



Louisiana Public Service Commission

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April 24, 1996

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Secretary  
Federal Communications Commission  
1919 M Street, N. W., Room 222  
Washington, D.C. 20554

**In Re: Comments - Policy and Rules Concerning the Interstate, Interexchange Marketplace - Implementation of Section 254 (g) of the Communications Act of 1934, as amended.  
FCC 96-123, CC Docket No. 96-61**

Dear Sir:

Enclosed is an original and eleven copies of comments being submitted by the Louisiana Public Service Commission on the above docketed case. As requested, we are sending a copy of these comments to Ms. Janice Myles of the Common Carrier Bureau and the International Transcription Services, Inc

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 96-123  
)  
Policy and Rules Concerning the ) CC Docket No. 96-61  
Interstate, Interexchange Marketplace )  
)  
Implementation of Section 254(g) of the )  
Communications Act of 1934, as amended )

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COMMENTS OF THE  
LOUISIANA PUBLIC SERVICE COMMISSION

SUMMARY

**I. REGULATORY FORBEARANCE**

1. The LPSC disagrees with the FCC's tentative conclusion to forbear from the requirement that non-dominant interexchange carriers file tariffs. In effect, the LPSC has declared that the filing of tariffs by telecommunications services providers and competition are in the public interest and can therefore, coexist. Tariffs have been traditionally used to provide not only rate and service information, but also have be used to serve as means of "checks and balances." The benefits to be derived by and the protections afforded the consumer if tariffs continued to be required to be filed by non-dominant interexchange carriers far outweigh the administrative costs and burdens on the interexchange carriers of filing those tariffs. A detariffing policy is not going to prevent carriers from reviewing the rates of others and adjusting their own rates according

**II. PRICING ISSUES**

2. The LPSC does not believe that tacit price coordination will disappear if a mandatory detariffing regime is adopted. While the ease of obtaining the price information may be marginally diminished, carriers will continue to closely track their competitors rates using different, but equally accessible means. Tacit price coordination will not disappear if the filing of tariffs is no longer mandated for non-dominant interexchange carriers, but will continue.

**III. BUNDLING OF CUSTOMER PREMISES EQUIPMENT**

3. The LPSC agrees with the FCC's tentative conclusion that allowing non-dominant interexchange carriers to bundle CPE with interstate, interexchange services would promote competition by allowing such carriers to create attractive service equipment packages for consumers as long as consumers have the opportunity to purchase the unbundled, individual services from the same carrier. The LPSC believes that it is absolutely necessary to require carriers to offer consumers separate, unbundled interstate and intrastate interexchange services in order to provide consumers with a greater amount of choices among telecommunications products and prices, and access to new and innovative services.

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

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CC Docket No. 96-61

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COMMENTS OF THE  
LOUISIANA PUBLIC SERVICE COMMISSION

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Before the  
Federal Communications Commission  
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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 ("NPRM") in the above captioned case issued on March 25, 1996.<sup>1</sup> This NPRM was issued in order to implement the Congressional directive set out in Section 254(g) of the Telecommunications Act of 1996 (1996 Act),<sup>2</sup> and to determine whether in advancing the policy of facilitating the growth of competition in the domestic long-distance market, the FCC should adopt a mandatory detariffing policy for domestic services of non-dominant, interexchange

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<sup>1</sup>*In The Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace, and Implementation of Section 254(g) of the Communications Act of 1934, as amended*, CC Docket No. 96-61, Notice of Proposed Rulemaking, FCC 96-123 (Adopted March 21, 1996 and Released on March 25, 1996).

<sup>2</sup>Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 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

carriers. The following comments will address only Sections III, VII, VIII and IX of the NPRM. A diligent effort has been undertaken in presenting these comments to be brief and concise. If additional information is needed regarding any area discussed, the LPSC is willing to furnish the information to any and all parties concerned.

## II. REGULATORY FORBEARANCE

Under Section 401 of the Telecommunications Act of 1996, the FCC is given the authority to forbear from applying any regulation or provision of the Act if it determines:

- (1) enforcement of such regulation is not necessary to ensure that the charges, practices, classifications or regulation by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.<sup>3</sup>

If the FCC determines to forbear from enforcing a provision of the Act, a State commission may not continue to apply or enforce that provision of the Act.<sup>4</sup>

Pursuant to the NPRM, the FCC has tentatively concluded that it is “required by the 1996 Act to forbear from applying the Section 203 tariff filing requirements to non-dominant interexchange carriers for domestic interexchange services”<sup>5</sup>. The decision by the FCC to forbear from the requirement that non-dominant interexchange carriers file tariffs was based on the

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<sup>3</sup>1996 Act sec. 401(a), § 10(a).

<sup>4</sup>1996 Act sec. 401(e), § 10(e).

<sup>5</sup>NPRM at para. 19

following analyses and findings:

- (1) applying tariff filing requirements to non-dominant interexchange carriers is not necessary to ensure that such carriers's charges, practices, or classifications are just and reasonable, and are not unjustly or unreasonably discriminatory;
- (2) applying tariff filing requirements to non-dominant interexchange carriers is not necessary for the protection of consumers. and
- (3) forbearing from applying tariff filing requirements to non-dominant interexchange carriers is consistent with the public interest <sup>6</sup>

The LPSC is genuinely concerned regarding the possible far reaching effects of the FCC's tentative proposed action in this rulemaking. If the FCC forbears from requiring the filing of tariffs by non-dominant interstate, interexchange carriers, the issue becomes whether the FCC is forbearing from enforcing a provision of the Act and hence, is prohibiting State commissions from requiring the filing of tariffs by non-dominant intrastate, interexchange carriers. Since the FCC's tentative decision may have the effect of prohibiting the LPSC and other State commissions from requiring the filing of tariffs by intrastate, interexchange carriers, the LPSC files the following comments in disagreement with the FCC's tentative conclusion to forbear.

Currently, the LPSC requires all intrastate telecommunications service providers (TSPs) to file tariffs.<sup>7</sup> Providers of CMRS and PMRS in Louisiana are required to file tariffs consistent with the mandates of the Omnibus Budget Reconciliation Act of 1993 <sup>8</sup> TSPs applying for a

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<sup>6</sup>Id.

<sup>7</sup>Louisiana Public Service Commission General Order dated March 15, 1996, *In Re: Regulations for Competition in the Local Telecommunications Market*, section 401(A)(hereinafter referred to as "LPSC Regulations for Competition") (See Exhibit 1)

<sup>8</sup>Id. at § 401(B) (footnote omitted).

Certificates of Authority to operate in Louisiana may initially file illustrative tariffs,<sup>9</sup> but are obligated to maintain on file at the LPSC current tariffs<sup>10</sup> and file tariff amendments regarding new service offerings and changes in their geographic service area prior to provisioning the new service or implementing a change in their service area<sup>11</sup>. These tariffing regulations are included in the comprehensive regulations the LPSC recently ordered wherein the LPSC declared that “the promotion of competition in all local telecommunications markets in Louisiana is in the public interest”<sup>12</sup> and “providing an appropriate regulatory framework and methodology to transition into effective competition is additionally in the public interest.”<sup>13</sup> In effect, the LPSC has declared that the filing of tariffs by TSPs and competition are in the public interest and can therefore, coexist.

The FCC in presenting its basis for its decision to forbear from requiring non-dominant interexchange carriers to file tariffs, stated that the filing of tariffs was not necessary to ensure that a carrier’s “charges, practices, or classifications are just and reasonable, and are not unjustly or unreasonably discriminatory.”<sup>14</sup> While it seems sensible and logical that a carrier in a competitive environment would not charge unjust and unreasonable rates and its practices and classifications would be just and nondiscriminatory, there is no guarantee that such is the case. Tariffs have been

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<sup>9</sup>Id. at § 301(E)(11)

<sup>10</sup>Id. at § 301(J)(5)

<sup>11</sup>Id. at § 301(J)(9)

<sup>12</sup>Id. at § 201(A).

<sup>13</sup>Id. at § 201(B).

<sup>14</sup>NPRM at para. 27

traditionally used to provide not only rate and service information, but also have been used to serve as means of “checks and balances.” By requiring the filing of tariffs by interexchange carriers, the carriers have been forced to provide service at nondiscriminatory rates to all consumers. While there are “discount” programs once a certain dollar volume of calls is reached and “calling circle” programs, these have not been considered discriminatory because the programs have been available to all of a carrier’s customers that either reach the dollar volume set forth in the tariff or have desired to enroll in a program. The filing of tariffs have mandated that these carriers follow the rates and programs they have set forth in their tariffs and have somewhat kept them “honest.” If these carriers are no longer required to file tariffs, State commissions will lose their ability to review the carriers’ rates and programs before they are offered to their customers and to monitor the charges, practices and classifications of a non-dominant interexchange carrier’s services to ensure these are just, reasonable and non-discriminatory in nature.

The second reason the FCC stated that it tentatively concluded to forbear from enforcing tariffing requirements is that it “is not necessary for the protection of consumers.”<sup>15</sup> As stated above, the requirement that a carrier file tariffs has been one of the greatest consumer protection devices. The filing of tariffs have kept these carriers “honest.” If tariffs are no longer mandated, State commissions will not be able to readily protect the consumers as the commissions have been able to do in the past. Though the NPRM states that carriers would still be required to maintain at their premises price and service information regarding their offerings which they can submit to the FCC upon request,<sup>16</sup> the LPSC does not believe that this will be an adequate substitute for the

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<sup>15</sup>NPRM at para. 27

<sup>16</sup>NPRM at para. 36

filing of tariffs. The review and approval process that a filed tariff is put through provides the initial consumer protection mechanism and the maintenance of tariffs continues the process. If a consumer files a complaint with regards to a service offering, the LPSC can readily assess whether the rate the consumer is paying is the rate approved by the LPSC just by looking at the approved tariffs of that carrier. If the carrier is not charging the tariffed rates, the commission has a solid basis for requiring the carrier to refund the overcharged amounts. The State commission will lose this ability if tariffs are not filed. The benefits to be derived by and the protections afforded the consumer if tariffs continued to be required to be filed by non-dominant interexchange carriers far outweigh the administrative costs and burdens on the interexchange carriers of filing those tariffs.

The third reason stated as to why the FCC must forbear from requiring the filing of tariffs by non-dominant interexchange carriers is that forbearance is consistent with the public interest. As noted above, the LPSC has found that the filing of tariffs is in the public interest.<sup>17</sup> In determining whether forbearance is in the public interest the FCC must determine whether forbearance will promote competitive market conditions, including whether forbearance will enhance competition among providers of telecommunications services.<sup>18</sup> The intrastate interexchange market in Louisiana is competitive. Currently, there are in excess of 250 registered interexchange carriers and interexchange resell carriers providing intrastate services in Louisiana. New applications to register with the LPSC to provide intrastate interexchange services are received daily by the LPSC. Competition is vigorous. The requirement to file tariffs prior to receiving approval by the LPSC and to maintain these tariffs have not seemed to stifle

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<sup>17</sup>LPSC *Regulations for Competition* at §§ 201 and 401

<sup>18</sup>NPRM at para. 30

competition. The possible consequences of price coordination, collusive pricing or the maintenance of rates at artificially high levels resulting from the requirement to file tariffs does not appear to be a problem on an intrastate basis.<sup>19</sup> Toll rates have been steadily declining. Though the three largest interexchange carriers may have a tendency to follow the pricing scheme of each other, the smaller carriers have developed their own pricing schemes to lure consumers away from the larger three by offering lower priced services. A detariffing policy is not going to prevent carriers from reviewing the rates of others and adjusting their own rates accordingly.

Additionally, the public interest and the 1996 Act mandates that tariffs be required to be filed by non-dominant interexchange carriers under Section 254(g) of the 1996 Act which provides that the FCC must

[A]dopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to subscribers in any other State.<sup>20</sup>

To effectively implement and monitor toll rate averaging, tariffs must be required. The interexchange carriers are required not only to provide interstate interexchange services at averaged rates, but also, intrastate interexchange services at averaged rates. The only way for the LPSC to adequately monitor the mandates of the 1996 Act<sup>21</sup> that interexchange carriers provide service in rural and high cost areas at rates no higher than those charged in urban areas and for the

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<sup>19</sup>NPRM at para. 30

<sup>20</sup>1996 Act at sec. 101. § 254(g).

<sup>21</sup>Id.

LPSC to enforce its own Order mandating statewide toll averaging,<sup>22</sup> is to require the filing of tariffs by interexchange carriers. A certification filed by the carriers stating that they have complied with the mandates of the 1996 Act will not be an adequate substitute. Tariffs should be required.

### **III. PRICING ISSUES**

As stated above, the LPSC does not believe that tacit price coordination will disappear if a mandatory detariffing regime is adopted. The NPRM indicates that this type of regime would discourage price coordination by eliminating the ability of carriers to ascertain their competitors' interstate rates and service offerings from publicly available filed tariffs.<sup>23</sup> While the ease of obtaining the price information may be marginally diminished, carriers will continue to closely track their competitors rates using different, but equally accessible means. Competitors will continue to do what competitors have always done, compete. The airline industry is a perfect example of the way competitors monitor each others fares (rates) and adjust their fares in what appears to the consumer as in unison. Tacit price coordination will not disappear if the filing of tariffs is no longer mandated for non-dominant interexchange carriers, but will continue.

### **IV. BUNDLING OF CUSTOMER PREMISES EQUIPMENT**

Comment has been solicited as to whether the FCC should amend Section 64.702(e)<sup>24</sup> to

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<sup>22</sup>Louisiana Public Service Commission Order U-17949-N, October 18, 1991. (See Exhibit 2).

<sup>23</sup>NPRM at para. 81

<sup>24</sup>47 C.F.R. § 64.702(e)

allow non-dominant interexchange carriers to bundle customer premise equipment (CPE) with interstate, interexchange services.<sup>25</sup> A tentative conclusion has been made to amend 64.702(e) to allow non-dominant interexchange carriers to bundle CPE with interstate, interexchange services.<sup>26</sup> In support of this conclusion, the FCC stated that competition would be promoted in that carriers could create attractive service and equipment packages for customers.<sup>27</sup>

Currently, TSPs obtaining a Certificate of Authority from the LPSC do so subject to the following conditions and obligations:

“2. TSPs are prohibited from engaging in unreasonable price discrimination, predatory pricing, price squeezing, or tying arrangements with respect to other TSPs and end users regardless of whether services are offered pursuant to tariff and/or contract.”<sup>28</sup> (Emphasis added).

The focus of this provision was with regard to tying arrangements involving strictly services. By its prohibition of tying arrangements, the LPSC meant to prohibit illegal tying or bundling arrangements whereby a provider exploits its control over one product or service to force a consumer into the purchase of a second product or service that the consumer either did not want at all or might have preferred to purchase elsewhere on different terms.<sup>29</sup> The LPSC recognizes that where the market for bundled services is competitive, the bundling of the services may present no major societal problems so long as the consumer is not deceived concerning the

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<sup>25</sup>NPRM at para 88

<sup>26</sup>Id.

<sup>27</sup>Id.

<sup>28</sup>LPSC *Regulations for Competition* at § 301(J)(2).

<sup>29</sup>See Jefferson Parish Hospital District No. 2 v. Hyde, 466 U.S. 2, 11-12 (1984).

content and quality of the bundled services, and has the opportunity to purchase the unbundled, individual services from the same provider. Some consumers may believe that bundled offerings can reduce transaction costs to consumers, and may enable market participants to compete more effectively by offering attractive sales packages. Thus, based on the FCC's findings regarding competition in both the CPE and interstate, interexchange services markets, the LPSC agrees with the FCC's tentative conclusion that it is unlikely that non-dominant interexchange carriers can engage in the type of anticompetitive conduct that led the FCC to prohibit the bundling of CPE with the provision of interstate, interexchange services. The LPSC also agrees with the FCC's tentative conclusion that allowing non-dominant interexchange carriers to bundle CPE with interstate, interexchange services would promote competition by allowing such carriers to create attractive service equipment packages for consumers. Accordingly, the LPSC agrees that Section 64.702(e) of the FCC's rules should be amended to allow non-dominant interexchange carriers to bundle CPE with interstate, interexchange services.

Comment has been additionally sought regarding whether interexchange carriers should be required to offer separately, unbundled interstate, interexchange services on a nondiscriminatory basis if Section 64.702(e) is amended. The LPSC believes that it is absolutely necessary to require providers to offer consumers separate, unbundled interstate and intrastate interexchange services. In the Preamble to the LPSC's *Regulations for Competition*, the LPSC stated:

The Commission grants telecommunications service 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.<sup>30</sup> (Emphasis added).

It is the LPSC's intent that competition provide consumers with a greater amount of choices among telecommunications products and prices, and access to new and innovative services. If the interexchange carriers are not required to also offer services on a separate, unbundled basis, the consumer's ability to choose the services he or she desires has diminished, not increased, as a result of competition. Additionally, a bundled package may be priced at a rate that is beyond a consumer's means and may result in the services being less accessible than they would if the consumer could purchase it on an unbundled basis. Competition should promote choice and the accessibility to services, not restrict it.

Based on the above, this comment is being submitted

Respectfully submitted,



Lawrence C. St. Blanc  
Secretary



Gayle T. Kellner, Esq.

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<sup>30</sup>LPSC *Regulation for Competition* at Preamble

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

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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)<sup>1</sup>, 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)<sup>2</sup>, The Council of the City of New Orleans, McCaw Cellular Communications, Inc. (McCaw Cellular)<sup>3</sup>, 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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<sup>1</sup>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.

<sup>2</sup>Now known exclusively as BellSouth Telecommunications, Inc.

<sup>3</sup>Now known as AT&T Wireless Services, Inc.

EXHIBIT

1

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 participants 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 any, 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?<sup>4</sup>

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/TSR/LIC 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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<sup>4</sup>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).<sup>5</sup>

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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<sup>5</sup>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 Schedule 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.<sup>6</sup>

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.<sup>7</sup> 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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<sup>6</sup>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.

<sup>7</sup>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. 418205-1

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 L.A. R.S. 42:61(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.<sup>8</sup> 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,<sup>9</sup> 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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<sup>8</sup>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.*)

<sup>9</sup>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-CHAIRMAN  
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**

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**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 accessibility 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.