

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Metropolitan ) Docket No. 960838-TP  
 Fiber Systems of Florida, Inc. )  
 for arbitration of certain terms )  
 and conditions of a proposed )  
 agreement with Central Telephone )  
 Company of Florida and United )  
 Telephone Company of Florida )  
 concerning interconnection and )  
 resale under the )  
 Telecommunications Act of 1996. )

PROCEEDINGS: PREHEARING

BEFORE: COMMISSIONER JULIA L. JOHNSON

DATE: Thursday, September 5, 1996

TIME: Commenced at 9:40 a.m.  
 Concluded at 10:15 a.m.

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

REPORTED BY: LISA GIROD JONES, RPR, RMR

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1 APPEARANCES:

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3 McMullen, P. O. Box 391, Tallahassee, Florida 32302;  
4 appearing on behalf of Central Telephone Company of  
5 Florida and United Telephone Company of Florida.

6 RICHARD M. RINDLER, Attorney at Law, via  
7 teleconference, and LAWRENCE R. FREEDMAN, Attorney at  
8 Law, via teleconference, Swidler & Berlin, 3000  
9 K Street, N.W., Suite 300, Washington, D.C. 20007;  
10 appearing on behalf of MFS Communications Company, Inc.

11 L. MICHAEL BILLEIER, Staff Counsel, and MONICA  
12 BARONE, Staff Counsel, Florida Public Service  
13 Commission, 2540 Shumard Oak Boulevard, Tallahassee,  
14 Florida 32399-0850; appearing on behalf of Staff.

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## 1 PROCEEDINGS

2 COMMISSIONER JOHNSON: Good morning. I'm  
3 going to call this hearing to order in Docket 960838.  
4 Counsel, could you please read the notice?

5 MR. BILLMEIER: Pursuant to notice, this time  
6 and place has been set for the prehearing conference in  
7 Docket 960838-TP, Petition by MFS for arbitration of  
8 certain terms and conditions of a proposed agreement  
9 with Central Telephone Company of Florida and United  
10 Telephone Company of Florida concerning interconnection  
11 and resale under the Telecommunications Act of 1996.

12 COMMISSIONER JOHNSON: Okay. I'm going to  
13 take appearances of the parties.

14 MR. WAHLEN: I'm Jeff Wahlen of the law firm  
15 Ausley, McMullen, P. O. Box 391, Tallahassee, Florida  
16 32302, on behalf of United Telephone Company of Florida  
17 and Central Telephone Company of Florida.

18 COMMISSIONER JOHNSON: Very well. MFS?

19 MR. RINDLER: Richard Rindler of Swidler /  
20 Berlin, Washington, D. C., on behalf of MFS  
21 Communications Company, and Lawrence Freedman of the  
22 same firm.

23 COMMISSIONER JOHNSON: You said Lawrence  
24 Freedman?

25 MR. RINDLER: Freedman, right.

1 COMMISSIONER JOHNSON: Staff.

2 MR. BILLMEIER: Michael Billmeier and Monica  
3 Barone, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
4 32399, appearing on behalf of the Commission Staff.

5 COMMISSIONER JOHNSON: Are there any  
6 preliminary matters before we begin reviewing the  
7 prehearing order?

8 MR. BILLMEIER: I think everything that we can  
9 talk about we can just bring up as we go through the  
10 prehearing order.

11 COMMISSIONER JOHNSON: Very good. Because one  
12 of the parties isn't here and because it's always easier  
13 for me, I'll just walk through each section. To the  
14 extent that there are questions or comments, we will  
15 stop and address those at that point in time.

16 Case background seems pretty straightforward,  
17 but are there any questions on that?

18 MR. BILLMEIER: There is a typo on the third  
19 line from the bottom of the first paragraph on Page 2.  
20 MFS filed their petition on July 17th, not July 18th.

21 COMMISSIONER JOHNSON: Any other corrections  
22 on that section? Seeing none, we'll show that one  
23 noted.

24 Procedure for handling confidential  
25 information, Section 2?

1 Section 3, prefiled testimony and exhibits.

2 Section 4 --

3 MR. BILLMEIER: Commissioner, there has been  
4 some discussion about doing direct and rebuttal  
5 testimony at the same time. And I've also had  
6 discussions about changing the order of witnesses.

7 COMMISSIONER JOHNSON: Okay, well, we'll --  
8 you're stopping me on Section 3. Is there some other  
9 direction that we need to put in Section 3?

10 MR. WAHLEN: No, I think that's fine.

11 COMMISSIONER JOHNSON: So Section 4, order of  
12 witnesses?

13 MR. BILLMEIER: Oh, I'm sorry.

14 COMMISSIONER JOHNSON: I thought you were  
15 saying there was something you wanted to change up in  
16 Section 3. So you were referring to Section 4?

17 MR. BILLMEIER: I was referring to Section 4.  
18 I misread it.

19 COMMISSIONER JOHNSON: Order of witnesses.  
20 Now, did the parties agree that they wanted to handle  
21 the direct and rebuttal while the -- when the witness  
22 comes up on direct? Is that something y'all agreed  
23 upon, or is that something open for discussion?

24 MR. BILLMEIER: I believe everyone agrees.

25 MR. WAHLEN: We talked this morning, and Rich

1 will correct me if I'm wrong, but I think the order of  
2 witnesses that we were talking about is Devine for MFS,  
3 direct and rebuttal, Cheek for Sprint, direct and  
4 rebuttal, Farrar for Sprint, direct and rebuttal, Dunbar  
5 direct, and David Porter for MFS, rebuttal.

6 MR. RINDLER: That is the list we agreed to,  
7 Your Honor.

8 COMMISSIONER JOHNSON: Okay, very good. Then  
9 we'll make sure that the record reflects and that the  
10 commissioners are aware that we will be handling direct  
11 and rebuttal when the witness comes forward and will  
12 reflect the order of witnesses in our final prehearing  
13 order.

14 Basic positions of the parties, Section 5, any  
15 comments, typos or corrections that we need to make to  
16 that particular section? MFS, any changes in your basic  
17 position?

18 MR. RINDLER: No, ma'am.

19 COMMISSIONER JOHNSON: Sprint?

20 MR. WAHLEN: No changes.

21 COMMISSIONER JOHNSON: And then Staff takes no  
22 position at this time.

23 Substantive issues. Section 6, issues and  
24 positions, I think to the extent that there is a  
25 question on any of the particular issues -- I understand

1 that there may be questions on Issues 12 and 14, but are  
2 there any other issues that need to be revised or  
3 corrected?

4 MR. WAHLEN: No.

5 MR. RINDLER: Not by me.

6 COMMISSIONER JOHNSON: Should we go directly  
7 then to Issue 12?

8 MR. WAHLEN: Yes.

9 COMMISSIONER JOHNSON: Yes, sir, and I  
10 understand you did file written corrected issue?

11 MR. WAHLEN: Staff has provided today a  
12 statement of Issue 12 that contains subparts A through  
13 J, which is consistent with the way United and Centel  
14 stated its position and the issue. We think that's what  
15 ought to be done. I've talked with Mr. Rindler this  
16 morning about that and I don't think he has a problem  
17 with that, but he was going to check on it.

18 COMMISSIONER JOHNSON: Have you had a chance  
19 to check on the corrected issue as it's stated in our  
20 prehearing order?

21 MR. RINDLER: Your Honor, I haven't actually  
22 seen what Staff provided this morning, but as far as the  
23 concept of including A through J as they stand now, I  
24 don't have a problem with doing that, other than to say  
25 that I think that probably requires us to state a

1 position with respect to those subsections that were not  
2 in there.

3 MR. WAHLEN: We have no objection to that.

4 MR. BILLMEIER: I would propose if the parties  
5 can get me any revised positions by Monday, Monday  
6 afternoon, and I can incorporate them into the new  
7 prehearing order.

8 COMMISSIONER JOHNSON: Okay, very well. Then  
9 we will allow the parties until Monday afternoon to  
10 provide any comment or basic positions on the corrected  
11 issue as stated, and I know, MFS, you're saying you  
12 haven't seen the corrected issue, but I think you  
13 understand the substance of it. But to the extent you  
14 have further problems, if you could let Staff and the  
15 prehearing officer know, we can deal with those also.

16 MR. RINDLER: We will. Thank you.

17 COMMISSIONER JOHNSON: Issue 14. Now, we  
18 have -- or at least in my draft I have a proposed Issue  
19 Issue 14, MFS, and a Staff proposed Issue 14. I also  
20 have written positions as filed by Sprint on Issue 14.  
21 If the parties would like to address that particular  
22 issue and present any argument as to the issues, I'll  
23 entertain that at this point in time.

24 MR. RINDLER: Your Honor, with respect to  
25 that, I would just like to say one thing prior to



1 argument. That is, to the extent that 12 is going to  
2 contain A through J, it is clear that at least one and  
3 perhaps more of the items listed in 14 would now be  
4 addressed in 12, A through J, and therefore would be  
5 deleted from 14. An example of that is 911, E911. And  
6 to the extent that there is an overlap, our statement in  
7 14 was issues that we thought there was agreement on.  
8 If in fact Sprint is taking the position there isn't any  
9 agreement, then we obviously have no problem with it  
10 being an issue. But the change to 12 and the change to  
11 14 really would need to be coordinated.

12 COMMISSIONER JOHNSON: Okay. To the extent  
13 that the issues that have been provided as corrected,  
14 issues in 12, are duplicative of issues that are in 14,  
15 then there is no need to have them in Issue 14. But I  
16 understand that there are more issues in 14 that you  
17 would like to see this Commission address.

18 MR. RINDLER: I believe that's correct,  
19 although, unfortunately, I have not had an opportunity  
20 to go through 14 to see which is left, but to the extent  
21 there are ones left, yes, we would like to have them  
22 addressed.

23 COMMISSIONER JOHNSON: Staff, would you like  
24 to present your Issue 14?

25 MR. BILLMEIER: Our Issue 14 is on Page 20 of

1 the prehearing order, "Should the agreement be approved  
2 pursuant to Section 252(e) of the act?" What we  
3 envision there is the Commission arbitrating the issues  
4 in this hearing and the parties be given a time certain  
5 to take the order on the arbitration and come back with  
6 an agreement that can -- will reflect what the  
7 Commission has done in the order. And that would  
8 essentially be approved administratively, unless -- if  
9 the -- we haven't really come up with a procedure for if  
10 the parties do not agree.

11 COMMISSIONER JOHNSON: Okay, so what you are  
12 suggesting is that the issues as outlined and  
13 specifically stated in this prehearing order will be the  
14 issues that will be addressed during the hearing?

15 MR. BILLMEIER: Yes.

16 COMMISSIONER JOHNSON: And to the extent that  
17 there are other outstanding issues, it is first  
18 incumbent upon the parties to work those out. And to  
19 the extent that they do not work those out, that perhaps  
20 could be handled at a later date, but not in this  
21 particular proceeding. Is that what you're saying?

22 MR. BILLMEIER: The parties -- I'm expecting  
23 that before the hearing they will come to an agreement  
24 on many issues, and that agreement would be submitted  
25 separately and approved as a negotiated agreement. The

1 issues that get arbitrated, the Commission will order  
2 the parties to take that order and create an agreement  
3 out of it and return that to the Commission.

4 COMMISSIONER JOHNSON: Okay.

5 MR. BILLMEIER: And if the parties cannot  
6 reach some kind of an agreement, then the Commission  
7 would have to settle that. I don't foresee that being a  
8 problem because I think the Commission's order will be  
9 clear.

10 MR. RINDLER: Commissioner, I may have  
11 misunderstood. We were fading in somewhat. But I did  
12 not think that 14 -- though they're both listed as 14 --  
13 are in fact addressing the same issue. I thought that  
14 Staff's 14 was addressing, as Mike just explained, the  
15 procedural question of what happens once the Commission  
16 issues an arbitrated decision at the end of this  
17 proceeding in terms of the agreement that comes out of  
18 that or if no agreement comes out of that.

19 COMMISSIONER JOHNSON: Uh-huh.

20 MR. RINDLER: Our Issue 14 relates to the fact  
21 that we believe that the Commission, in making its  
22 decision with respect to the arbitrated issues, needs to  
23 address the detail issues that are listed in the  
24 agreement -- I'm sorry, in what will be left of 14. And  
25 Sprint, as I think you mentioned, or Staff mentioned,

1 has filed a position on our issue, and they have not  
2 taken issue with the fact that it is an appropriate  
3 issue.

4 COMMISSIONER JOHNSON: Sprint?

5 MR. WAHLEN: We did file a position on their  
6 proposed issue. We disagree with MPS's idea that the  
7 Commission in this case should approve the specific  
8 language contained in their comprehensive  
9 interconnection agreement. We don't think they have put  
10 all of the language in that agreement into controversy  
11 in this case. We don't think that was clear in their  
12 petition. It's not clear in their testimony and so  
13 forth. Maybe the fact that we disagree with them on  
14 that is a reason to raise this issue and have it decided  
15 by the Commission. We don't think the Commission should  
16 do what MPS is asking. Our position is there if the  
17 issue stays in. We think really what the Commission  
18 needs to focus on are Issues 1 through 13, which are the  
19 specifically identified issues in their petition and  
20 testimony. So I don't know if that helps or not, but  
21 that's our position.

22 COMMISSIONER JOHNSON: Staff?

23 MR. BILLMEIER: I don't believe MPS's Issue 14  
24 is appropriate for this proceeding. We tried to lay out  
25 in the other 13 issues the issues that were brought up

1 in MFS's petitions. And MFS's Issue 14 is asking the  
2 Commission to go through and look at everything else. I  
3 don't think that's contemplated under the act. A more  
4 practical matter, I don't think we have the time or the  
5 Staff to go through every word of every agreement and  
6 essentially write it for the parties.

7 MS. BARONE: Commissioner Johnson, if I could  
8 add, they have not complied with the act either, which  
9 states that the position of each of the parties with  
10 respect to those issues need to be put forth. And the  
11 parties have not done that on these additional issues  
12 that -- or MFS has not done that.

13 MR. RINDLER: Commissioner, if I may, MFS's  
14 position is in fact that providing the agreement, it  
15 states the position that MFS has on the issue. And  
16 therefore it met its obligation under the act to  
17 identify the issue and to provide a position on the  
18 issue. And the end result of the whole 251, 252  
19 process, as I understand it, is to come up with, in fact  
20 an agreement, not some generic ruling on some policy,  
21 but it's to end up with an agreement between the parties  
22 that allows competition to go forward in Florida. And  
23 for that, I think the act contemplates, and our  
24 experience clearly demonstrates, you need to deal with a  
25 number, a great number of issues.

1 MS. BARONE: Commissioner Johnson, if I might  
2 add, we had this discussion in our issue identification  
3 meeting, where it appeared that MFS's position was that  
4 we are negotiating an agreement, or the Commission will  
5 be arbitrating an agreement. That is not the case. The  
6 situation is the Commission will be arbitrating certain  
7 issues, not an agreement. Also, with respect to all  
8 those issues, I believe Staff has just provided you a  
9 copy. There is not a position from each party on each  
10 of those subelements listed. Therefore, there has not  
11 been compliance with the act.

12 MR. RINDLER: Commissioner, if I may, I am not  
13 quite sure I understand the last statement. If in fact  
14 we have, as we did, include in our petition the complete  
15 interconnection agreement that speaks to each of these  
16 issues specifically and in detail, I think we have, in  
17 fact, stated our position.

18 MS. BARONE: Yes, that is true, Commissioner.  
19 However, they have not stated United/Centel's position  
20 on those issues as well, which is required by the act.

21 MR. RINDLER: Commissioner, 14 was addressed  
22 because it was our understanding there was agreement  
23 with respect to the issues, and to the extent there was  
24 not agreement, we requested that in fact they identify  
25 it, because we had thought there was agreement based

1 upon the negotiations as of that time.

2 COMMISSIONER JOHNSON: I didn't understand  
3 your last statement. You're suggesting that you added  
4 Issue 14 because you thought there was agreement on  
5 those particular issues?

6 MR. RINDLER: These were issues that we feel  
7 need to be resolved either through agreement or through  
8 the arbitration process. And to the extent that our  
9 understanding of Sprint's position at that time, which  
10 was that there was no dispute with respect to these  
11 issues was wrong, we wanted to identify them so they  
12 would in fact be included in the process. And just as  
13 we spoke a minute ago about the relationship between 12  
14 and 14, to the extent that Sprint has now indicated  
15 through the listing in 12 that issues are not agreed to,  
16 then we would eliminate them from 14 and they'll be  
17 addressed in 12.

18 COMMISSIONER JOHNSON: I'm still having a  
19 problem trying to determine what you want us to do with  
20 your Issue 14. Now, it seems pretty open ended. And to  
21 the extent that you filed a petition and specifically  
22 identified issues that the Commission was to address,  
23 and to the extent that we have identified issues where  
24 we know the positions of the party, that's one thing.  
25 But I don't understand what you're trying to do with

1 14. You're saying you don't --

2 MR. RINDLER: Well, as Ms. Barone indicated,  
3 there is a requirement that we state our position, as  
4 well as the position of the other side, to the extent we  
5 are aware of it. Fourteen is an effort to state our  
6 position on the listed items, our position being that  
7 what's contained in the agreement, which was part of the  
8 petition. And at the time this issues list was  
9 prepared, it was our understanding that there was an  
10 agreement on these, therefore they should be listed as  
11 issues that are resolved. To the extent they are not  
12 resolved now, they are still part of the petition as  
13 unresolved issues.

14 COMMISSIONER JOHNSON: Any comment, Sprint?

15 MR. WAHLEN: Well, I guess the only thing I  
16 would add, and it's consistent with what we put in our  
17 response to their proposed issue, MFS seems to be taking  
18 the position that every sentence, phrase, word and  
19 punctuation mark in their comprehensive interconnection  
20 agreement is at issue in this case. And we don't think  
21 that's the case. We don't think that the Commission, as  
22 a result of this proceeding, is going to put its stamp  
23 of approval on their comprehensive interconnection  
24 agreement. Moreover, we don't think it's incumbent on  
25 us to go through their agreement and identify each



1 sentence, word, phrase and punctuation mark that we  
2 don't agree with. The act seems to contemplate that  
3 they identify the issues that are in dispute. They did  
4 that in the petition. Those issues have been reflected  
5 in the prehearing order draft, as Issues 1 through 13.  
6 We've responded to them, and that's where we think we  
7 are.

8 MR. FREEDMAN: Commissioner, this is Lawrence  
9 Freedman with Mr. Rindler on behalf of MFS. I think we  
10 just, without repeating all of the points that already  
11 have been made, I think the bottom line really simply is  
12 this. We look at the act as very clearly pointing  
13 towards a result that competition should be the result  
14 of these agreements, that we should be able to come in  
15 and do business, and that full comprehensive agreement  
16 is a condition precedent to doing that, and accordingly,  
17 what Congress wanted to set up was a scheme, the result  
18 of which would be an agreement.

19 We have pointed in other pleadings in this  
20 case to specific language in the act that talks about  
21 how in 251(c)(1), for example, the ILEC has a duty to  
22 negotiate in good faith the, quote, "particular terms  
23 and conditions of agreement." Similarly 252(b)(4)(c)  
24 empowers a state commission to impose appropriate  
25 conditions on carriers in arbitration. And there are

1 further references in the recently issued FCC order to  
2 the frustration that the FCC observed with regulatory  
3 delays in getting agreements with carriers to do  
4 business.

5           So we are not trying to impose undue  
6 responsibilities on to the Commission or to Sprint to  
7 micromanage the process and to get into every period,  
8 comma and semicolon in the agreement. What we are,  
9 however, saying, is that we don't want to have the  
10 process end up with general principles on large issues  
11 but an inability to complete an agreement and to go into  
12 business because of an inability to reach all of these  
13 other, perhaps, less large but nevertheless necessary  
14 terms and conditions of a comprehensive interconnection  
15 agreement.

16           We pressed Sprint vigorously in these  
17 proceedings from day 1 to let us know which of these  
18 positions were unacceptable because, as Sprint has said,  
19 many of them deal with, quote, unquote, "smaller  
20 issues." We felt the language that we had put out early  
21 would be appropriate, and indeed we did get a letter  
22 back from them which appeared not to object to these  
23 issues. That's why Issue 14 is framed exactly the way  
24 it is. It's predicated on a response we received from  
25 Sprint, which raised no objection to these issues, and

1 accordingly, as to these issues, Issue 14 says the  
2 Commission ought to order Sprint to accept the language  
3 and let MFS, Sprint and the Commission be done with it.

4           If, on the other hand, Sprint is saying that  
5 that language, for some reason other than that stated in  
6 their August 16th letter to us, is unacceptable, let's  
7 put it on the table and let's get it resolved. That's  
8 how Issue 14 is framed. We believe there's complete  
9 authority in the act and in the FCC order that supports  
10 it. We also believe that our original petition filed in  
11 this case made it clear that while we were identifying  
12 in the petition what we thought were the key unresolved  
13 issues, there are several places in that petition where  
14 we made it very clear that we needed a comprehensive  
15 agreement, that a copy of that agreement was attached,  
16 and to the extent Sprint disagreed with any of those  
17 provisions of the agreement, that those indeed were  
18 issues that we needed to get resolved in this process.

19           That, Your Honor, Commissioner, is why we, and  
20 particularly the client, feel that it's vitally  
21 important that we not overlook these issues and that we  
22 come to closure on the process and that we walk away  
23 from the process with a full agreement.

24           COMMISSIONER JOHNSON: I understand your  
25 comments, and I appreciate them. But with respect to

1 your comments about micromanaging the process, to me,  
2 that is exactly what 14 is requiring of this particular  
3 commission. And I appreciate the FCC and the position  
4 that they're in and their mandates, but I am more  
5 sensitive to the position of this commission, its staff  
6 and our ability to fulfill what I believe are our  
7 statutory duties and obligations.

8           One of the purposes of the act was that the  
9 parties do indeed try to negotiate out as much of the  
10 particulars as they can. And with respect to what I  
11 feel 14 is doing, it is indeed asking us to look at  
12 every line, sentence, issue, subissue, subsubissue, and  
13 to give it some kind of grant of approval.

14           I believe that the parties are sufficiently  
15 prepared and able to negotiate out some of the more  
16 detailed issues, and that our role and obligation will  
17 be to look at the petition and the issues as stated in  
18 the petition and look at those general but very  
19 important principles that the parties find some  
20 disagreement, those kind of issues that will perhaps  
21 hamper competition, and try to resolve those issues.  
22 But I think what you are asking of us is overly  
23 burdensome.

24           We all understand what we are trying to do in  
25 order to implement this act, and I think we're all doing

1 the best job that we can. And this Commissioner, or at  
2 least this Commission, cannot accommodate this  
3 particular request at this point in time. I am going to  
4 strike the Issue 14 as you have stated it, and I am  
5 going to approve the Issue 14 as approved by Staff. To  
6 the extent that there are issues that are raised at a  
7 later point in time that prevent MPS from providing the  
8 kind of competition and service that they would like to  
9 provide, please feel free to come back to this  
10 Commission, and I think we'll have to handle those  
11 issues on a case-by-case basis. But I want to give the  
12 parties the benefit of the doubt that they can fulfill  
13 their responsibilities under this act and make these  
14 things work. If they can't work, then we'll handle that  
15 at a later date.

16 MR. RINDLER: Thank you, Your Honor. One  
17 question I have. We haven't actually spoken to Staff's  
18 Issue 14, and frankly, I'm not sure that I understand  
19 Staff's 14.

20 COMMISSIONER JOHNSON: I apologize for that.  
21 I understand it, but let me let them explain it to you,  
22 and if there is some disagreement on that, we can  
23 further discuss it. Staff.

24 MR. BILLMEIER: The way I see it is the  
25 parties will submit, if they have one, a -- whatever

1 agreement they have -- partial agreement they reach.  
2 That agreement will be approved under the negotiation  
3 standard in the act. The Commission will hold this  
4 arbitration proceeding, issue an order on those issues  
5 in the arbitration, and give the parties a time certain  
6 to submit another agreement that reflects the Commission  
7 order. The Commission -- that agreement -- this issue  
8 allows the Commission to approve that under the  
9 arbitration standard of the act.

10 MR. RINDLER: Commissioner, I understand that  
11 and that seems appropriate. As I understand it, though,  
12 however, what that means is the end result is the  
13 Commission is going to have to do exactly what I'm  
14 asking them to do in 14, which is to approve an  
15 agreement, an agreement in toto, but with the way Staff  
16 has stated the position, their position 14, I have no  
17 objection to it.

18 COMMISSIONER JOHNSON: Okay, any other  
19 comments on 14?

20 MR. WAHLEN: We have no objection to Staff's  
21 14 as written, and we'll submit a position on that issue  
22 by noon Monday.

23 COMMISSIONER JOHNSON: Thank you. And MFS,  
24 will you be in a position to submit a position on Issue  
25 14 by Monday also?

1 MR. RINDLER: We will, Your Honor.

2 COMMISSIONER JOHNSON: Thank you. Any other  
3 issues?

4 MR. BILLMEIER: That's all.

5 COMMISSIONER JOHNSON: Any other questions for  
6 the prehearing officer?

7 MR. RINDLER: I'm sorry, Your Honor, I thought  
8 you were going to move on to Item 7.

9 COMMISSIONER JOHNSON: Uh-oh. I might have  
10 missed it. Sorry. Oh boy, I did. Item 7.

11 MR. RINDLER: Your Honor, I spoke with the  
12 parties this morning and indicated to them that we  
13 intended to add three additional exhibits to  
14 Mr. Porter's listing of exhibits. They are calculations  
15 which actually produce a result using the methodology  
16 explained in his testimony, the three exhibits would  
17 be -- DNP-4 would be wire centers by zone, which is a  
18 listing of all wire centers broken down into three  
19 geographic zones; the average loop length by wire  
20 center, which is data pulled from DCM-2, that would be  
21 DNP-5. And DNP-6 is census bloc data. It's a portion  
22 of it, because it's 298 pages long. So we're providing  
23 eight pages as an example. It's the worksheet behind  
24 the other two documents. I have not yet -- since they  
25 were only in fact produced to me last night -- and I am

1 going to fax them to Sprint and make them available to  
2 Staff today. But it was my understanding, with that  
3 explanation, and I'll let them speak to it, that there  
4 was no objection to our introducing those exhibits, in  
5 terms of not introducing them, but marking them for the  
6 prehearing.

7 COMMISSIONER JOHNSON: Any questions?

8 MR. WAHLEN: We have no objection to those  
9 three exhibits being identified in the prehearing  
10 order. We've already talked with Mr. Rindler about  
11 reviewing them and discussing admissibility later. Of  
12 course all exhibits were supposed to be filed earlier,  
13 but it's something we would like to work with him on.  
14 We've also talked with Mr. Rindler this morning about  
15 the possibility of Mr. Cheek, Sprint's witness,  
16 developing and using some demonstrative aids at the  
17 hearing. They would be in the nature of diagrams of the  
18 network. We would submit those to MFS well in advance  
19 of the hearing so they can look at them. We would also  
20 give them to Staff well in advance of the hearing. And  
21 if Mr. Rindler would like to identify his three exhibits  
22 in the prehearing order, we would like to just add one  
23 for Mr. Cheek, that would be WEC-4, which would be  
24 called Network Diagrams, and those would be in the  
25 prehearing order with the understanding that objections



1 as to admissibility would be raised at the hearing.

2 COMMISSIONER JOHNSON: Very good. Any other  
3 questions on the exhibits?

4 MR. RINDLER: Just a footnote, Your Honor,  
5 which is to say that to the extent, just as when Sprint  
6 gets ours, or Staff gets ours, when we get Sprint's, it  
7 may -- I don't know that it would, but it may in itself  
8 result in a need to have a further exhibit, not that  
9 this is going to continue on, but it's a possibility and  
10 I just wanted to note that for the record.

11 MR. WAHLEN: That's fine.

12 COMMISSIONER JOHNSON: It's noted. Thank you  
13 much. Anything else on that section?

14 MR. WAHLEN: Just one last thing. I noted we  
15 didn't have descriptions for Sprint's exhibits, and I  
16 thought with the permission of the prehearing officer, I  
17 would submit a brief description for each of those  
18 exhibits so they could be included in the prehearing  
19 order.

20 COMMISSIONER JOHNSON: Please do. And you'll  
21 be submitting those by Monday?

22 MR. WAHLEN: By Monday, yes, ma'am.

23 COMMISSIONER JOHNSON: There are no proposed  
24 stipulations?

25 MR. BILLMEIER: There are no proposed

1 stipulations. I understand the parties are negotiating,  
2 and many of the issues may be resolved before the  
3 hearing, and we're hopeful that a lot will be.

4 COMMISSIONER JOHNSON: Very good. There are a  
5 couple pending motions, but those will be handled at the  
6 agenda conference before the full committee?

7 MR. BILLMEIER: Yes. There is a typo in  
8 there. We filed the recommendation on September 4th,  
9 not September 9th.

10 COMMISSIONER JOHNSON: Okay. And that matter  
11 will be addressed at the September 16th agenda  
12 conference?

13 MR. BILLMEIER: Yes. There is also -- I did  
14 not put this in the prehearing order, there is a motion  
15 to compel filed by MFS. I understand the parties have  
16 been able to work out most of that and there's no need  
17 for a ruling on that motion.

18 MR. WAHLEN: That's correct. And just in  
19 general, I would like to thank the lawyers at MFS and  
20 the Staff for being very flexible about working out  
21 little disagreements and scheduling problems. We've  
22 been trying to get a lot done in a big hurry, and at  
23 least thus far everybody seems to be working very well  
24 together on those things, and we appreciate it.

25 COMMISSIONER JOHNSON: Very good. Any other

1 issues? Seeing none, I would like to thank all of the  
2 parties. This is a very difficult time and a very busy  
3 time for all of us, but to the extent that the parties  
4 can continue to work together with Staff facilitating  
5 that process, the Commission very much appreciates it.  
6 And to the extent there are issues that we must address,  
7 we will endeavor to do those in an expeditious manner.  
8 Thank you much. This hearing is adjourned.

9 MR. RINDLER: Thank you.

10 (Hearing concluded at 10:15 a.m.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

*Lisa Girard Jones*  
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Lisa Girard Jones, RFR, RMR

*9/9/86*  
\_\_\_\_\_  
Date