

1 **APPEARANCES:**

2 **PHILLIP J. CARVER**, c/o Nancy Sims, 150 South
3 Monroe Street, Suite 400, Tallahassee, Florida
4 32301-1556, appearing on behalf of **BellSouth**
5 **Telecommunications, Inc.**, appearing telephonically.

6 **JOSEPH A. McGLOTHLIN**, McWhirter, Reeves,
7 McGlothlin, Davidson, Rief and Bakas, 117 South
8 Gadsden Street, Tallahassee, Florida 32301, appearing
9 on behalf of **Florida Competitive Carriers Association**,
10 appearing telephonically.

11 **MONICA BARONE**, Florida Public Service
12 Commission, Division of Legal Services, 2540 Shumard
13 Oak Boulevard, Tallahassee, Florida 32399-0870,
14 appearing on behalf of the **Commission Staff**.

15

16 **ALSO PRESENT:**

17 **ELISE McCABE**, BellSouth Communications,
18 Inc., appearing telephonically.

19 **STAN GREER**, FPSC Division of Communications.

20 **CURTIS J. WILLIAMS**, Assistant to Chairman
21 Johnson.

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ITEM

PAGE NO.

CERTIFICATE OF REPORTER

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P R O C E E D I N G S

(Conference convened at 1:00 p.m.)

CHAIRMAN JOHNSON: The court reporter is here. Do we need to read the notice?

MS. BARONE: No, we'll just --

CHAIRMAN JOHNSON: Okay. Then we'll take appearances.

MR. CARVER: Phillip Carver on behalf of BellSouth.

CHAIRMAN JOHNSON: Okay.

MR. MCGLOTHLIN: Joe McGlothlin for the Florida Competitive Carriers Association.

CHAIRMAN JOHNSON: Very good.

MS. BARONE: Monica Barone, Staff counsel.

CHAIRMAN JOHNSON: Okay. I think we only have one matter to address here today. And I guess it's -- was there some Motion for Clarification, or how should we proceed, and how should we treat this?

MR. CARVER: Well, I think it's just a request for clarification. I guess technically we could call it a motion.

Basically, I just wanted to ask a question about a portion of the Order that you entered September 9th, how we should respond to that?

CHAIRMAN JOHNSON: Uh-huh.

1 **MR. CARVER:** And my question goes to
2 Interrogatories No. 15 and 16.

3 **CHAIRMAN JOHNSON:** Okay.

4 **MR. CARVER:** And the language is on Page 4
5 of the Order in the third paragraph.

6 **CHAIRMAN JOHNSON:** Uh-huh.

7 **MR. CARVER:** And I guess the pertinent
8 portion of the -- are two sentences, and I'll just
9 read them. The first is "Therefore, BellSouth shall
10 identify those instances where it might ultimately
11 provide a competitor with what it has requested."

12 **CHAIRMAN JOHNSON:** Uh-huh.

13 **MR. CARVER:** And then a couple of sentences
14 later "It is possible that BellSouth has provided the
15 competitor with something other than what he
16 requested, or is compromising on it without proceeding
17 to arbitration."

18 **CHAIRMAN JOHNSON:** Uh-huh.

19 **MR. CARVER:** And at this point I ask for a
20 clarification on one point. I'm told at this point
21 we've negotiated with somewhere in the neighborhood of
22 100 parties.

23 Anytime we've negotiated and it has not
24 ended in an agreement, then it's usually pretty easy
25 to identify the place where things ran aground. And I

1 think we can certainly respond as to those
2 instances --

3 **CHAIRMAN JOHNSON:** Okay.

4 **MR. CARVER:** -- whether they went to
5 arbitration or if they haven't gone to arbitration.
6 But what I'm having a little bit more difficulty with
7 is the situations in which we reached an agreement.

8 Just to give you an example, I know we have
9 an agreement with Intermedia. So let's say, for
10 example, Intermedia comes in with a list of requests,
11 we have a response, there's a fairly fluid negotiation
12 process, and then ultimately we reach an agreement.

13 Now, in that instance, I think ultimately we
14 had given them something that was satisfactory to
15 them, but I presume that in almost every negotiation
16 there will be some things they will request that's not
17 exactly what they ultimately decided they would
18 accept.

19 So my question is, are we under a duty to
20 try to identify every one of those items along the
21 way?

22 **CHAIRMAN JOHNSON:** If I understand what you
23 are saying, you are saying, like, say, with you and
24 Time Warner, if you started off negotiating, and they
25 asked for one thing, and then you all said no. And

1 then you all came back with another package, and they
2 said no. And then they came back with another
3 package; would you have to go back and identify each
4 instance with respect to each agreement where there
5 was disagreement?

6 **MR. CARVER:** Well, yes. Basically, I think
7 if we ultimately didn't reach an agreement --

8 **CHAIRMAN JOHNSON:** Yes.

9 **MR. CARVER:** -- then those will be easy to
10 identify.

11 **CHAIRMAN JOHNSON:** Right.

12 **MR. CARVER:** I'm just saying where we did
13 reach an agreement, I'm asking whether we need to go
14 back and try to recreate every preliminary request
15 that didn't get incorporated into the agreement.

16 **CHAIRMAN JOHNSON:** I see what you are
17 saying. Let me get it from Mr. McGlothlin. Is that
18 what you are suggesting? I mean, is that what you
19 want them to attempt to do?

20 **MR. MCGLOTHLIN:** What we've said in the
21 course of further arguments is that we did not want to
22 make them reconstruct each incremental step of the
23 negotiation process, but there are two
24 interrogatories. The first relates to those things
25 that were refused, which is clear enough.

1 The other relates to those in which the
2 initial feature that Bell provided was less than or
3 something other than the request. And it was their
4 route of process eliminating the intermediate steps
5 of -- remove any hardship associated with answering
6 that question, so that with each instance when that
7 happened, we would have a beginning request and the
8 ultimate response and any explanation they feel
9 justifies the difference.

10 **CHAIRMAN JOHNSON:** I'm sorry, could you
11 repeat that last sentence you said?

12 **MR. McGLATHLIN:** I thought that with respect
13 to the second interrogatory we were not asking them
14 for them to reconstruct each incremental step of
15 give-and-take in the negotiations, but that we would
16 like them to provide the original request made by the
17 competitor, describe what was ultimately provided, and
18 if they wanted to, they could include any explanation
19 or justification that they think warrants the
20 difference.

21 **MR. CARVER:** So, basically, we would just --
22 if what they asked us for in the first instance is
23 different than what they ultimately got, then you
24 would want to know what they asked for to begin with,
25 and I guess the agreement that we ultimately reached?

1 MR. MCGLOTHLIN: Yes.

2 MR. CARVER: Okay, I can do that.

3 CHAIRMAN JOHNSON: That sounds reasonable.

4 MR. CARVER: Okay.

5 CHAIRMAN JOHNSON: Is there anything else?

6 MR. CARVER: No, that's all I have.

7 CHAIRMAN JOHNSON: Oh, well. Did you have
8 anything else?

9 MR. MCGLOTHLIN: No, ma'am.

10 CHAIRMAN JOHNSON: Okay. Well, then, that's
11 what we'll do. And let me make sure I understood it.
12 Like using the Time Warner example, what would happen
13 is whatever their original request was, you would want
14 BellSouth to look at what was finally agreed upon and
15 go back to the original request and using that
16 document and those differences tell you what they
17 refused or what they agreed to, kind of doing like a
18 matrix to say they asked for that originally, but they
19 ultimately settled for this kind of a thing.

20 MR. MCGLOTHLIN: Yes, so that we can prepare
21 the request with what was finally provided.

22 CHAIRMAN JOHNSON: Okay. Everyone
23 understand that then? Monica?

24 MS. BARONE: Yes, we're clear.

25 CHAIRMAN JOHNSON: Very good.

1 **MR. CARVER:** Chairman Johnson, could I ask
2 one other question?

3 **CHAIRMAN JOHNSON:** Please do.

4 **MR. CARVER:** It's sort of a procedural
5 question. I guess the response that we would have
6 given originally would be about six or seven months
7 old at this point.

8 **CHAIRMAN JOHNSON:** Uh-huh.

9 **MR. CARVER:** I'm not clear on whether I need
10 to update the response we're giving now for the past
11 six or seven months. I don't have a problem doing
12 that if that's what you would like for us to do. I
13 would just request that to the extent that there are
14 Motions to Compel directed at other parties, that we
15 could just handle it uniformly. But if I am to update
16 that, that's fine. It just may take a little bit
17 longer to do, so --

18 **CHAIRMAN JOHNSON:** I think we would prefer
19 the updated information and you do it as expeditiously
20 as possible, but understanding that it might take more
21 time. And that's the process we'll use for everyone.

22 **MR. CARVER:** Thank you.

23 **CHAIRMAN JOHNSON:** Any questions about that?

24 **MR. MCGLOTHLIN:** Not from me.

25 **CHAIRMAN JOHNSON:** Okay. Very good. Thank

1 you all. The motion hearing or the -- whatever it
2 was -- conference is adjourned.

3 (Thereupon, the conference concluded at
4 1:10 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, ROWENA NASH Official Commission Reporter,

4 DO HEREBY CERTIFY that the Status Conference
5 in Docket No. 960786-TL was heard by the Prehearing
6 Officer at the time and place herein stated; it is
7 further

8 CERTIFIED that I stenographically reported
9 the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript, consisting of 11 pages, constitutes a true
12 transcription of my notes of said proceedings

13

DATED this 9th day of May, 1997.

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ROWENA NASH
Official Commission Reporter
(904) 413-6736

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