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BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

	:	
In the Matter of	:	DOCKET NO. 920260-TL
Comprehensive Review of the	:	
Revenue Requirements and Rate	:	
Stabilization Plan of SOUTHERN	:	
BELL TELEPHONE AND TELEGRAPH	:	
COMPANY.	:	
	:	

PROCEEDINGS: PREHEARING CONFERENCE NO. 1

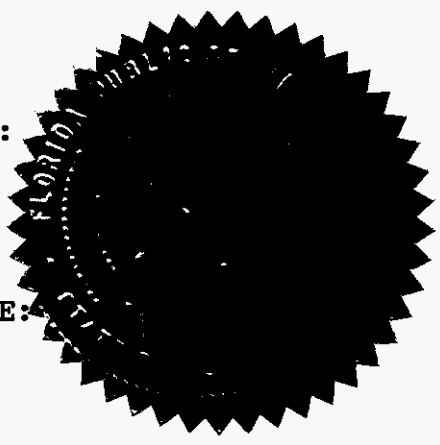
BEFORE: COMMISSIONER SUSAN CLARK
Prehearing Officer

DATE: Monday, December 20, 1993

TIME: Commenced at 9:30 a.m.
Concluded at 10:10 a.m.

PLACE: FPSC Hearing Room 106,
Fletcher Building
101 East Gaines Street
Tallahassee, Florida

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



DOCUMENT NUMBER-DATE
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 FPSC-RECORDS/REPORTING

1 APPEARANCES:

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4 Northeast, Atlanta, Georgia, 30375, Telephone No. (404)
5 529-6351, appearing on behalf of BellSouth
6 Telecommunications, Inc., d/b/a Southern Bell Telephone
7 and Telegraph Company.

8 CHANTHINA R. BRYANT, 3065 Cumberland Circle,
9 Atlanta, Georgia 30339, and C. EVERETT BOYD, JR., Ervin,
10 Varn, Jacobs, Odom & Ervin, Post Office Box 1170,
11 Tallahassee, Florida 32302, Telephone No. (904) 224-9135,
12 appearing on behalf of Sprint Communications Company
13 Limited Partnership.

14 VICKI GORDON KAUFMAN, McWhirter, McGlothlin,
15 Davidson & Bakas, 315 South Calhoun Street, Suite 716,
16 Tallahassee, Florida 32301, Telephone No. (904) 222-2525,
17 appearing on behalf of Florida Interexchange Carriers
18 Association.

19 MICHAEL W. TYE, 106 East College Avenue, Suite
20 1410, Tallahassee, Florida 32301, Telephone No. (904)
21 425-6360, appearing on behalf of AT&T Communications of
22 the Southern States, Incorporated.

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24

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1 APPEARANCES (Continued):

2 RICHARD D. MELSON, Hopping Boyd Green & Sams,
3 Post Office Box 6526, Tallahassee, Florida 32314,
4 Telephone No. (904) 222-7500, appearing on behalf of MCI
5 Telecommunications Corporation.

6 MICHAEL A. GROSS, Department of Legal
7 Affairs, Room 910, The Capitol, Tallahassee, Florida
8 32399-1050, Telephone No. (904) 488-8253, appearing on
9 behalf of the Intervenor, Attorney General of the State
10 of Florida.

11 DONALD L. BELL, Foley & Lardner, Post Office
12 Box 508, Tallahassee, Florida 32302, Telephone No. (904)
13 222-6100, appearing on behalf of American Association of
14 Retired Persons.

15 PETER Q. NYCE, JR., Regulatory Law Office,
16 Office of the Judge Advocate General, U.S. Army
17 Litigation Center, 901 North Stuart Street, Suite 400,
18 Arlington, Virginia 22203-1937, Telephone No. (303)
19 696-1660, appearing on behalf of the Department of
20 Defense/Federal Executive Agencies.

21 CHARLES J. BECK, Office of Public Counsel,
22 c/o The Florida Legislature, Claude Pepper Building,
23 Room 812, 111 West Madison Street, Tallahassee, Florida
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25 behalf of the Citizens of the State of Florida.

1 APPEARANCES (Continued):

2 LAURA L. WILSON, Post Office Box 10383,
3 Tallahassee, Florida 32302, Telephone No. (904)
4 681-1990, appearing on behalf of Florida Cable
5 Television Association, Inc.

6 FLOYD R. SELF, Messer, Vickers, Caparello,
7 Madsen, Lewis, Goldman & Metz, Post Office Box 1876,
8 Tallahassee, Florida 32302-1876, Telephone No. (904)
9 222-0720, appearing on behalf of McCaw Cellular
10 Communications.

11 KENNETH A. HOFFMAN, Messer, Vickers,
12 Caparello, Madsen, Lewis, Goldman & Metz, Post Office
13 Box 1876, Tallahassee, Florida 32302-1876, Telephone
14 No. (904) 222-0720, appearing on behalf of Florida Pay
15 Telephone Association, Inc.

16 ANGELA GREEN, TRACY HATCH, JEAN WILSON and
17 ROBERT PIERSON, FPSC Division of Legal Services, 101 East
18 Gaines Street, Tallahassee, Florida 32399-0863, Telephone
19 (904) 487-2740, on behalf of the Commission Staff.

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P R O C E E D I N G S

(Hearing convened at 9:30 a.m.)

COMMISSIONER CLARK: We'll call this prehearing to order.

Will you please read the notice?

MS. GREEN: Pursuant to notice, this time and place was set for Prehearing Conference No. 1 before Commissioner Susan Clark as Prehearing Officer. These are Dockets 920260, 900960, 910163, 910727 and 911034.

COMMISSIONER CLARK: Thank you. We'll take appearances.

MR. ANTHONY: Hank Anthony, Doug Lackey, Nancy White, on behalf of Southern Bell Telephone and Telegraph Company.

MS. BRYANT: Chanthina Bryant. And I'd like to also make an appearance on behalf of Everett Boyd, on behalf of Sprint Communications Company, 3065 Cumberland Circle, Atlanta, Georgia 30339.

MR. TYE: Michael W. Tye, appearing on behalf of AT&T Communications of the Southern States, Inc.

MR. MELSON: Richard Melson, appearing on behalf of MCI Telecommunications Corporation. I'd also like to enter an appearance for Mickey Henry.

MR. NYCE: Peter Q. Nyce, spelled N-Y-C-E, Jr., on behalf of the Department of Defense and the

1 Federal Executive Agencies.

2 MR. GROSS: Michael Gross, Florida Attorney
3 General.

4 MS. WILSON: Laura Wilson, appearing on
5 behalf of the Florida Cable Television Association.

6 MR. BECK: Charlie Beck, Office of the Public
7 Counsel, appearing on behalf of Florida Citizens.

8 MR. BELL: Donald Bell on behalf of the
9 American Association of Retired Persons.

10 MS. KAUFMAN: Vicki Gordon Kaufman on behalf
11 of the Florida Interexchange Carriers Association.

12 MR. SELF: Floyd Self on behalf of McCaw
13 Cellular Communications.

14 MR. HOFFMAN: Kenneth A. Hoffman on behalf of
15 the Florida Pay Telephone Association.

16 MS. GREEN: Angela Green, Tracy Hatch, Jean
17 Wilson and Robert Pierson on behalf of the Commission
18 Staff.

19 COMMISSIONER CLARK: Is there anyone else who
20 would like to make an appearance? (Pause)

21 Okay. Thank you.

22 Ms. Green, do you have a suggested procedure?
23 This is the first of how many prehearing conferences?

24 MS. GREEN: Presently there are two
25 scheduled. The next one is scheduled for January the

1 6th, also at 9:30.

2 COMMISSIONER CLARK: Okay.

3 MS. GREEN: There's been a draft prehearing
4 order that's been prepared based on the prehearing
5 statements received to date from the parties. It's got
6 in boldface at the top "Draft-December 14, 1993."
7 That's the most recent version. There are a few more
8 copies on the rail in case someone doesn't have a copy.

9 I have received some changes from some people
10 already. Due to the bulk of this order, I was thinking
11 that we would not just keep printing new versions over
12 and over again. We'll try to have a new version
13 shortly before the next prehearing conference for
14 everyone.

15 People were called last week when this draft
16 was ready, so I don't know how much time they've
17 actually had to look through it, what with filing of
18 rebuttal testimony and that kind of thing. So before
19 the day is over, one thing we'll need to do is
20 establish some sort of date for people to get back with
21 staff regarding changes that need to be made, either
22 updates or just simple typographical errors.

23 COMMISSIONER CLARK: Let me ask you a
24 question just briefly.

25 I notice there are -- it appears there are two

1 people who aren't -- two parties who aren't here
2 represented today: The Broward County Board of
3 Commissioners and the Florida Ad Hoc Telecommunications
4 Users.

5 MS. GREEN: Okay. Let me tell you about Ad
6 Hoc. I'm glad you brought that up.

7 I got a call from Mr. Metcalf on -- I don't
8 know what day it was -- sometime last week, and he sent
9 in a fax. He said he had a conflict in Cincinnati, he
10 and Ben Dickens both. "Please ask the prehearing
11 examiner to excuse Ad Hoc from this prehearing
12 conference. We have no issues that need resolution.
13 Whatever schedule is determined would be satisfactory
14 to us, and we will attend the second prehearing
15 conference."

16 COMMISSIONER CLARK: Well, show them excused
17 for this prehearing conference. And how about the
18 Broward County Board of Commissioners?

19 MS. GREEN: Commissioner, that's a real
20 problem that I just thought of this weekend. Actually,
21 they have been consolidated into this dockets, taken
22 out of these dockets, and consolidated back in yet a
23 third time. To my knowledge, no one from this agency
24 has initiated any contact with them.

25 Since they are not a party that traditionally

1 practices here, I think that in the interest of
2 fairness that I should try to contact them and get them
3 on the program before the next prehearing conference.

4 COMMISSIONER CLARK: That sounds fine.

5 MS. GREEN: I don't believe they've even
6 received a procedural order because they were not part
7 of these dockets at the time those orders were issued.

8 COMMISSIONER CLARK: Okay. So you'll get in
9 touch with them and inform them of what's going on
10 and see what participation they desire.

11 MS. GREEN: With your leave, and ask them to
12 get us a prehearing statement before the next
13 prehearing conference, if they so desire. Or ascertain
14 what their desires are.

15 COMMISSIONER CLARK: Okay. Does Staff have a
16 date by which you would like to have corrections,
17 additions or changes to the prehearing order to you?

18 MS. GREEN: Before the end of next week.
19 (Pause) There's just going to be --

20 COMMISSIONER CLARK: You mean before the end
21 of this month?

22 MS. GREEN: Yes, ma'am. That means there
23 won't be a draft out until just a few days before the
24 next prehearing. I really see no way around that --

25 COMMISSIONER CLARK: Okay.

1 MS. GREEN: -- with the holidays.

2 COMMISSIONER CLARK: Southern Bell, do you
3 have any problem with getting any changes, additions or
4 corrections to the Prehearing Order to Staff by -- what
5 is a week from Friday? The 30th?

6 MS. GREEN: December 30th is the working day.

7 COMMISSIONER CLARK: That's right, the 30th.

8 MR. ANTHONY: No. We have no problem with
9 that.

10 MS. GREEN: I also should tell you, just due
11 to the fact that we did not have a statement from the
12 Department of Defense on diskette, they're not included
13 in here; but they have brought their diskette and they
14 will be in the next version.

15 COMMISSIONER CLARK: Okay. Let me check and
16 make sure nobody has a problem with meeting that
17 deadline.

18 The Department of Defense, they will
19 incorporate your changes. And I think maybe if you
20 would just talk with Angela about when they expect to
21 incorporate your changes.

22 MR. NYCE: Yes, ma'am. I believe the only
23 thing we were missing was the name of our witness, and
24 I think I talked to Mr. Hatch about that.

25 COMMISSIONER CLARK: Okay. Does the Attorney

1 General have any problem meeting that deadline?

2 MR. GROSS: No, we don't.

3 MS. WILSON: No.

4 COMMISSIONER CLARK: Mr. Beck?

5 Okay. Then we'll set Thursday, January 30th,
6 by 5:00 as the deadline to get those changes. Is there
7 anything else that I need to take up at this time?

8 MS. GREEN: You had asked for the parties to
9 get with Staff regarding their desires to have opening
10 statements. I have a list for you of the requests I've
11 received so far. (Hands document to Commissioner.)

12 COMMISSIONER CLARK: Okay. Mr. Gross, you're
13 going to have to speak fast; 20 minutes is not going to
14 get it.

15 Do I take it AT&T, AARP and Ad Hoc do not
16 wish to make opening statements?

17 MR. TYE: Commissioner Clark, on behalf of
18 AT&T I'd like to request about five minutes.

19 COMMISSIONER CLARK: Okay.

20 MR. BELL: AARP has no reason to make a
21 prehearing statement.

22 COMMISSIONER CLARK: Okay. Mr. Beck, you're
23 not listed as requesting a prehearing statement.

24 MR. BECK: I thought I did so orally.

25 COMMISSIONER CLARK: I'm sorry, an opening

1 statement.

2 MR. BECK: Yes. I'd like to at least as much
3 as you're granting. (Laughter)

4 MS. GREEN: You want the maximum allotment.

5 COMMISSIONER CLARK: Southern Bell, I don't
6 see anything --

7 MR. ANTHONY: We had faxed a statement to Ms.
8 Green Friday afternoon. It may have been too late for
9 you to have gotten it, but we had asked for up to 20
10 minutes.

11 COMMISSIONER CLARK: Staff doesn't propose to
12 make a statement.

13 MS. GREEN: I don't believe we will be.

14 COMMISSIONER CLARK: Refresh my memory. How
15 many days of hearing is this scheduled for?

16 MS. GREEN: It's five weeks minus two agenda
17 conferences.

18 COMMISSIONER CLARK: Okay. It would be my
19 intention to recommend and have as part of the
20 prehearing order an allowance for opening statements
21 for those parties who have requested it. Those parties
22 who requested it are Southern Bell, Public Counsel, the
23 Attorney General's office, the Florida -- is it FIXCA?
24 Is that different than Ad Hoc?

25 MS. GREEN: Yes.

1 COMMISSIONER CLARK: Okay. FIXCA, MCI,
2 Sprint and the Florida Consumers Action Network. The
3 most I will allow is ten minutes and I will note that
4 MCI and Sprint have only asked for five minutes and
5 they will be held to five minutes.

6 MR. TYE: Could you add me to that list,
7 please, Commissioner?

8 COMMISSIONER CLARK: Sure. AT&T will have
9 five minutes. Did you say that to me and I just
10 ignored you?

11 MR. TYE: Yes, ma'am. I wasn't sure if I
12 had said it. (Laughter)

13 MR. HOFFMAN: Commissioner Clark.

14 COMMISSIONER CLARK: Yes.

15 MR. HOFFMAN: I had faxed a brief memo to Ms.
16 Green, I think on Thursday, requesting some time for
17 the Florida Pay Telephone Association. I think the
18 memo said not to exceed ten minutes, but I will take
19 five minute --

20 COMMISSIONER CLARK: You'll take five?

21 MR. HOFFMAN: -- if you'll give it to me.

22 COMMISSIONER CLARK: All right. Five
23 minutes.

24 MS. GREEN: You're right. That's my error.

25 COMMISSIONER CLARK: I think that roughly

1 allows for about a little bit over an hour of opening
2 statements. And because of the length of the
3 proceedings, I think it may be well for the parties to
4 have the opportunity to orient the Commission to what
5 they expect to prove and what they expect the
6 proceedings to reveal with respect to the operations of
7 Southern Bell and their points of view on the evidence.

8 Anything else, Angela?

9 MS. GREEN: There will be a number of changes
10 that the Staff knows that we'll need to make to the
11 order itself. I wouldn't want to belabor the
12 proceedings by going through those at this point.

13 One of the things, big issues, that needs to
14 be grappled with is determining an order for the
15 witnesses in this proceeding.

16 COMMISSIONER CLARK: Okay. (Pause)

17 I take it the order shown is just the Staff's
18 recommendation?

19 MS. GREEN: It's not even that. It's just
20 taken out of the prehearing statements, one after
21 another.

22 COMMISSIONER CLARK: Oh, and you just group
23 them according to party?

24 MS. GREEN: Yes, ma'am. It has no particular
25 significance.

1 COMMISSIONER CLARK: Mr. Lackey, did you want
2 to say something?

3 MR. LACKEY: We have an order prepared for
4 our witnesses that we would like to have them presented
5 in, which I can hand to you if you like.

6 COMMISSIONER CLARK: All right. (Hands out
7 documents.)

8 While he's doing that, let me ask Public
9 Counsel: The people you have subpoenaed, are any of
10 those among the lists for whom we have requested
11 immunity from the State Attorneys?

12 MR. BECK: Yes. More than 30, about 37, I
13 believe, of the people subpoenaed are those for whom
14 immunity has been granted or it's sought.

15 COMMISSIONER CLARK: All right. Have the
16 parties had an opportunity to meet to see if they could
17 work out a mutually acceptable order of witnesses?

18 MS. GREEN: No, ma'am.

19 COMMISSIONER CLARK: Is that not a
20 possibility?

21 MS. GREEN: Did you ask if it was a
22 possibility?

23 COMMISSIONER CLARK: Yes.

24 MS. GREEN: It certainly would be. We have
25 not had an opportunity.

1 COMMISSIONER CLARK: Mr. Lackey, on your
2 suggested order of witnesses, was it your intention to
3 have these -- I know at one time you had taken the
4 position that Southern Bell ought to have the
5 opportunity to put on its direct case all at once. Is
6 that what this reflects?

7 MR. LACKEY: That would be the order that we
8 would prefer to do; that is, start our case, go through
9 our direct case.

10 COMMISSIONER CLARK: Is there any division
11 here with respect to those witnesses who are primarily
12 what I would call "normal rate case witnesses," and
13 those that address investigation issues?

14 MR. LACKEY: Yes.

15 COMMISSIONER CLARK: Can they be split apart?

16 MR. LACKEY: Basically, Denton kicks off the
17 case. And then you have Billingsley and Keck, who are
18 cost of capital, capital structure. You have Reid and
19 McClellan that are accounting issues. Then you have
20 Sims, rate design; and then Lacher transitions from the
21 traditional rate case into the investigation dockets.

22 So we have them separated, essentially, in our
23 order of witnesses. (Pause) On the direct case, anyway.

24 COMMISSIONER CLARK: It seems to me it makes
25 sense to allow the parties to meet to discuss the order

1 of witnesses; and then, failing an agreement with the
2 parties, then I can set the order of witnesses.

3 Mr. Beck?

4 MR. BECK: Yes. I did have one question,
5 whether you want to just have one side put their case
6 on, or do you want to group witnesses, or do you want
7 to just leave that up to us to try to --

8 COMMISSIONER CLARK: I'd like you all to work
9 it out. But my own feeling is it makes sense to try
10 and group things so that you get a sense of continuity,
11 so you don't have one witness four days ago, or more
12 realistically two weeks ago, having discussed an issue
13 that another witness is dealing with.

14 Now, let me ask a question of Staff: Would
15 it be necessary to reserve a date prior to the next
16 prehearing conference to hash out a witness list if the
17 parties fail to reach an agreement, or can it be done
18 at the next prehearing conference?

19 MS. GREEN: I don't think we really need to
20 set a separate date for that. If people have a little
21 bit of time after this today to talk about it, then we
22 can get some ideas; we can send some things out; we can
23 talk on the phone. The next prehearing is January the
24 6th.

25 COMMISSIONER CLARK: All right. Then I'll

1 leave it to the parties to work it out. And if it
2 cannot be worked out, we'll take it up at the next
3 prehearing conference. But I would request that I be
4 kept informed of the need to do that so I can talk with
5 the Staff ahead of time, so I won't be trying to hash
6 it out at the next prehearing conference.

7 MR. GROSS: The Attorney General would like
8 to go on record at this point as alerting the
9 Commission and the parties to the fact that several of
10 our witnesses are subpoenaed witnesses whom we don't
11 control and who are coming from remote geographical
12 areas. And I know that even though we may have an
13 excellent plan as far as order of witnesses is
14 concerned, is not entirely predictable as to when these
15 witnesses would be called.

16 I'm going to ask these witnesses to remain on
17 standby and try to get as much advance notice as
18 possible, preferably about 48 or a minimum of 24 hours
19 notice to allow them to make travel arrangements.

20 And it may be early to be bringing this up,
21 but I want to mention it right now so, when it arises
22 again, there won't be any surprises.

23 COMMISSIONER CLARK: Well, I noted, Mr. Beck,
24 you have subpoenaed witnesses for a specific date.

25 MR. BECK: Right. Commissioner, I'm trying

1 to work with Southern Bell right now. We've subpoenaed
2 witnesses in two groups: one beginning February 2nd,
3 another February 7th.

4 What I'm going to try to do with Southern
5 Bell is work out specific days in those periods, the
6 2nd through the 4th is one --

7 COMMISSIONER CLARK: Okay.

8 MR. BECK: -- and the 7th through 11th, and pick
9 days that those specific people would testify. Because it
10 is quite a burden. We're getting quite a few calls from
11 people there are not real happy about that.

12 COMMISSIONER CLARK: I think the Commission
13 would want to have a plan that we would attempt to
14 follow and attempt to estimate how long we think the
15 witnesses will be on the stand so that we can give
16 fairly specific times to these people. But we have in
17 the past, when we have needed to adjust it, the order
18 of witnesses, to accommodate the schedules of the
19 witnesses.

20 But having said that, I think we should make
21 every effort at the beginning to do a good job in
22 scheduling these witnesses so that we don't have to do
23 a lot of rearranging of the schedule and destroy
24 whatever continuity we have in the presentation of the
25 evidence.

1 Is there anything else on the witness list,
2 order of witnesses?

3 I would like to alert the parties that today
4 I intend to call the State Attorneys to whom the
5 Chairman wrote letters requesting immunity to ask those
6 State Attorneys if they would address this issue and
7 respond to those requests as quickly as possible so
8 that whatever discovery you intend to make of these
9 witnesses can proceed.

10 I don't know that I'll be successful, but I
11 thought at least it would be helpful for them to know
12 we're interested in getting it done and it doesn't just
13 languish on their desk.

14 Mr. Lackey.

15 MR. LACKEY: Yes, ma'am. I just wanted to
16 say again, since you brought that up, that we had
17 discussed this previously. And the discovery deadline
18 cutoff in this case is January 14th; but because of the
19 volume of these subpoenaed witnesses and the fact that
20 we don't know when they are going to get immunity, if
21 they do, we may have to run past that on these
22 particular witnesses. We have a pretty full schedule

23 --

24 COMMISSIONER CLARK: I understand that.

25 MR. LACKEY: -- with the witnesses we've got.

1 COMMISSIONER CLARK: Ms. Green, is there
2 anything else we need to take up?

3 MS. GREEN: I can't think of anything right
4 now.

5 COMMISSIONER CLARK: Mr. Anthony, is there
6 anything Southern Bell needs to have addressed?

7 MR. ANTHONY: Nothing that needs to be
8 discussed now, no, ma'am.

9 COMMISSIONER CLARK: Ms. Bryant?

10 MS. BRYANT: No.

11 COMMISSIONER CLARK: Mr. Tye?

12 MR. TYE: No.

13 COMMISSIONER CLARK: Mr. Melson?

14 MR. MELSON: No.

15 COMMISSIONER CLARK: Mr. Nyce?

16 MR. NYCE: No.

17 COMMISSIONER CLARK: Mr. Gross?

18 MR. GROSS: Yes. In the Attorney General's
19 prehearing statement, on Page 4 of our exhibit list, we
20 listed Exhibits N through R, which were not attached to
21 Mr. Maloy's prefiled testimony; but they are exhibits
22 which are very voluminous and which we believe copies
23 are in the possession of all of the interested parties,
24 in particular, Public Counsel, Staff and Southern Bell.

25 And we're asking for some relief from the

1 requirements that 15 copies be filed under these
2 circumstances because of the volume. And I know that
3 other parties have faced the burden of making all of
4 these copies, but we're asking if there's any relief
5 from that in this instance.

6 And also, rather than copy every party, if
7 there's any party that doesn't have them and
8 specifically requests them, we'll make them available.
9 But we'd like to be excused from the obligation to
10 furnish copies to parties, especially when we believe
11 that the parties who are really interested in these
12 documents already have copies. So I'm proposing to --

13 COMMISSIONER CLARK: Well, let me ask you,
14 what are these documents? Is it listed on the
15 prehearing order?

16 MR. GROSS: Yes. On Page 4, starting very
17 near the top with "N."

18 COMMISSIONER CLARK: Page 4?

19 MR. GROSS: Page 4 of -- I'm sorry, of the
20 Attorney General's prehearing statement. They're not
21 listed in the --

22 COMMISSIONER CLARK: I don't have that.

23 MR. GROSS: Okay. They are customer
24 complaints, a small sample of about ten which were
25 public records at the Public Service Commission. The

1 trouble reports, maybe a sample of about 10 to 20 of
2 those. We had only attached one to Mr. Maloy's
3 testimony. And then Staff reviews for various years at
4 two different locations.

5 COMMISSIONER CLARK: These are voluminous?

6 MR. GROSS: I am told by the people who are
7 compiling them right now they are very voluminous. But
8 I think what may be the most voluminous are the 13
9 sworn statements that were taken by the Attorney
10 General and which were furnished to the public. We'd
11 like to go ahead and file those; and those, I'm told,
12 with exhibits, are very voluminous.

13 COMMISSIONER CLARK: Have you seen these?
14 Are you aware of it personally that they are
15 voluminous?

16 MR. GROSS: I have looked at the sworn
17 statements and they appear to be voluminous.

18 COMMISSIONER CLARK: Is it this much?
19 (Indicating) (Pause)

20 I have difficulty in excusing you from that
21 because I think the parties have a right to have before
22 them a cohesive document that represents your witness's
23 testimony and evidence that he intends to give. And
24 the fact that other people may have it somewhere else
25 means they have to spend the time going to look for it.

1 And I have required them or our rules require them to do
2 it as part of filing their case and filing their rebuttal,
3 and it just seems to me that there is no reason to
4 eliminate that requirement for the Attorney General.

5 MR. GROSS: Okay. I respect your ruling on
6 that.

7 I would point out that in one instance, in
8 answers to interrogatories by Southern Bell, that there
9 was a notation that, "We haven't furnished copies to
10 all parties because they are too voluminous." And that
11 worked very well. It was an answer that I was
12 interested in, and I spoke to Sid White and he's going
13 to furnish them to me.

14 So I would at least like to ask if there can be
15 a compromise as far as any party who requests them
16 furnishing them to those parties, but complying with the
17 15-copy requirement, as far as filing with the Commission.

18 COMMISSIONER CLARK: Let me ask the question:
19 Is there any party that can do without the exhibits to
20 Mr. Maloy? Is that his --

21 MR. GROSS: Yes.

22 COMMISSIONER CLARK: -- testimony. There are
23 some people that I would imagine are not interested in
24 that.

25 MR. MELSON: They all relate to the

1 investigation dockets, I'm assuming.

2 COMMISSIONER CLARK: I believe so.

3 MR. GROSS: Yes.

4 MR. MELSON: MCI does not have a need for
5 those.

6 MR. TYE: AT&T can do without them,
7 Commissioner.

8 MS. BRYANT: Sprint, as well, we don't need a
9 copy.

10 MR. SELF: McCaw can do without.

11 MR. NYCE: DOD can do without.

12 MR. BELL: AARP can do without.

13 MS. WILSON: The Cable Association can do
14 without them.

15 COMMISSIONER CLARK: So whatever you can
16 subtract from the 15 people, but the rest of them need
17 to be filed.

18 Touch base with Staff. I think it's
19 important to have those things attached so people can
20 efficiently review your case and respond to it.

21 MR. HATCH: Commissioner Clark, basically
22 what he's talking about is the 15 copies filed with the
23 Commission.

24 COMMISSIONER CLARK: Do we need 15 copies?

25 MR. HATCH: No, ma'am.

1 COMMISSIONER CLARK: Okay. What I will allow
2 you to do, Michael, is work with the Staff as to how
3 many, just how many are needed. It just may be easier
4 to compile the whole thing rather than deciding who can
5 do without what.

6 MS. GREEN: I think there may be several
7 other exhibits identified down the road that are going
8 to be similar where there will be boxes given to
9 Records and Reporting a set of boxes put up behind the
10 bench and another set for perusal; because we're
11 thinking, like, eight to ten boxes of documents.

12 COMMISSIONER CLARK: Okay. We're in the
13 process of compiling a list of those documents for
14 distribution prior to the hearing so that the parties
15 are on notice.

16 COMMISSIONER CLARK: Okay. Mr. Gross, if you
17 would just work with the Staff on that.

18 MR. GROSS: Thank you. I appreciate your
19 consideration.

20 COMMISSIONER CLARK: Do you have anything
21 else?

22 MR. GROSS: No. I think that takes care of it.

23 COMMISSIONER CLARK: Okay. Ms. Wilson?

24 MS. WILSON: We have nothing.

25 COMMISSIONER CLARK: Mr. Beck?

1 MR. BECK: Yes. Commissioner, on Page 7 of
2 the draft prehearing, you've limited the parties to 60
3 pages to findings of fact, conclusions of law,
4 statement of issues, positions and a brief. And I'd
5 like to ask you of you to expand that to 150 pages.
6 Given that there's five weeks of hearing, that's only
7 30 pages a week. (Laughter)

8 COMMISSIONER CLARK: As long as you file it
9 in installments.

10 Mr. Beck, let me consider that, because I do
11 think that perhaps 50 pages is a limitation. But I'd,
12 again, like to point out that to the extent you can be
13 brief, I think you are more effective in your advocacy.

14 MR. BECK: Commissioner, we realize that and
15 I'm sure we will endeavor very much to get under that.
16 But the prehearing statement alone, mostly single-
17 spaced, was 50 pages. I don't see how we could
18 possibly do it in the 60, at least.

19 COMMISSIONER CLARK: Angela, would you
20 specifically note that as something that I have to
21 resolve before the next prehearing conference?

22 MS. GREEN: Yes, ma'am.

23 COMMISSIONER CLARK: Anything else?

24 MR. BECK: Yes. With respect to the Staff
25 testimony, my understanding is the Staff filed audit

1 testimony on Friday. And my understanding, although I
2 haven't seen it, is it basically was testimony saying
3 they did an audit and, "See the audit for the details."
4 We've not had access to the audit yet.

5 It's my understanding that we'll get access
6 sometime today; but, nonetheless, I'd ask for
7 additional time to respond to the Staff audits since we
8 haven't even seen them yet. And I'd like to ask for
9 Tuesday, January 4th, as a date to respond.

10 COMMISSIONER CLARK: Now, wait a minute. I
11 thought we knew that the Staff audit was not going to
12 be available until the 20th. Am I mistaken?

13 MR. BECK: But it's not going to be available
14 even the 20th.

15 COMMISSIONER CLARK: What's today?

16 MR. BECK: Oh, I'm sorry. It was supposed to
17 be due on Friday, was it not? Am I mixed up on that?

18 COMMISSIONER CLARK: For some reason, Mr.
19 Beck, the 20th sticks in my mind as to when it was
20 going to be available. Is there something else filed
21 today?

22 MR. BECK: I thought it was Friday, but I
23 could be mistaken.

24 MR. HATCH: I believe the 20th was the date
25 that was discussed. I'm not sure if it's etched in

1 stone anywhere; but the point is that Mr. Beck, I'm
2 assuming, is making the same oral motion for
3 confidential access to what is currently a confidential
4 document that he made to the previous audits, and we
5 have no objection --

6 COMMISSIONER CLARK: And I issued an order on
7 that, didn't I?

8 MR. HATCH: Yes, ma'am.

9 MS. GREEN: But that was only for the rate
10 case audit proper, because the other audit reports had
11 not yet been filed.

12 COMMISSIONER CLARK: Well, I'm a little
13 confused.

14 It had been my understanding that things
15 would be made available today and then the rebuttal
16 testimony was due the end of the month.

17 MS. GREEN: That's what we're trying to do.
18 He has to make a motion to get access to the
19 confidential document, just like he did last time.

20 MR. HATCH: Yes, ma'am.

21 MR. BECK: Yes. I'd like to request --
22 Commissioner, if I'm mistaken, if it was always the
23 20th, and we'll live with the deadline. But in any
24 event, we need to get access to it so we can see it.
25 We cannot respond to it if we can't see it. And so I'm

1 making a motion to get access to the Staff audit.

2 COMMISSIONER CLARK: Can it be made available
3 to the Public Counsel under the same terms and
4 conditions as the rate case audit?

5 MS. GREEN: Yes, ma'am.

6 MR. ANTHONY: We have no objection to that.

7 COMMISSIONER CLARK: Okay. Then it will be
8 made available to you today under those terms and
9 conditions.

10 MR. BECK: Will it be available today?

11 MR. HATCH: Yes.

12 MR. BECK: Okay.

13 COMMISSIONER CLARK: My recollection was that
14 today was the day. I don't remember the 17th being the
15 date and, therefore, I will not grant an extension. If
16 I'm in error, I will ask Staff to bring that to my
17 attention.

18 MR. BECK: Commissioner, I could very well be
19 mistaken. I had on my calendar the 17th, but the dates
20 have changed so much it might not be accurate.

21 COMMISSIONER CLARK: Okay.

22 MR. BECK: The last item I'd like to raise
23 is, again, the pending Supreme Court items.

24 As you know, the Commission has issued many
25 orders ordering Bell to produce documents, and we,

1 notwithstanding Bell taking the appeals, we don't have
2 them but anticipate seeking some relief at the next
3 prehearing conference if we still don't have an order
4 by the Supreme Court.

5 COMMISSIONER CLARK: And what are you
6 thinking of asking for?

7 MR. BECK: Well, I'm not quite sure, but I
8 don't see how we can go forward if the Commission has
9 ordered them to produce documents and we don't have
10 them.

11 COMMISSIONER CLARK: I'm somewhat comforted
12 that you don't know what you're going to ask for
13 because I have not been able to figure out what to do.

14 There is still a chance that it may issue.
15 Maybe they'll deal with two PSC issues before the end
16 of the year is out. But in the meantime, I will be
17 thinking of how we can deal with it. Of course, as
18 Southern Bell has pointed out, you know, it may come
19 out and there may be nothing to deal with.

20 I think we'll give them to the end of the
21 year and see what happens. And in the meantime I
22 think, Angela and Tracy, you and I need to talk about
23 the two different outcomes and then how we might
24 address them. (Pause)

25 Anything else?

1 MR. BECK: That's all I have. Thank you.

2 MR. LACKEY: Excuse me. It's a little late.

3 Could I jump in to support Mr. Beck's motion to put off
4 his testimony until the 4th of January on the NARUC
5 audit?

6 COMMISSIONER CLARK: Who else will be
7 interested in the audit, and does that create a
8 problem?

9 MS. GREEN: Okay. Right now the schedule
10 anticipates the filing of rebuttal testimony on
11 December 30th.

12 MR. LACKEY: And December 31st, I understand,
13 is a holiday, and, of course that's Friday, Saturday.

14 COMMISSIONER CLARK: So you thought you were
15 going to have until the 31st, is that it?

16 MR. LACKEY: Pardon me?

17 COMMISSIONER CLARK: Did you think you were
18 going to have till the 30th?

19 MR. LACKEY: No, I have until the 30th. It's
20 the 31st that's the holiday. And what I would like is
21 over the weekend. We did get the audit in our hands --
22 I mean, in the hands of our people sometime on
23 Saturday. But it's still, you know, Friday is a
24 holiday; the following Friday is a holiday. We'll work
25 on them but it's a little hard.

1 COMMISSIONER CLARK: Is there any problem to
2 any other party if the deadline for rebuttal is moved
3 to the 4th?

4 MS. GREEN: The 4th is a Tuesday. We don't
5 have a problem with that, but the --

6 MR. LACKEY: The 4th would be really good.

7 COMMISSIONER CLARK: Mr. Beck, did you ask
8 for the 4th?

9 MR. BECK: Yes.

10 MR. LACKEY: I was hoping he was going to win
11 and I wasn't going to have to be involved, but --

12 COMMISSIONER CLARK: Well, if it creates no
13 further scheduling problems to any other party, I'll
14 allow until the 4th.

15 MR. LACKEY: Thank you.

16 MR. BECK: Thank you.

17 MS. GREEN: We need to go back just for a
18 moment to clarify that Mr. Beck's oral motion for
19 access to the most recently filed audits includes all
20 three: the NARUC audit, the WASP audit and the CPR
21 audits.

22 MR. BECK: Yes. Everything that the Staff
23 has filed and is going to present to the Commission is
24 evidence, which, as I understand includes all those.

25 MS. GREEN: I just want to clarify that for

1 the record.

2 COMMISSIONER CLARK: Without objection from
3 Southern Bell, they will be available under the same
4 terms and conditions as was allowed for the rate case
5 audit. Is that the correct thing I'm supposed to say?

6 MS. GREEN: Yes, ma'am. Thank you.

7 MR. LACKEY: And did we cover all the audits?
8 I'm sorry. The only one I got on Saturday -- but it
9 may have been the way it was shipped to me -- was the
10 NARUC audit. There's the continuing property records
11 audit and WASP audit. They went out on Friday as well?

12 MS. GREEN: They are in; they are being
13 processed right now.

14 MR. LACKEY: Oh. So they haven't gone out
15 yet?

16 COMMISSIONER CLARK: Mr. Lackey, you'll have
17 it the same time Mr. Beck does.

18 MR. LACKEY: Thank you.

19 COMMISSIONER CLARK: Mr. Self?

20 MR. SELF: No special requests or even
21 regular requests.

22 COMMISSIONER CLARK: Mr. Hoffman.

23 MR. HOFFMAN: Commissioner Clark, in looking
24 through this draft of the prehearing order, I think
25 Issue 30 and the positions under Issue 30 were

1 inadvertently left out of it, and I think they should
2 be included.

3 COMMISSIONER CLARK: Okay. Would you show
4 them added. And I think that's one of the things that
5 you have until the end of this week -- no, the end of
6 the year.

7 MS. GREEN: That's just the end of next week.

8 COMMISSIONER CLARK: But that's the 30th.

9 MS. GREEN: Yes, ma'am.

10 COMMISSIONER CLARK: Okay. If you have
11 anything else for the prehearing order, please let them
12 know by the 30th.

13 MR. HOFFMAN: Okay.

14 COMMISSIONER CLARK: Mr. Bell, do you have
15 any changes or anything?

16 MR. BELL: Nothing at this time, Commissioner.

17 COMMISSIONER CLARK: Ms. Kaufman?

18 MS. KAUFMAN: No, ma'am.

19 COMMISSIONER CLARK: Okay. Is there anything
20 else to come before the prehearing officer at this
21 time? (Pause)

22 Hearing nothing, we'll adjourn the prehearing
23 conference. Thank you very much.

24 (Thereupon, the hearing adjourned at 10:10 a.m.)

25

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1 F L O R I D A)

2 :
3 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, JOY KELLY, CSR, RPR, Official Commission
4 Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in this cause, Docket Nos. 920260-TL,
7 910163-TL, 910727-TL, 900960-TL and 911034-TL, was
8 heard by the Florida Public Service Commission at the
9 time and place herein stated; it is further

10 CERTIFIED that I reported in shorthand the
11 said proceedings; that the same has been transcribed
12 under my direct supervision, and that this transcript,
13 consisting of 35 pages, constitutes a true and accurate
14 transcription of my notes of said proceedings.

15 DATED this 22nd day of December, A. D., 1993.

16
17
18
19

Joy Kelly

JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
(904) 488-5981

20 STATE OF FLORIDA)
21 :
22 COUNTY OF LEON)

22 The foregoing certificate was acknowledged before
23 me this 22nd day of December, 1993, by JOY KELLY, who
24 is personally known to me.

24
25



Sydney C. Silva

SYDNEY C. SILVA
Notary Public - State of Florida