 (1996) (to be codified at 47 U.S. C. §§ 151 et seq.). Hereinafter, the provisions of the 1996 Act will be referred to using the sections at which they will be codified.

[3] 1996 Act sec. 101(a), §254(a)(1) and Notice para. 1.

concept of universal service and various sub-issues related thereto for more than two years as part of LPSC Docket U-20883[4] and specifically, in LPSC Docket U-20883 (Subdocket A).[5] A diligent effort has been undertaken in presenting these comments to be brief and concise. If additional information regarding any area that has been discussed is needed, the LPSC will be willing to furnished it to any and all parties concerned.

II. CORE SERVICES:

The 1996 Act provides for universal support for two categories of services. The first group of services can be referred to as "core" services which are to be provided to consumers with low incomes or in rural, insular, and high cost areas.[6] The Notice seeks comment regarding whether the following services should be included among those core service receiving universal service support: (1) voice grade access to the public switched network, with the ability to place and receive calls; (2) touch-tone; (3) single party service; (4) access to emergency

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[4]LPSC Docket U-20883, Louisiana Public Service Commission, ex parte, *In re: The development of rules and regulations applicable to the entry and operations of and the providing of service by competitive and alternative access providers in the local intrastate and or interexchange telecommunications markets in Louisiana.*

[5]LPSC Docket U-20883 (Subdocket A - Universal Service). This docket was ordered open by the LPSC on October 12, 1994 to specifically address the issue of Universal Service. On December 15, 1994, a hearing was held regarding the issue of what service should be included in the definition of Universal Service. The LPSC adopted a definition of Universal Service as reflected in LPSC General Order dated May 22, 1995, *In re: Definition of Universal Service* (hereinafter referred to as LPSC Definition of Universal Service).

[6]1996 Act sec. 101(a), §254(c)(1).

services (911); and (5) access to operator services.[7] The Louisiana Public Service Commission has defined universal service to consist of the following services:

1. Residential and single-line business access to the local exchange network, including usage and measured usage within the local service area;

2. Touchtone capability;

3. White page directory listing (residential and business);

4. Access to directory assistance (local);

5. Directory distribution (publication and distribution of at least one annual local directory);

6. Access to 911 service (where established by La. R. S. 45: 791 et seq.);

7. Affordable line connection (for service initiation);

8. Access to long distance carriers and operator services;

9. Access to the telephone relay system;

10. Access to customer support services, including billing;

11. Access to a calling plan for a local service area sufficiently large to encompass a user's community of interest (but no greater than 40 miles).[8] (See Exhibit 1).

The LPSC has already included within its definition of universal service four of the five services the Notice listed as "core" services eligible to receive universal service support. The only

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[7]Notice at para. 16.

[8]LPSC General Order dated May 22, 1995, *In re: Definition of Universal Service,* as amended by LPSC General Order dated March 15, 1996, *In Re: Regulations for Competition in the Local Telecommunications Market,* section 501(A)(hereinafter referred to as "LPSC Regulations for Competition").

service not included within the LPSC's definition is single- party service. Multi-party has been virtually eliminated in Louisiana. All customers have access to single-party service. Multi-party service was "grandfathered" for those customers who originally had multi-party service and chose not to upgrade to single-party service when it became available in their area. Therefore, only a few customers in Louisiana continue to subscribe to multi-party service. Other than for those customers "grandfathered", multi-party service is not offered or available in Louisiana, hence it was determined that it was not necessary to include "single-party" service as an element of universal service.

The Notice additionally requested that commenters identify other services that should be eligible for universal service support.[9] The LPSC's definition of universal service listed eleven services. Four of the eleven were identified already in the Notice.[10] The LPSC would offer that the remaining seven be considered as "core" services.

III. AFFORDABILITY

Section 254(i) of the 1996 Act requires the Commission and States to assure that service rates are "just, reasonable and affordable." Comment is sought on how to determine rate levels that would be "affordable" for service identified as requiring universal service support.[11] The LPSC has ordered:

"B. The Commission hereby finds that it is in the public interest to make available

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[9]Notice at para. 17.

[10]Id. at para. 16.

[11]Notice at para. 25.

universal service to all end users at affordable rates."[12]

The word "affordable" was not defined by the LPSC. Cost studies were ordered to be conducted to determine the cost of those services included within the definition of universal service.[13] Depending on the results of the cost studies, the LPSC has provided that a state universal service fund may be established to collect and disburse monies to insure the availability of universal service at affordable rates.[14] The intent was to first determine the cost of providing the services included within the definition of universal service before determining want was an "affordable" rate.

IV. SCHOOLS, LIBRARIES, and HEALTH CARE PROVIDERS

Though support to the schools, libraries, and health care providers is not included within the LPSC's definition of universal service, an "Educational Discount Program" was established by the LPSC on March 18, 1994.[15] This program was designed to provide a discount to qualifying

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[12]LPSC Regulations for Competition, section 501(B).

[13]LPSC Definition of Universal Service and LPSC Regulations for Competition, section 501(C).

[14]LPSC Regulations for Competition, section 501(D).

[15]LPSC Order No. U-17949-II, Docket Nos. U-17949 and U-17949 (Subdocket A), LPSC ex parte, *In re: Investigation of the Revenue Requirements, Rate Structure, Charges, Services, Rate of Return, and Construction Program of South Central Bell Telephone Company in its Louisiana Intrastate Operations, Appropriate Level of Access charges and all matters relating to the Rates and Services rendered by the Company - Continuing Earnings Investigation. (Expiration of reserve deficiency amortization and rate reductions attributable thereto,* dated March 18, 1994 as amended by LPSC Order U-17949-JJ dated March 18, 1994 and as further amended by LPSC Order U-17949-KK dated March 18, 1994. (See Exhibit 3).

schools and libraries for the installation of and monthly service charge for ISDN and T1 service.[16] The program was extended to "government-owned" hospitals on November 6, 1995.[17]

V. RURAL, INSULAR, and HIGH-COST AREAS and LOW -INCOME CONSUMERS:

Other than through implicit subsidies, no state support mechanism currently exists for rural, insular and high-cost areas or for low-income consumers. Pursuant to the LPSC Definition of Universal Service and the LPSC Regulations for Competition, a state fund may be established to support the provision of universal service to the consumers of Louisiana at affordable rates. The LPSC has specifically provided that:

> "E. The Universal Service Fund shall be a method of achieving a public policy goal. Thus, disbursements from the fund shall not be limited to economically disadvantaged individuals."[18]

Currently, the Link-Up program is specifically offered to low income households providing a credit (discount) towards the installation and connection charges.

VI. WHO CONTRIBUTES TO THE FUND

The LPSC has provided that:

"[A]ll TSPs providing service in Louisiana shall contribute to the fund. The basis from

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[16]South Central Bell Telephone Company of Louisiana, General Subscriber Service Tariff, Section A5.14 Education Discount Program issued August 22, 1994, modified on October 6, 1995. (See Exhibit 4).

[17]Id. At A.14.2(C).

[18]LPSC Regulations for Competition at section 501(E).

which contributions to the fund will be determined, and the method of disbursement therefrom shall be established in Subdocket A of Docket U-20883."[19]

The requirement that all telecommunications service providers contribute to a universal service fund is consistent with Section 254(d) of the 1996 Act. The basis for determining the amount of funds to be contributed by the providers along with the method of disbursing the support, has yet to be determined by the LPSC.

VII. CONCLUSION:

The above comments are being submitted in an effort to inform the FCC and the Federal-State Joint Board of the intensive efforts that have been undertaken on the State level by the Louisiana Public Service Commission regarding the critical issue of universal service. It is our hope that these comments aid in the development and implementation of a universal service policy that is beneficial to all consumers.

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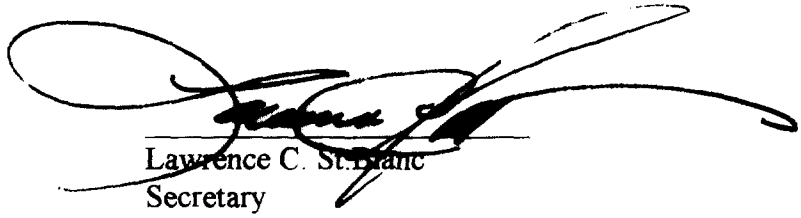
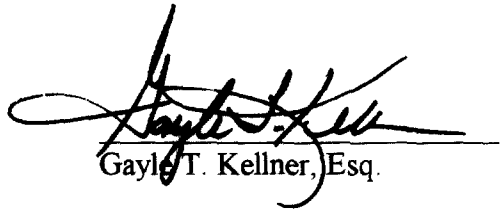
[19]LPSC Regulations for Competition at section 501(D).

Respectfully submitted,



Lawrence C. St. Blanc
Secretary



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LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

In re: Definition of Universal Service

Docket No. U-20883, the development of rules and regulations applicable to the entry and operations of, and the providing of services by, competitive and alternate access providers in the local, intrastate and/or interexchange telecommunications market in Louisiana was established by the Commission to consider local competition and is ongoing.

The Commission directed at its Open Session October 12, 1994, that U-20883-Subdocket A, be opened to address expeditiously the issue of defining universal service.

Interventions were received from Janet S. Boles, attorney for Small Company Committee of the Louisiana Telephone Association; Michael Lamers, attorney for Centennial Cellular Corporation and Radiofone, Inc.; Robert J. Burns, Jr., attorney for Paramount Wireless Communications of Louisiana, Inc.; John C. Boyce, attorney for BellSouth Mobility, Inc.; Benjamin W. Fincher of Sprint; M.H. Czerwinski, President of East Ascension Telephone Co.; Katherine W. King, attorney for MCI; Marsha Ward of MCI; Robert L. Rieger, Jr., attorney for Louisiana Cable Telephone Association; Mark Jeansonne, attorney for Radiofone, Inc.; James C. Percy, attorney for East Ascension Telephone Company; Victoria McHenry, attorney for South Central Bell; Teresa Marrero of Teleport Communications Group; Alicia Freysinger, attorney for Shreveport Cellular Telephone, Lafayette Cellular Telephone, Monroe Cellular Limited Partnership, and LDDS Communications, Inc., d/b/a LDDSMetromedia Communications); Riley M. Murphy, attorney for ACSI; D. Allynn Madere of Reserve Telephone Co.; Thomas G. Henning of Cameron Telephone Co.; Andrew P. Lipman, attorney for Metropolitan Fiber Systems; Deborah J. Winegard of AT&T; and Claire Daly of LDDSMetromedia Communications.

Prior to hearing, special counsel circulated a proposed definition of Universal Service and invited comments. Written comments were received from MCI, AT&T, MFS Communications Company, Inc. ("MFS"), Sprint, South Central Bell ("SCB"), Teleport Communications Group, Inc. ("TCG"), Radiofone, McCaw Cellular Communications, Inc. ("McCaw") through its subsidiary and its affiliate companies, Shreveport Cellular Telephone Company, Monroe Cellular Limited Partnership and Lafayette Cellular Telephone Company, Sprint, and Louisiana Cable Telephone Association.

Hearing before Administrative Law Judge Carolyn L. DeVitis was had on December 15, 1994. The following companies participated in the December 15, 1994 hearing, South Central Bell, Small Company Committee of the Louisiana Telephone Association, AT&T, MCI, Sprint, LDDS, Louisiana Cable Association, Radiofone and McCaw Cellular.

All parties present stated general agreement as to the Commission's proposed continuing goal of the universal availability of high quality, affordable basic telecommunication service and expressed their views that the emergence of competition in the local exchange is consistent with the preservation of universal service.

All parties agreed that any definition of universal service adopted at the present time needed to be a flexible definition, capable of being amended as customer expectations, technologies, and federal rules may change over time. Most parties favored a definition expressed in functional terms rather than by reference specific technologies.

Discussion was had concerning the items to be included in the definition of universal service. Participants stated that they were willing to participate in a fund to support universal service.

[redacted]

Based on the proposal submitted by special counsel and the responses in various forms received from the parties, a proposed policy statement and definition of specific items was recommended to the Commission. The Commission at its April 27, 1995 Open Meeting considered the matter and voted to adopt the proposed definition.

ACCORDINGLY, IT IS ORDERED that the following policy statement and definition of Universal Service is adopted:

Over the years, the Commission has maintained as a policy objective the universal availability of basic telecommunication service that is both a high quality service and an affordable service. This policy objective has largely been satisfied by the local exchange companies (singly, a "LEC"; plural, "LECs") provisioning of basic universal service to Louisiana citizens.

The telecommunications industry in Louisiana, like many other states, appears to be in a transition stage towards a more competitive marketplace. Although many LEC customers do not presently have alternatives to the services provided by LECs, the Commission is concerned that the advent of competition may affect the continued ability of the LECs to provide basic universal telephone service. Also, the Commission is now considering how to regulate independent LECs in the future, and has recently considered the viability of a price regulation framework proposal for the future by South Central Bell. In addition, the Commission currently is considering how to open the local telecommunications market to alternative local providers. Concerns and considerations like these have prompted the Commission to undertake a more thorough analysis of universal service to be provided to ratepayers by local telecommunications providers.

The Commission, in authorizing this analysis, is mindful that other state regulatory commissions have addressed and continue to address universal service from a broad policy perspective. The analysis sought by the Commission, however, is more far-reaching. The Commission, in order to assess the current state of universal service in the future, must both define the specific elements or components of universal service and determine the cost of providing universal service. For this reason, the Commission has decided to define universal service in functional terms, where appropriate, and in terms of services, where necessary; provided, however, the definition shall be subject to modification.

Definition of Universal Service

A. The Commission hereby defines universal service to consist of the following:

1. Residential and single-line Business access to the local exchange network, including usage and measured usage within the local exchange area;

2. Touchtone capability;

3. White page Directory Listing (residential and business);

4. Access to Directory Assistance (local);

5. Directory distribution (publication and distribution of at least one annual local directory);

6. Access to 911 service (where established by La. R.S. 45:791 et seq.);

7. Affordable Line Connection (for service initiation);

8. Access to long distance carriers and operator services;

9. Access to the telephone relay system;

10. Access to customer support service, including billing; and

11. Access to a calling plan for a local calling area sufficiently large to encompass a user's community of interest (but no greater than 40 miles).

B. The Commission hereby declares that the definition of universal service shall be subject to modification by the Commission as technology and customer needs change. Also, the Commission reserves the right to modify the definition of universal service as a result of any FCC and/or federal decrees, orders, or legislation.

C. The Commission also declares that nothing contained in this Policy Statement and Definition of Universal Service is intended to undermine or impair the Commission's regulatory authority.

The purpose of Subdocket A to Docket No. U-20883 was to define "Universal Service" in the emergent telecommunications market in Louisiana. Items listed as a part of universal service will be required items that any carrier wishing to enter the telecommunications market in Louisiana must provide to its customers. Items which are part of the Universal Service definition may be eligible for subsidy should the Commission determine the public interest would be best served by the maintenance of a certain level of affordability as to all or some of the services that make up universal service. Currently funding for basic service is being provided by a number of implicit and explicit subsidies. The shifting of costs among services to implement public policy is accomplished with relative ease where there is only one local service provider in an area. Such shifting of costs becomes problematic when multiple carriers may be free to choose to serve only those customers which they view as most desirable.

If hidden or implicit subsidies are to be made explicit by requiring all carriers entering the market to participate in providing and/or help pay for universal service, more information regarding the true cost of universal service items is needed.

IT IS THEREFORE ORDERED THAT cost of service information be provided by the LECs for all items included in the universal service definition and that a proceeding be opened to analyze how to measure such costs and the exact amount of such costs for the provision of universal service.

It is so ORDERED.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
May 22, 1995

/s/ JOHN F. SCHWEGMANN
DISTRICT I
CHAIRMAN JOHN F. SCHWEGMANN

/s/ IRMA MUSE DIXON
DISTRICT III
VICE-CHAIRMAN IRMA MUSE DIXON

/s/ CURTIS J. JOUBERT
DISTRICT IV
COMMISSIONER CURTIS J. JOUBERT

DON OWEN ABSENT
DISTRICT V
COMMISSIONER DON OWEN

SECRETARY

/s/ KATHLEEN BABINEAUX BLANCO
DISTRICT II
COMMISSIONER KATHLEEN BABINEAUX BLANCO

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

In re: Regulations for Competition in the Local Telecommunications Market

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At the April 13, 1994 Commission's Business and Executive Session, the Commission adopted a policy statement dealing with (i) the Commission's jurisdiction over all companies and entities, including alternative access providers, that intend to provide or otherwise provide local or other intrastate telephone service in Louisiana, (ii) the intent of the Commission to develop rules and regulations for such companies and entities, and (iii) to that end, the authorization of a generic docket and issuance of a Notice of Proposed Rulemaking for the development of such rules and regulations. In furtherance of the policy adopted by the Commission and as ordered by the Commission, Docket U-20883, Louisiana Public Service Commission, ex parte, *In re: The development of rules and regulations applicable to the entry and operations of and the providing of service by competitive and alternative access providers in the local intrastate and or interexchange telecommunications markets in Louisiana* (the "Competition Docket") was formally opened and published in the Commission's Official Bulletin No. 539 dated April 22, 1994.

The following parties filed formal interventions in this docket: Paramount Wireless Communications Corp. (Paramount Wireless), Wireless One, Inc., Louisiana Cable Television Association (LCTA), AT&T Communications of the South Central States, Inc. (AT&T), Shreveport Cellular Telephone Company (Shreveport Cellular), Lafayette Cellular Telephone Company (Lafayette Cellular) [1], Monroe Cellular Limited Partnership (Monroe Cellular), American Communication Services of Louisiana, Inc. (ACSI), MCI Telecommunications Corporation (MCI), East Ascension Telephone Company, Inc. (EATEL), BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company (SCB)[2], The Council of the City of New Orleans, McCaw Cellular Communications, Inc. (McCaw Cellular)[3], LDDSMetromedia Communications (LDDS), Teleport Communications Group Inc. (TCG), the Small Company Committee of the Louisiana Telephone Association (SCC), Sprint Communications Company L.P. (Sprint), Reserve Telephone Co. (Reserve Telephone), Centennial Beauregard Cellular Corp. (Centennial Cellular), Entergy Services, Inc., Radiofone, Inc. (Radiofone), Metropolitan Fiber Systems of New Orleans, Inc. (MFS), Cameron Telephone Company, BellSouth Mobility, Inc. (BSM), Global Tel*Link, Inc. (Global), GNet Telecom, Inc. (GNet) and BRI, Inc. (BRI). The following parties filed as interested parties: Michael R. Gardner, Esq., Federal Trade Commission, State of Michigan Department of Commerce, Peoples Telephone Companies, Inc., Vision Cable of Alpine, the Alliance Against Utility Competition in Private Sector Industries (AAUC), Crescent City Networks Corporation (Crescent City Networks), Lemle & Kelleher, Dow, Lohnes & Albertson, the City of Kenner, Louisiana Telecom Affairs, State of Louisiana Office of Telecommunications Management, International Telecommunications Service, Inc., the Telecommunications Resellers Association (TRA), Technologies Management, JTS Interests, Allnet Communication Services, Inc. d/b/a Frontier Communications Services, Inc., and Tipton Ross Company.

A Scheduling Conference was held on July 23, 1994 at which time several dates were established. First, July 15, 1994 was established as the date all parties were to submit a suggested

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[1]Notice of Withdrawal of Intervention on Behalf of Lafayette Cellular Telephone Company was filed by AT&T Wireless Services, Inc. on November 21, 1995 due to its sale of Lafayette Cellular to Centennial Cellular Corp.

[2]Now known exclusively as BellSouth Telecommunications, Inc.

[3]Now known as AT&T Wireless Services, Inc.

list of issues to be considered in this docket; second, on August 1, 1994 parties were to submit a reconsidered list of issues to the Commission; third, on September 15 and 16, 1994 presentations to the Commission were scheduled to be made by the parties regarding the extent that competition already exists in Louisiana and current barriers to competition; and finally, November 14-18, 1994 and January 12-13, 1995 were set as the dates for Technical Conferences

Presentations were made on September 15 and 16, 1994, by SCB, SCC, AT&T, MCI, TCG, MFS, LCTA, Shreveport, Lafayette and Monroe Cellular, and the AAUC as to the current status of competition in Louisiana and barriers to competition. The Technical Conferences originally scheduled for November 14-18, 1994, were rescheduled to commence on November 30, 1994 and conclude on December 2, 1994.

The first round of Technical Conferences were held on November 30 through December 2, 1994. Participating in this Technical Conference were SCB, AT& T, MCI, Sprint, LDDS, LCTA, Radiofone, Centennial Cellular, McCaw Cellular, Shreveport Cellular, Monroe Cellular, Lafayette Cellular, SCC, Reserve Telephone, and EATEL. All participates were invited to comment on the following issues in order to aid the Commission in formulating appropriate regulations for competition in the local telecommunications market.

1. To what extent is competition in the local intrastate and/or inter-exchange telecommunications market in Louisiana in the Public interest?

What services should be competitive?
When should competition begin? Should competition commence all at once or be phased in?
Where should competition begin? Should it be statewide or through pilot programs
What are the benefits of competition?
What are possible drawbacks of competition?
What is the likely future level of competition?
What restraints, if and would be appropriate on "skimming?"

2. How will consumer/rate payers be protected?

In regard to dispute resolution
In regard to rate discrimination?
In regard to access to services including new Offerings?
In regard to rate shock?
In regard to inferior service?
In regard to privacy and use of customer information?

3. How will Local Option[al] Service be accommodated in a competitive environment?

Would entrants be required to offer local calling areas identical to those offered by LEC's?
Should Local Option[al] service be permitted on other terms and conditions?
Should LEC's be required to comply with an imputation standard for LOS calls in the 22 - 40 mile range?

4. What tariffs and reporting requirements should be established?

What carriers should be required to file tariffs?
For which service should tariffs be required?
What would a tariff filing consist of?
Would it be appropriate for the Commission to require new local entrants along with incumbents to provide periodical reports for the Commission to analyze concerning the growth of competition? If so, what reports? How often?
Should the incumbent LEC's have the same tariff filing requirements as CAPS?
To what extent should current LEC tariff and reporting requirements be altered?
How are prices to be determined? Price caps, price floors and/or ceilings, rate of return, other methods, free market?
What other filings, reports should be required?
Should requirements change with the growth of competition and at what point would change be appropriate?

Should termination charges be prohibited for customers who change carriers? Exceptions?

5. What entry and service standards should be established?
What should be the criteria for admission of new entrants?
What should be the standards of service to be required of new entrants?
What features, such as for example directory listing, access to 911, operator assistance, etc. should be required?
Who has the obligation to serve?

6. How will the practicalities of Networking and Interconnection be accomplished?
How will carriers complete calls across competing networks?
Should the Commission require the interconnection of all networks?
What physical connection arrangements are available, desirable?
What criteria and mechanism for access should be established?
Should CAPS have access to LEC data bases? If so, under what terms and conditions?
Should all carriers be barred from developing incompatible systems?
How will interaction of wireless services be part of the overall consideration?
To what extent should bypass of existing facilities and the duplication of facilities be considered?

The second round of Technical Conferences were held on January 12 and 13, 1995. The following parties participated in this Technical Conference: SCB, AT&T, MCI, Sprint, LDDS, LCTA, Radiofone, Centennial Cellular, McCaw Cellular, Shreveport Cellular, Monroe Cellular, Lafayette Cellular, SCC, Reserve Telephone and EATEL. Discussion of the following issues was encouraged of all participants at the Technical Conference:

1. How will Universal Service be provided?[4]
Which services provide the subsidy? Quantify the amount of the subsidy that is necessary to support universal service.
Which universal service components, if any, are now provided under cost, and by how much?
How would universal service be preserved in a competitive market?
Who has an obligation to provide universal service?
At what point would responsibility shift to alternate provider?
Who should be required to pay for universal service?
Is a universal fund feasible?
How would a universal fund be set up and administered?
What alternatives are there?
How is the cost of universal service to be determined? LRIC/TSLRIC cost studies?

2. How will carrier of last resort and life-line service be provided?
Is there a continuing need for carrier of last resort?
What criteria would be used to determine carrier of last resort?
What would be necessary in order to continue low cost life-line services to all customer in need of the service?

3. Is number portability technically and economically feasible?
What alternatives are there to number portability?

Because discussion of all of the remaining issues could not be completed at the January Technical Conference, a final round of Technical Conferences was scheduled for February 16 and

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[4]LPSC Docket U-20883 (Subdocket A - Universal Service) was ordered open by the Commission at its October 12, 1994 Open Session to specifically address the issue of Universal Service. A hearing was held on December 15, 1994 regarding what services should be included in the definition of Universal Service. The Commission adopted definition of Universal Service can be found in LPSC General Order dated May 22, 1995.

17, 1995. Participating in the final round of Technical Conferences were SCB, AT&T, MCI, Sprint, LDDS, LCTA, Radiofone, Centennial Cellular, McCaw Cellular, Shreveport Cellular, Monroe Cellular, Lafayette Cellular, SCC, Reserve Telephone and Paramount Wireless. Comments were solicited from all of the participants regarding the following issues

1. How will price/rate determinations among carriers be reached?
What level of unbundling should be required?
What service should be available for resale?
How should unbundled services be priced?
How should packaged services be priced?
What method of price determination should be employed?
How can prices be monitored for fairness?
What protection should be provided against anti-competitive behavior and discriminatory conduct and pricing?

2. How will expanded services and new technologies be accommodated or encouraged?
What can be done to encourage emerging technology?
What can be done to ensure Louisiana can make full use of the information superhighway?
How will multimedia service be provided?
What safeguards need to be put in place so rural as well as urban customers are able to take full advantage of new services?

At the conclusion of the Technical Conferences, all parties were given until April 20, 1995 to file formal written comments and suggested proposed regulations. Pursuant to an agreement of all of the parties, the April 20, 1995 deadline for the filing of proposed regulations was extended to April 28, 1995. Sprint, Radiofone, Centennial Cellular, SCC, LCTA and SCB filed comments and proposed regulations. Additionally, a jointly submitted set of proposed regulations was filed by AT&T, McCaw Cellular, MCI and LDDS.

While the Competition Docket was proceeding, the Regulatory Track of Docket U-17949 (Subdocket E) was likewise proceeding. As the regulatory track progressed it became evident that inconsistent or conflicting regulatory schemes could be developed in the parallel dockets. Subsequently, in order to promote consistent regulation of the telecommunications industry in Louisiana, the Commission at its July 19, 1995 Open Session ordered the transfer of the Regulatory Track of Docket U-17949 (Subdocket E) into the Competition Docket (U-20883).[5]

On September 1, 1995, after analyzing and considering the written comments and suggested proposed regulations filed by each party, the Commission Staff issued its initial draft of the *Proposed Regulations for Competition in the Local Telecommunications Market*. Written comments and stipulations to these proposed regulations were solicited from all parties to be filed by September 11, 1995, which date was extended to September 12, 1995. Comments were filed by AT&T, Shreveport Cellular, Lafayette Cellular, Monroe Cellular, MCI, Centennial Cellular, LCTA, LDDS, Crescent City Networks, Sprint and Paramount Wireless.

A Stipulation Conference was held on September 18 through 21, 1995, where each provision of the proposed regulations was scrutinized by all parties. The goal of this conference was to determine which provisions of the proposed regulations the parties agreed to and which provisions there was genuine disagreement. Staff was questioned extensively as to the intent behind each provision, the interrelationship between different provisions, and the meaning of terms used and not specifically defined. Each party was given an opportunity to discuss the impact particular provisions would have on that party. After considering the input of the parties, some of the provisions were rewritten at the conference in an effort to develop a workable set of regulations. At the conclusion of the conference it was determined that none of the parties could stipulate to all of the regulations as written.

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[5]Order U-17949 (Subdocket E) dated August 22, 1995.

In order to obtain additional input from the parties, on September 27, 1995, a Second Notice of Amendment of Procedural Schedule was issued. This Procedural Scheduled provided that a second draft of the *Proposed Regulations for Competition in the Local Telecommunications Market* would be issued by the Staff on October 6, 1995 followed by the parties filing written stipulations to the proposed regulations by 12:00 noon on October 13, 1995 In accordance with the Procedural Schedule, and after considering each party's comments from the Stipulation Conference, the Staff issued its second draft entitled the *Second Revised Proposed Regulations for Competition in the Local Telecommunications Market* on October 6, 1995 On October 9, 1995, SCB filed Objections To Amendment To Procedural Schedule and requested a stay in the proceedings until its objections were considered by the Commission Comments and/or written stipulations to the *Second Revised Proposed Regulations for Competition in the Local Telecommunications Market* were filed in accordance with the Procedural Schedule on October 13, 1995 by LDDS, SCC, SCB, Global, MCI, LCTA, AT&T and EATEL On October 20, 1995, the stay was granted by Administrative Law Judge Carolyn L. DeVitis until the Commission could consider SCB's objections at its scheduled October 24, 1995 Open Session At the Commission's Open Session, the Commission denied SCB's objections and found that Rule 56 and the adjudicative provision of Part XI of the Rules of Practice and Procedure are inapplicable to rulemaking proceedings.[6]

Subsequently, on October 24, 1995, a rulemaking procedural schedule was issued by the Commission, through its Secretary, establishing comment and reply comment periods to ensure that all parties were given ample opportunity to comment on the proposed regulations [7] The following dates were set:

Staff Issuance of the Third Revised Regulation.....October 26, 1995
Comments Due [by the parties].....November 15, 1995
Reply Comments Due [by the parties].....November 27, 1995

After considering each party's filed comments to the *Second Revised Proposed Regulations for Competition in the Local Telecommunications Market*, the Staff released its third draft of the proposed regulations entitled *Third Revised Proposed Regulations for Competition in the Local Telecommunications Market* on November 1, 1995. Because of the delay in the issuance of the the third revision of the proposed regulations and in order to give all parties ample time to file comments, the comment periods established pursuant to the procedural schedule issued on October 24, 1995, were revised to:

Comments Due [by the parties].....November 21, 1995
Reply Comments Due [by the parties].....December 1, 1995

On November 21, 1995, comments were officially filed by SCB, BSM, Paramount Wireless, LCTA, TSA, AT&T, Global, Sprint, Centennial Cellular, Radiofone, McCaw Cellular, MCI, EATEL, LDDS, SCC, BRI, Kaplan Telephone Company, Reserve Telephone, Liskow & Lewis and Postlethwaite & Netterville. Due to the Thanksgiving Holidays, the large number of parties filing comments and to ensure all parties had adequate time to file comments, the deadline for filing reply comments was extended to December 8, 1995. Reply comments were filed by AT& T, MCI, SCB, SCC, ACSI, Global, Sprint and EATEL.

After consideration of all comments and reply comments filed by the parties, staff issued *Commission Staff's Final Proposed Regulations for Competition in the Local Telecommunications Market* on January 18, 1996. A Public Hearing on the *Commission Staff's*

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[6]Order U-20883, Louisiana Public Service Commission, ex parte. *In re: The Development of Rules and Regulations Applicable to the Entry and Operations of, and the Providing of Service by, Competitive and Alternate Access Providers in the Local, Intrastate and/or Interexchange Telecommunications Market in Louisiana*, dated October 27, 1995.

[7]On November 17, 1995, SCB filed an Objection to October 24, 1995 Revised Procedural Schedule. This objection was later withdrawn by SCB

Final Proposed Regulations for Competition in the Local Telecommunications Market was held on February 13, 1996 before Commissioners Brupbacher, Dixon, Sittig and Schwegmann to give each party an opportunity to present oral arguments on how the proposed regulations should be modified. At the conclusion of the hearing, all parties and the general public were invited to file proposed amendments to the proposed regulations by 4:30 p.m. on February 26,1996 in order to be considered prior to the regulations' adoption. Proposed amendments were received from ACSI, BSM, BRI, LDDS, Cox Communications, Telecommunication Management Association, LCTA, MCI, McCaw, AT& T, Radiofone and Centennial Cellular

In addition to the parties submission of proposed amendments to *Commission Staff's Final Proposed Regulations for Competition in the Local Telecommunications Market*, Commissioners Schwegmann, Dixon and Brupbacher submitted proposed amendments Commission Brupbacher's proposed amendments were submitted in the form of complete substitute regulations based on the *Commission Staff's Final Proposed Regulations for Competition in the Local Telecommunications Market*. These substitute proposed regulations contained several amendments directly resulting from settlement negotiations with BellSouth Telecommunications, Inc. regarding two pending Commission proceedings, Docket U-17949 (Subdocket E - Financial Tract) and U-17949 (Subdocket A - Reengineering). Commissioners Schwegmann and Dixon's amendments addressed specific provisions, sentences and/or words of the *Commission Staff's Final Proposed Regulations for Competition in the Local Telecommunications Market* and proposed specific changes thereto.

In an effort to avoid confusion, Commission Brupbacher's substitute regulations were designated the *Substitute Proposed Regulations for Competition in the Local Telecommunications Market*, and along with Commission Schwegmann and Dixon's amendments, were filed into the record on February 27, 1996 and made available to all parties on February 28, 1996.

At the Commission's March 5, 1996 Open Session, the first two items on the agenda were:

"Ex. 1a___ U-17949 (Subdocket-A) (Reengineering Adjustment) - BellSouth Telecommunication, inc., d/b/b South Central Bell Telephone Company vs. Louisiana Public Service Commission, 19th Judicial District Court, Docket No. 418205-I

U-17949 (Subdocket - E) - In re: Development of Regulatory Plan for South Central Bell, including Assessment of Alternative Forms of Regulation, Depreciation Methods and Expensing, Cost of Capital, Capital Structure, and Other Related Matters.

Re: Discussion of Stipulation/Possible Settlement by Staff Attorney Gayle Kellner. Possible Executive Session Pursuant to LA. R.S. 42:6.1(A)(2)

Ex. 1b__ U-20883 - Louisiana Public Service Commission, ex parte. In re: The development of rules and regulations applicable to the entry and operations of, and the providing of services by, competitive and alternate access providers in the local intrastate and/or interexchange telecommunications market in Louisiana.

Re: Consideration of Proposed Rule and Amendments thereto."

The Commission first considered Ex. 1a detailed above. On the motion of Commissioner Brupbacher, seconded by Commissioner Owen with Commissioners Sittig and Dixon concurring, and Commissioner Schwegmann absent, the Commission voted to go into Executive Session to discuss a proposed Stipulation by BellSouth Telecommunications, Inc. and the possible settlement of the above reference litigation. Upon the conclusion of the Executive Session and reconvening of the Open Session, on motion of Commissioner Brupbacher, seconded by Commissioner Sittig

with Commissioners Owen and Dixon concurring, and Commissioner Schwegmann absent, the Commission voted to accept the proposed Stipulation and Settlement Agreement with BellSouth Telecommunications, Inc.[8] The Stipulation sets forth the following provisions, among others

> "1. Effective April 1, 1996, BST will be regulated pursuant to the terms of the Consumer Price Protection Plan (Price Plan) set forth in Section 701 of the *Substitute Proposed Regulations for Competition in the Local Telecommunications Market ("Substitute Regulations")* filed in Docket U-20883 February 27, 1996, as adopted by the Commission at its March 5, 1996 Business and Executive Session, and attached hereto as Exhibit 1.
>
> 2. Over the initial three (3) that BST is regulated pursuant to the Price Plan, BST shall reduce its rates in the cumulative amount of seventy million dollars ($70,000,000) with the first reduction occurring in April, 1996 in settlement of Docket U-17949 (Subdocket E). Additionally, BST shall make a one time nine million dollar ($9,000,000) credit to BST ratepayers in April, 1996 in settlement of Docket U-17949 (Subdocket A - Reengineering)."

The Commission next considered Ex. 1b. After due consideration of the extensive record built in this proceeding including, but not limited to, the comments filed by all of the parties, the numerous presentations made by the parties to the Commissioners and Staff, and the amendments proposed by the parties and the Commissioners, and furthermore, giving due consideration to the Stipulation and Settlement Agreement entered in Dockets U-17949 (Subdocket E) and U-17949 (Subdocket A - Reengineering) and the Telecommunications Act of 1996,[9] and in order to effectuate the policies set forth in the Preamble of the *Substitute Proposed Regulations for Competition in the Local Telecommunications Market*, on the motion of Commissioner Brupbacher, seconded by Commissioner Sittig, with Commissioners Owen and Dixon concurring, and Commissioner Schwegmann absent, the Commission voted to adopt Commissioner Brupbacher's proposed *Substitute Proposed Regulations for Competition in the Local Telecommunications Market* filed into the record on February 27, 1996 which included Staff amendments and several amendments proposed by the Commissioners.

IT IS THEREFORE ORDERED THAT:

1. The *Substitute Proposed Regulations for Competition in the Local Telecommunications Market* attached hereto and made a part hereof, are hereby adopted.

2. The *Substitute Proposed Regulations for Competition in the Local Telecommunications Market* shall be redesignated and known from this time forward as the *Regulations for Competition in the Local Telecommunications Market*.

3. All provisions of the *Regulations for Competition in the Local Telecommunications Market* are hereby ordered by the Commission.

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[8]See Orders U-17949-TT, dated March 15, 1996 (Docket U-17949 (Subdocket E): Louisiana Public Service Commission, ex parte. *In re: Development of regulatory plan for South Central Bell, including assessment of alternative forms of regulation; depreciation methods and expensing; cost of capital structure; and other related matters)* and U-17949-UU, dated March 15, 1996 (Docket U-17949 (Subdocket A) Louisiana Public Service Commission, ex parte. *In re: Investigation of the Revenue Requirements, Rate Structure, Charges, Services, Rate of Return, and Construction Program of South Central Bell Telephone Company in its Louisiana Intrastate Operations, Appropriate Level of Access Charges and all matters relating to the Rates and Services rendered by the Company - Reengineering Adjustment Investigation.)*

[9]Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), amending the Communications Act of 1934, 47 U.S.C. 151 *et seq.*, and 18 U.S.C. 1462

4. All entities subject to the provisions of this Order and the *Regulations for Competition in the Local Telecommunications Market* shall take all actions required by this Order and the *Regulations for Competition in the Local Telecommunications Market*.

5. This order shall be effective immediately.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
March 15, 1996

Absent
JOHN F. SCHWEGMANN, CHAIRMAN
DISTRICT I

/s/ IRMA MUSE DIXON
IRMA MUSE DIXON, VICE-CHARIMAN
DISTRICT III

/s/ DALE SITTIG
C. DALE SITTIG, COMMISSIONER
DISTRICT IV

/s/ DON OWEN
DON OWEN, COMMISSIONER
DISTRICT V

/s/ ROSS P. BRUPBACHER
ROSS BRUPBACHER, COMMISSIONER
DISTRICT II

SECRETARY

LOUISIANA PUBLIC SERVICE COMMISSION

REGULATIONS FOR COMPETITION IN THE LOCAL TELECOMMUNICATIONS MARKET

PREAMBLE

The Louisiana Public Service Commission hereby promulgates the following regulations (the "Regulations") to foster the transition from monopoly to competitive local telecommunications markets in Louisiana. The Commission imposes these Regulations for competition within local service areas in order to encourage competitive entry, preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.

The Commission recognizes that, given current local telecommunications markets, competition in every segment of these markets will take time to develop. It is likely that the introduction of competitive services will occur asymmetrically with new entrants initially targeting high volume, heavily populated urban areas, and other selected high-profit areas, and that, therefore, the benefits resulting from competition will be seen first in those areas. However, it is the policy of the Commission that all Louisiana consumers should benefit from competition. Although a limited exemption is proposed for incumbent local exchange carriers with 100,000 access lines or less in Louisiana, the Commission encourages competition throughout Louisiana.

These Regulations are designed to ensure that Louisiana consumers in the aggregate benefit from competition. The Commission grants telecommunications services providers the opportunity to compete in local telecommunications markets under the condition that the consumers of Louisiana benefit by having greater choices among telecommunications products, prices and providers. Through the development of effective competition, which promotes the accessability of new and innovative services at non-discriminatory prices consumers can and are willing to pay, and which results in wider deployment of existing services at competitive prices, the public interest will be promoted.

SECTION 101. Definitions

1. Basic Local Service - those telecommunications services required to provide residential and single-line business customers with each of the items comprising the definition of Universal Service as specified in Commission General Order, dated May 22, 1995.

2. Basic Services - for purposes of the Price Plan and ILECs regulated thereunder, the category of services required to provide basic local service to residential and single line business customers, including all services itemized in the Price Plan.

3. Bona Fide Request - a request to a telecommunications services provider that demonstrates a good faith showing by the requesting party that it intends to purchase the services requested within ninety (90) days of the date of the request.

4. Central Office - a facility within a telecommunications network where calls are switched and which contains all the necessary equipment, operating arrangements and interface points for terminating and interconnecting facilities such as subscribers' lines and interoffice trunks.

5. Commission - the Louisiana Public Service Commission.

6. Commercial Mobile Radio Service (CMRS) - a mobile service that is: (a)(1) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (2) an interconnected service; and (3) available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (b) the functional equivalent of such a mobile service described in paragraph (a) of this definition. 47 CFR § 20.3, as amended. CMRS includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500 *et seq.*

7. Commercial Mobile Radio Service Provider - any person or entity engaged in the provision of a service that is a commercial mobile radio service. CMRS Provider includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500 *et seq.*

8. Competitive Access Provider (CAP) - a telecommunications services provider offering and/or providing only exchange access services or private line services in a local service area.

9. Competitive Local Exchange Carrier (CLEC) - a telecommunications services provider, except a CAP, offering and/or providing local telecommunications services in competition with an ILEC.

10. Essential Telecommunications Carrier (ETC) - the telecommunications services provider designated by the Commission to be the obligated provider of basic local service within a particular local service area (formerly referred to as the Carrier-of-Last-Resort).

11. Exchange Access Services - the provision of switched or dedicated telecommunications

services which connect an end-user to an interexchange carrier for the purpose of originating or terminating interexchange telecommunications. These services are provided by facilities in an exchange area for the transmission, switching, or routing of interexchange telecommunications originating or terminating within the exchange area.

12. Exchange Area - a geographic area established by a telecommunications services provider consisting of one or more central offices together with associated facilities used in furnishing local telecommunications services within the area in which telecommunications services and rates are the same.

13. Facilities Based Telecommunications Services Provider - a telecommunications services provider which has deployed and is using its own significant telecommunications equipment or facilities within a particular geographic area in Louisiana to serve its Louisiana subscribers. A facilities based provider may offer services exclusively over its own facilities, or partially over its own facilities and partially through the resale of ILEC and/or CLEC wholesale offerings.

14. Gross Domestic Product-Price Index (GDP-PI) - the total value of all currently produced goods and services in the United States during any particular time period as is calculated by the United States Bureau of Economic Analysis of the Department of Commerce.

15. Incumbent Local Exchange Carrier (ILEC) - telecommunications services provider that is the incumbent and historical wireline provider of local telecommunications services within a local service area as of the effective date of these Regulations, and any intrastate regulated affiliate or successor to such entity which is engaged in the provisioning of local telecommunications services.

16. Interconnection - the physical linking of networks, including signaling facilities, of telecommunications service providers that provides the reciprocal ability to handoff calls from customers on one network to customers on another provider's network in a manner that is transparent to customers, and which allows one provider to utilize unbundled basic network functions of another provider for the purpose of providing an end-to-end service to end users. Interconnection can be achieved at different points on the network.

17. Interconnection Services - for purposes of Price Plan and ILECs regulated thereunder, the category of services that allow telecommunications services providers to interconnect to an incumbent local exchange carrier's network to originate or terminate telecommunications services, including all services itemized in the Price Plan. For other purposes, those services offered by telecommunications services providers to other providers to interconnect networks in order to originate or terminate telecommunications traffic, and to interconnect at all unbundled points on another provider's network.

18. Interexchange Carrier - a telecommunications services provider of interLATA telecommunications services.

19. Interexchange Telecommunications - telecommunications traffic that originates in one exchange area and terminates in a different exchange area regardless of the service or facilities used to originate and terminate traffic.

20. Intraexchange Telecommunications - telecommunications traffic that originates and terminates within the same exchange area regardless of the service or facilities used to originate and terminate traffic.

21. LPSC - the Louisiana Public Service Commission.

22. Local Exchange Carrier (LEC) - telecommunications services provider offering and/or providing local telecommunications services.

23. Long Distance - any telephone call to a location outside a local service area. Also called a toll call.

24. Local Service Area - the geographic area in which end users may place telephone calls without incurring toll charges which includes a flat rate calling area. The local service area of a CLEC may be different from the local service area of an ILEC. Nothing in this definition shall preclude the provision of toll service within the expanded Local Optional Service Area as described in Order No. U-17949-N, dated October 18, 1991.

25. Local Telecommunications Services - telecommunications services traditionally provided by an ILEC as a local service, including but not limited to, exchange access services, private line services, basic local services, and public pay phone services.

26. Long Run Incremental Cost - the costs a company would incur (or save) if it increases (or decreases) the level of production of an existing service or group of services. These costs consists of the costs associated with adjusting future production capacity and reflect forward-looking technology and operations methods.

27. Market Trial - a trial involving paying customers that focuses on the collection of primary market research information that could impact the marketing of a product or service, such as customer acceptance of a product or service and/or willingness to pay for a product or service.

28. Mobile Service - a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: a) both one-way and two-way radio communication services; b) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control an relay stations for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and c) any service for which a license is required in a personal communications service pursuant to 47 CFR Part 24. 47 CFR Sect. 20.3, as amended. Mobile Service includes "Radio Common Carriers" as that term is defined and used

in La. R.S. § 45:1500 *et seq*.

29. Non-Basic Services - for purposes of the Price Plan and ILECs regulated thereunder, all services not otherwise classified as basic or interconnection services offered by an ILEC. See Appendix A and Appendix B attached.

30. Number Portability - the ability of an end-user customer of local telecommunications services to retain his existing telephone number(s) without impairment of quality, reliability or convenience, when changing from one provider of local telecommunications services to another, as long as the user remains at the same location.

31. Private Line Service - any dedicated point-to-point, or point-to-multi point service for the transmission of any telecommunications services.

32. Private Mobile Radio Service (PMRS) - As defined at 47 CFR § 20.3, as amended.

33. Public Pay Telephone Service Provider - COCOTs as defined in Commission Orders U-16462, U-16462-A through U-16462-G, General Order dated March 30, 1995 and any subsequent Orders, including but not limited to, Orders resulting from Docket No. U-21322.

34. Rate - the price of a service approved by the Commission.

35. Resale - the offering of services, elements, features, functions, and capabilities for sale to competing telecommunications services providers.

36. Reseller - a telecommunications services provider that purchases telecommunications services from another provider for resale to end users for a fee.

37. Small ILEC - an incumbent local exchange carrier with 100,000 access lines or less statewide.

38. Technical Trial - a trial involving non-paying customers that focuses on assessing the technical capabilities of a new network serving arrangement, including technologies and supporting equipment, and associated supporting systems, such as ordering, billing, provisioning and maintenance systems. Services provisioned pursuant to a technical trial may include new services and/or new ways of providing existing services.

39. Telecommunications- the bi-directional transmission of information of the user's choosing between or among points specified by the user, including voice, data, image, graphics and video, without change in the form or content of the information as sent and received, by means of an electromagnetic and/or fiber optic transmission medium, including all instrumentalities, facilities, apparatus and services (including the collection, storage, forwarding, switching and delivery of such information) essential to such transmission.