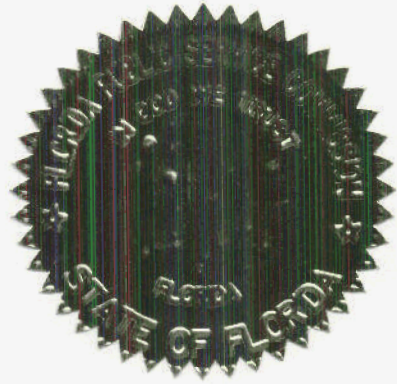


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of  
  
Consideration of BellSouth  
Telecommunications Inc.'s  
entry into interLATA services  
pursuant to Section 271 of the  
Federal Telecommunications Act  
of 1996.  
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PROCEEDINGS:           **STATUS CONFERENCE**

BEFORE:                   CHAIRMAN JULIA L. JOHNSON  
                              Prehearing Officer

DATE:                     **Thursday, August 28, 1997**

TIME:                     Commenced at 11:30 a.m.  
                              Concluded at 12:15 a.m.}

CONDUCTED FROM:        Chairman Johnson's Office  
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REPORTED BY:            JOY KELLY, CSR, RPR  
                              Chief, Bureau of Reporting  
                              Official Commission Reporter

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1 **APPEARANCES:**

2 **NANCY WHITE and NANCY SIMS, 150 South Monroe**  
3 **Street, Suite 400, Tallahassee, Florida 32301-1556,**  
4 **appearing on behalf of BellSouth Telecommunications,**  
5 **Inc.**

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

12 **MONICA BARONE and BETH CULPEPPER, Florida**  
13 **Public Service Commission, Division of Legal Services,**  
14 **2540 Shumard Oak Boulevard, Tallahassee, Florida**  
15 **32399-0870, appearing on behalf of the Commission**  
16 **Staff.**

17 **ERICK SORIANO, Wiggins and Villacorta, P. O.**  
18 **Office Drawer 1657, Tallahassee, Florida 32302,**  
19 **appearing telephonically on behalf of Intermedia.**

20 **MARSHA RULE, TRACY HATCH, AT&T**  
21 **Communications of the Southern States, Inc., 106 East**  
22 **College Avenue, Suite 1410, Tallahassee, Florida**  
23 **32301, appearing telephonically on behalf of AT&T of**  
24 **the Southern States.**

25

1 **APPEARANCES CONTINUED:**

2 **THOMAS K. BOND**, 780 Johnson Ferry Road,  
3 Suite 700, Atlanta, Georgia 30342, appearing  
4 telephonically on behalf of **MCI**.

5 **NORMAN H. HORTON, JR.**, Messer, Vickers,  
6 Caparello, Madsen, Goldman & Metz, P. O. Box 1876,  
7 Tallahassee, Florida 32302-1876, appearing  
8 telephonically on behalf of **WorldCom and ASCI**.

9 **BEN FINCHER**, Sprint, 3100 Cumberland Circle,  
10 Atlanta, Georgia 30339, appearing telephonically on  
11 behalf of **Sprint**.

12 **BILL WILLINGHAM and KEN HOFFMAN**, Rutledge,  
13 Ecenia, Underwood, Purnell and Hoffman, P. O. Box 551,  
14 Tallahassee, Florida 32302-0551, appearing  
15 telephonically on behalf of **TCG**.

16 **LAURA WILSON**, 310 North Monroe Street, Tallahassee,  
17 Florida 21301, appearing telephonically on behalf of **FCTA**.

18 **DONNA CANZANO**, 501 East Tennessee Street, Suite B,  
19 Tallahassee, Florida 32302, appearing telephonically on behalf  
20 of **Intermedia**.

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**P R O C E E D I N G S**

(Hearing convened at 11:35 a.m.)

**CHAIRMAN JOHNSON:** We're on the record.

**MS. BARONE:** Yes.

**CHAIRMAN JOHNSON:** We'll go ahead and take  
appearances.

**MS. WHITE:** Nancy White with BellSouth.

**MR. WILLINGHAM:** Bill Willingham and Ken  
Hoffman on behalf of TCG.

**MR. HATCH:** Marsha Rule and Tracy Hatch on  
behalf of AT&T.

**MR. BOND:** Tom Bond on behalf of MCI.

**MS. KAUFMAN:** Vicki Gordon Kaufman and  
Joe McGlothlin on behalf of the Florida Competitive  
Carriers Association.

**MS. CANZANO:** Donna Canzano, and Erick  
Soriano on behalf of Intermedia.

**MS. WILSON:** Laura Wilson on behalf Florida  
Cable Telecommunications Association.

**MR. HORTON:** This is Doc Horton on behalf of  
ACSI and WorldCom.

**CHAIRMAN JOHNSON:** Is there anyone else?

**MS. BARONE:** And this is Monica Barone, and  
with me, Beth Culpepper, appearing on behalf of  
Commission Staff.

1           **CHAIRMAN JOHNSON:** Okay.

2           **MS. BARONE:** Madam Chairman, the first item  
3 on the agenda today is FCCA's Motion to Compel. How  
4 would you like to proceed?

5           **CHAIRMAN JOHNSON:** I'll go ahead and  
6 limiting it to five minutes taking presentations on  
7 that.

8           **MS. KAUFMAN:** This is Vicki Kaufman and I  
9 assume you want me to go first.

10          **CHAIRMAN JOHNSON:** Yes, ma'am.

11          **MS. KAUFMAN:** Chairman Johnson, the FCCA has  
12 before you today its Motion to Compel BellSouth to  
13 provide answers to FCCA's Amended Seventh Set of  
14 Interrogatories and Amended Seventh Set Production of  
15 Documents which we served on July 28th.

16                 This discovery relates to the arrangement  
17 that BellSouth has with other incumbent carriers, for  
18 example, arrangements for originating and terminating  
19 traffic, arrangements for call completion, et cetera.

20                 BellSouth objected to our discovery and  
21 refused to answer any of it on two grounds, both of  
22 which we think are totally without merit.

23                 The first one, which I want to cover fairly  
24 quickly, is BellSouth's objection stating that we have  
25 some sort of improper purpose in propounding the

1 discovery.

2 I would point out to you that they made this  
3 objection when they filed their objection, but when  
4 they responded to our Motion to Compel they didn't say  
5 anything about it and they apparently have abandoned  
6 it.

7 The Association does want to go on the  
8 record as denying this allegation and pointing out to  
9 you that Bell made it with no facts, no supporting  
10 evidence, and we think you should reject it outright.

11 Their second objection to our discovery has  
12 to do with relevance. They say that the information  
13 we seek has no relevance to this proceeding. And I  
14 think it's important for us to remember that the  
15 reason we're here, the inquiry in this case is whether  
16 BellSouth has complied with the 14-point competitive  
17 checklist.

18 If you look at the checklist the very first  
19 requirement is that interconnection be provided in  
20 accordance with Section 251(d)(2). And if you look at  
21 that section, two subsections that are pertinent to  
22 our motion, first is Subsection C that says that the  
23 incumbent has to provide interconnection at least  
24 equal in quality to that provided by the local  
25 exchange carrier to itself, any subsidiary, affiliate

1 or any other party. Now I want to focus on that "any  
2 other party." There's no indication, as long as  
3 there's an interconnection arrangement, the  
4 interconnection provider's new entrants has to be  
5 equal in quality.

6 This particular provision was discussed by  
7 the FCC both in their local competition order and in  
8 the recent Ameritech decision. And there's no  
9 limitation, no limitation on the "any other party  
10 term," a limitation that Bell wants to impose on the  
11 language of the statute.

12 The other pertinent provision --

13 **CHAIRMAN JOHNSON:** Ms. Kaufman, could you  
14 say that again, there's no limitation --

15 **MS. KAUFMAN:** On the language "any other  
16 party." The FCC in these two orders that talked about  
17 this section, they did not define "any other party" to  
18 exclude some parties that Bell has interconnection  
19 arrangements with. And the other pertinent --

20 **CHAIRMAN JOHNSON:** How does that relate to  
21 what we have been doing at the Commission and our  
22 interpretation and what we have been requiring?

23 **MS. KAUFMAN:** Well, I think you've  
24 anticipated my response to Bell, and that is, Bell is  
25 asking you to focus on that section of 251 that deals

1 with what interconnection agreements have to be filed  
2 and approved by the Commission. That doesn't have  
3 anything to do with what we're here to discuss today.

4           One of the main criteria of the checklist is  
5 that interconnection has to be provided to new  
6 entrants on a nondiscriminatory basis. That's a  
7 totally different question and issue than what sort of  
8 agreements have to be filed with you for your  
9 approval.

10           **CHAIRMAN JOHNSON:** Okay.

11           **MS. KAUFMAN:** I want to go back and --

12           **CHAIRMAN JOHNSON:** Let me ask one more  
13 question. So your argument is that even if the  
14 Commission -- not going to the substantive question of  
15 whether or not we have the authority, but assuming we  
16 only have the authority to require them to file  
17 certain agreements, that has nothing to do with their  
18 underlying requirement to actually provide  
19 interconnection to all parties?

20           **MS. KAUFMAN:** I think that's right. The  
21 requirement to file interconnection agreements for  
22 your approval, what agreements have to be filed, which  
23 ones you have to approve is a question for another  
24 day. I don't think it has anything to do with their  
25 requirements under the checklist to provide



1 nondiscriminatory interconnection for all parties,  
2 entrants and parties that they have prior arrangements  
3 with.

4           And I was going to point out that BellSouth  
5 doesn't claim that it doesn't originate and terminate  
6 traffic with incumbents. And I think it's beyond  
7 dispute that we know that BellSouth interconnects, for  
8 example, with Centel, Northeast, Frontier and others  
9 for mutual traffic exchange.

10           We talked a little bit about Bell's  
11 rationale for denying discovery on this question. And  
12 I think your whole argument is premised on your order  
13 and your interpretation of another section. And I  
14 just want to point out for you that the order Bell  
15 wants to rely on is a PAA. It was protested, it's  
16 null and void. It doesn't have any legal  
17 significance. And what you decide to do on that  
18 question is unrelated to the discovery matter that's  
19 before you today.

20           **CHAIRMAN JOHNSON:** Okay. Thank you.

21           **MS. KAUFMAN:** I wanted to make one more  
22 point.

23           **CHAIRMAN JOHNSON:** Go ahead.

24           **MS. KAUFMAN:** That is that I think the most  
25 compelling response that we could make to BellSouth's

1 objection is that if you accept their argument that  
2 they do not need to provide any information in regard  
3 to interconnection arrangements that they have with  
4 incumbents, what you would essentially be saying would  
5 be that it would be appropriate for BellSouth to  
6 discriminate in favor of those incumbents. It could  
7 give them better quality, it could give them different  
8 prices; indeed appropriate for them to discriminate.  
9 And I think that's clearly 180 degrees away from what  
10 the requirements are under the Telecommunications Act,  
11 which is that there be nondiscriminatory  
12 interconnection.

13           **CHAIRMAN JOHNSON:** Okay, Ms. Kaufman. I  
14 need to better understand that argument as to why we  
15 would be supporting or allowing them to discriminate.  
16 Run that by me again. And hold on a second, there's a  
17 car passing by.

18           **MS. KAUFMAN:** Essentially, as I understand  
19 Bell's argument, they're saying that the  
20 interconnection arrangements they have with other  
21 incumbent local exchange companies is irrelevant to  
22 your deliberations in this case. Your deliberations  
23 include whether BellSouth pursuant to the checklist,  
24 the very first item, is providing nondiscriminatory  
25 interconnection. If you decide that what they are

1 doing with other incumbents doesn't have anything to  
2 do with our deliberation, I think what you're saying  
3 is that they have license to discriminate vis-a-vis  
4 new entrants. In other words, if they could have an  
5 arrangement, they could have a price with an incumbent  
6 that would be different; it would be discriminatory  
7 vis-a-vis new entrants who are trying to get into the  
8 market. I think that, as I said, it goes against the  
9 very grain of the Telecommunications Act and of the  
10 very first checklist requirement.

11 In conclusion, we think that the material we  
12 sought is highly relevant, and we think you should  
13 direct BellSouth to provide the information  
14 immediately given the fact that we're some four days  
15 away from the hearing in this docket.

16 **CHAIRMAN JOHNSON:** Okay. Thank you.  
17 BellSouth.

18 **MS. WHITE:** Yes. Nancy White for BellSouth,  
19 and I will be brief.

20 We believe that the FCC, when it issued its  
21 local competition order it recognized that agreements  
22 between incumbent local exchange companies had been  
23 entered into in a different time and a different  
24 place; a world of essentially no competition for local  
25 exchange service. The FCC recognized that these

1 agreements probably were not appropriate in this new  
2 world of competition. And, therefore, it said file  
3 them with your state commission but allowed a period  
4 of time for renegotiations of these agreements because  
5 of the new world we found ourselves in.

6           The Florida Commission recognized this as  
7 well and has issued orders requesting -- requiring the  
8 incumbent local exchange companies to file a list of  
9 the agreements that we have with other incumbent local  
10 exchange companies, and has indicated that again it  
11 would not be appropriate to look at these agreements  
12 until there had been a period of time given for  
13 renegotiation.

14           We believe that it's not appropriate to look  
15 at these agreements in terms of this 271 case. It's  
16 irrelevant. Because first of all, these agreements  
17 were not entered into under the federal act. They are  
18 long before it. We have not been given time to  
19 renegotiate those agreements. We are starting that  
20 process. And, therefore, what BellSouth may or may  
21 not have do in connection with another incumbent local  
22 exchange company may exist at this very moment but it  
23 will not be existing in the future. It is just not  
24 going to be able to happen in this new world.

25           Secondly, we believe that the FCCA is asking

1 you to read Section 251 too narrowly. I think you  
2 have to look at Section 252 as well, but you cannot  
3 make an argument that 251 and 252 are just mutually  
4 exclusive. 251 specifically says that the  
5 interconnection will be in quality with what another  
6 party provides, nondiscriminatory, and must meet the  
7 requirements of 251 and 252. I think you have to look  
8 at them together. They do not refer to different  
9 groups of interconnectors.

10 Therefore, we believe that the relevancy  
11 argument is very strong, and that FCCA should not  
12 receive this information in this docket.

13 **CHAIRMAN JOHNSON:** Okay. Thank you. Let me  
14 ask you a question as it relates to their  
15 discriminatory argument, the policy argument that if  
16 we -- I guess, if we don't review or don't allow those  
17 particular agreements into this proceeding that that  
18 will somehow endorse or support a policy of  
19 discriminatory action, and that there will be no way  
20 to review that particular action.

21 **MS. WHITE:** Well, and I really disagree with  
22 that. That's essentially why the Florida Commission  
23 told all of the incumbents to file a list of their  
24 agreements so that the Commission would know what was  
25 out there and the Commission could set up workshops

1 and set up a schedule for when those agreements had to  
2 be filed in order to allow time to renegotiate those  
3 agreements so they would be consistent with the  
4 agreements that have been negotiated and arbitrated  
5 with the ALEC.

6           **CHAIRMAN JOHNSON:** So your argument is more  
7 one of prematurity in terms of time --

8           **MS. WHITE:** To a certain extent. Their  
9 position seems to be that these agreements that  
10 BellSouth has with other incumbent local exchange  
11 companies will continue in effect from now until  
12 infinity, and that's just not the case.

13           I think we're starting the renegotiation of  
14 those agreements. As I said, they were appropriate  
15 for a different time and a different place and the  
16 world has changed and of necessity those agreements  
17 have to change.

18           So I think it's just a matter of the fact  
19 that you've got a hundred years of history between the  
20 incumbent local exchange companies that cannot be  
21 stopped on a dime. It takes some time. And I don't  
22 think that the amount of time it will take is going to  
23 lead to discriminatory behavior.

24           **MS. KAUFMAN:** Chairman Johnson, can I just  
25 respond to that for a moment?

1           **CHAIRMAN JOHNSON:** Sure.

2           **MS. KAUFMAN:** Again, I want to bring us back  
3 to the fact that BellSouth is the entity that filed  
4 this application for interLATA authority here. If  
5 BellSouth wants time to renegotiate its agreements  
6 with the incumbents, that's one matter. And the  
7 categories, agreements you have to approve and that  
8 you will require to be filed is another matter.  
9 There's no getting around the requirement -- first  
10 requirement of the checklist which is that  
11 interconnection be provided in a nondiscriminatory  
12 manner, and in the same way it is provided to any  
13 other party. That's what the words say and there's no  
14 getting around that requirement.

15           The timing of Bell's application here and  
16 its negotiations with incumbents are matters within  
17 its own purview. It chose to file; it chose to tell  
18 us that it has met the 14 points. I think we're  
19 entitled to review all interconnection arrangements  
20 that it has. That's what the first checklist item  
21 says. Thank you.

22           **CHAIRMAN JOHNSON:** Okay. Any comments from  
23 Staff?

24           **MS. BARONE:** Yes. I'd like to know from  
25 BellSouth where did the Commission state that the list

1 was to be provided so that renegotiation could occur?

2 **MS. WHITE:** I believe it was during the  
3 agenda discussion on this matter. I don't recall the  
4 date but it would be in the transcript.

5 **MS. BARONE:** Okay.

6 **MS. WHITE:** I recall specifically asking the  
7 question; that I understood that they were voting that  
8 the list had to be filed by a certain day. And I  
9 specifically asked if that meant that we would be  
10 given time for renegotiation. And that was answered  
11 affirmatively by at least two or three Commissioners.

12 **MR. HATCH:** Commissioner Johnson, this is  
13 Tracy Hatch.

14 Just as an observation, as I recall at that  
15 agenda conference, and Nancy, you correct me if I'm  
16 wrong, I believe you stated that there were no Tier 1  
17 ILEC agreement contracts in existence anymore and that  
18 the filing of the list was related to BellSouth's  
19 agreements with all of the small companies.

20 **MS. WHITE:** That's correct. That's correct.

21 **MR. HATCH:** The way that recommendation that  
22 was ultimately read and approved was that the ILEC  
23 agreements would have been filed immediately.

24 **MS. WHITE:** Well, the Tier A, yes.

25 **MR. HATCH:** But that there aren't any so



1 there's nothing to file.

2           **MS. WHITE:** Right, that is correct. So what  
3 we're really talking about here -- well, I take that  
4 back. There has been -- since that order came out  
5 there has been a negotiated agreement between  
6 Sprint-United and BellSouth which has been filed with  
7 this Commission. So yes, there is one Tier A level.  
8 What they are seeking right now are the -- at least  
9 I'm assuming what they are seeking, the only other  
10 agreements that BellSouth has with incumbents are with  
11 the smaller local exchange companies which comprise  
12 the list that BellSouth filed with the Commission.

13           **MR. HATCH:** Commissioner Johnson, we are not  
14 seeking copies of those agreements. All we want to  
15 know is what terms and conditions BellSouth exchanges  
16 traffic with other ILECs and whether that's the same  
17 conditions that it has with AT&T under its agreement.

18           **MS. WHITE:** That's not correct. Are you  
19 saying the FCCA?

20           **MS. KAUFMAN:** Let me try and clarify that.  
21 I think that we are seeking copies of the agreements  
22 and we're also seeking to the extent that there are no  
23 agreements, we want to know what the arrangements are  
24 that you have with other incumbents for exchanging  
25 traffic, for providing directory assistance, all of

1 the things you do when you interconnect with someone.  
2 It's not only the agreements that we need to look at  
3 to get the information. If you don't have an  
4 agreement we know that you are still interconnecting  
5 with companies and you're still exchanging traffic  
6 with them.

7 **MS. WHITE:** I'm really at a loss. The  
8 bottom line is that the only agreement we have with  
9 the Tier A company is on file with this Commission and  
10 is a matter of public record anyone can go and get a  
11 copy of.

12 **CHAIRMAN JOHNSON:** That one was negotiated  
13 under the new law.

14 **MS. WHITE:** That's correct.

15 The only other agreements BellSouth has are  
16 with small incumbent local exchange companies, and  
17 that is what I thought we were discussing.

18 The production of document requests that  
19 FCCA filed specifically asked for those agreements,  
20 copies of those agreements.

21 **CHAIRMAN JOHNSON:** The small companies.

22 **MS. WHITE:** Well, it specifically asked for  
23 the agreements you have with incumbent local exchange  
24 companies.

25 **CHAIRMAN JOHNSON:** And the only agreement

1 you would have had would have been with the small  
2 companies.

3 **MS. WHITE:** That's correct, except for the  
4 Sprint-United, which is on file with the Commission.

5 **MS. KAUFMAN:** I think if you review the  
6 interrogatories, Chairman Johnson, you'll see that  
7 we're asking for information regarding all of the  
8 interconnection agreements, whether they are  
9 memorialized in an agreement or not.

10 **MS. WHITE:** I can pretty much tell you on  
11 that that our answers to those interrogatories would  
12 been "see the agreements."

13 **CHAIRMAN JOHNSON:** So let me better  
14 understand, Ms. Kaufman, what you're asking for.  
15 You're asking even with the large LECs, even if there  
16 is no written agreement you want some codification of  
17 how they are now currently dealing or -- and/or  
18 they've dealt historically?

19 **MS. KAUFMAN:** Yes, Chairman Johnson. If you  
20 look at the interrogatory, we want to know today how  
21 are they today, for example, exchanging traffic with  
22 these incumbent LECs.

23 **MS. WHITE:** We're not except with this --

24 **MS. KAUFMAN:** If that's your answer,  
25 Ms. White, that would be all you would need to

1 provide.

2           **MS. WHITE:** The bottom line is that the only  
3 written agreements we have are with the small local  
4 exchange companies, with the exception of  
5 Sprint-United contract we've already talked about, and  
6 as far as I know all of these -- all of how we deal  
7 with the incumbent local exchange companies is  
8 contained in the agreements.

9           **CHAIRMAN JOHNSON:** Okay. I'm going to have  
10 to, because I have been in route and in travel status  
11 for quite a few days, I've not been able to actually  
12 receive copies of the hard text filing.

13           I'm going to look at that information and  
14 discuss this a bit more with Staff. I will try to get  
15 something out this afternoon. It is putting everyone  
16 on notice what I put out may just be to refer this to  
17 the full Commission. I think Bell, perhaps they have  
18 raised some issues that we ruled upon as it relates to  
19 what agreements must be filed, so I need to further  
20 think through that issue and I may want the entire  
21 Commission to look at this issue and consider the  
22 request and determine more in a full Commission manner  
23 how we should proceed on that.

24           If in the meantime, though, if I could talk  
25 to Staff and get some of the background information

1 for myself, become more comfortable with this issue  
2 I'll go ahead and rule. But you will know one way or  
3 the other before the close of business today.

4 MS. WHITE: Thank you.

5 CHAIRMAN JOHNSON: Are there any other  
6 matters?

7 MS. BARONE: Yes, Chairman Johnson, but I  
8 think I can ask the parties this, and if you need to  
9 go I can give this to you later. I was going to ask  
10 the parties about CWA's petition to intervene, if  
11 anyone objects to their intervention?

12 CHAIRMAN JOHNSON: I'm going to get off the  
13 line now. After you get that information, Monica I'll  
14 probably -- around 1:30, I'll be in a building, so  
15 I'll try to give you a call back. Take care.

16 MS. BARONE: You too.

17 CHAIRMAN JOHNSON: Bye.

18 MS. BARONE: I'd like to just go ahead and  
19 go through and ask if you're prepared to let me know  
20 whether you object to CWA's petition to intervene.  
21 AT&T?

22 MS. RULE: No objection.

23 MS. BARONE: FCCA?

24 MS. KAUFMAN: No objection.

25 MS. BARONE: WorldCom?

1 MR. HORTON: No objection.

2 MS. BARONE: MCI?

3 MR. BOND: No objection.

4 MS. BARONE: MFS?

5 MR. HORTON: That's WorldCom.

6 MS. BARONE: Sprint is not on the phone.

7 Time Warner. (No response.) BellSouth.

8 MS. WHITE: No objection.

9 MS. BARONE: Intermedia.

10 MS. CANZANO: No objection.

11 MS. BARONE: TCG?

12 MR. WILLINGHAM: No objection.

13 MS. BARONE: FCTA?

14 MS. WILSON: No objection.

15 MS. BARONE: Have I missed anybody?

16 MR. HORTON: ACSI has no objection.

17 MS. BARONE: Thank you.

18 Next I'd like to -- I need to get from all  
19 of the parties the witness that will be able to answer  
20 questions regarding the information filed in response  
21 to Staff's subpoena. I want to be able to ask  
22 generally if the information that you've received from  
23 BellSouth is accurate and ask general questions. If  
24 you can get that to me by tomorrow that would be  
25 great. Any questions about that? No? Okay.

1           **MS. WHITE:** Monica, I'm assuming you're not  
2 asking that of BellSouth.

3           **MS. BARONE:** Right.

4           **MS. KAUFMAN:** Monica, the Association has  
5 another matter they'd like to bring up if you're  
6 through your list.

7           **MS. BARONE:** No, I'm not.

8           Also with respect to needing witness  
9 identification, I gave you guys a copy of the  
10 interrogatories that Staff is going to be asking  
11 questions about at the hearing. I need to find out  
12 from you still which witness can respond to questions  
13 regarding those interrogatories.

14           **MS. SIMS:** Monica, this is Nancy Sims. Did  
15 you get mine?

16           **MS. BARONE:** Yes, I got yours.

17           **MS. KAUFMAN:** You got the Association's?

18           **MS. BARONE:** Yes. Okay. And I understand  
19 that WorldCom has a witness substitution.

20           **MR. HORTON:** That's correct. Mr. McCausland  
21 is no longer with WorldCom so we will be substituting  
22 Gary Ball, and he will adopt all of Mr. McCausland's  
23 testimony and the exhibits and everything.

24           **MS. WHITE:** What about the deposition? Was  
25 his deposition taken?

1           **MR. HORTON:** Ms. Causland's was taken.  
2 Mr. Ball is prepared to adopt those as his answers.

3           **MS. BARONE:** Are there any objections to  
4 that? Okay.

5           Right now that's all I can think of. Go  
6 ahead, Vicki.

7           **MS. KAUFMAN:** At the beginning of this week  
8 we filed a Motion for Official Recognition of the  
9 Ameritech order. And I've got -- there will be  
10 something that we could get out of the way.

11           **MS. BARONE:** Actually, Vicki, we were going  
12 to include that on our list. We've already included  
13 that on our official recognition list.

14           **MS. KAUFMAN:** Okay. That's fine.

15           I did have a request to make in regard to  
16 that order. Since it came out after obviously all of  
17 the testimony and everything was filed, we would like  
18 to request that to the extent that where it's  
19 pertinent to a witness's subject matter, they be able  
20 to include comment on that in their summary.

21           **MS. BARONE:** I'll have to take that up with  
22 the Chairman, and I'm sure she will make the parties  
23 aware of that at the beginning of the hearing.

24           **MS. KAUFMAN:** Okay. Thanks.

25           **MS. BARONE:** Also, I just wanted to let you



1 know that we have made copies of the cover sheets of  
2 our exhibits to the extent that they are already  
3 available. We have some other exhibits we're going to  
4 be putting together. But I wanted the parties to be  
5 able to come and get a copy of that packet. That will  
6 give you an idea of what we're going to be entering in  
7 the record, which you're aware of; that's  
8 interrogatories and deposition transcripts and  
9 deposition exhibits. But it will also give you an  
10 idea when we will be stating that the exhibits are too  
11 voluminous. That way you can make your own exhibits.  
12 Or if there are questions about interrogatories that  
13 you have, that you may need to make your own exhibits  
14 for those specific interrogatories. So that's already  
15 available. And if you'd like to have someone come  
16 pick that up, they are on the third floor on the table  
17 in legal.

18 I think that's all of the housekeeping I  
19 have. Anything else?

20 MS. RULE: This is Marsha. Yeah, I've got a  
21 matter, and I don't have a Motion to Compel ready to  
22 file. I hope to get it done and filed this afternoon.  
23 It's on discovery that we propounded on BellSouth.  
24 We've gotten some responses; more are coming in but  
25 some have been objected to.

1 I don't know that there would be an  
2 opportunity to hear it before the opening of the  
3 hearing, but if there isn't I would like it heard at  
4 the beginning of the hearing.

5 MS. BARONE: Rather than --

6 MS. RULE: I guess tomorrow afternoon.

7 MS. WHITE: Can we just do it orally? I  
8 mean I know you don't have a time to do a Motion to  
9 Compel and I don't have time to do an answer.

10 MS. RULE: Okay. When?

11 MS. WHITE: I don't know. We'd have to see  
12 when the Chairman is available.

13 MS. RULE: She's calling back at 1:30.

14 MS. BARONE: No, I don't think that's going  
15 to work. She's going to call back to discuss this.  
16 If you let me know what it is and give me your  
17 argument, then I could relay that to her. But if you  
18 want her to hear it, I'm not sure we're going to be  
19 able to schedule something with her before the  
20 hearing.

21 MS. RULE: My guess is that both Nancy and I  
22 would be happy to have her rule for us without  
23 argument but neither one of us would be happy to have  
24 her rule against us without argument.

25 MS. WHITE: Well, I guess shouldn't --

1 Ms. Sims.

2 MS. SIMS: Yes. I'm here.

3 MS. WHITE: I'm trying to remember --

4 MS. RULE: Would you tell me which  
5 interrogatories your Motion to Compel will relate to.

6 MS. RULE: We have one set outstanding.  
7 That's our first set. And I can get you the specific  
8 numbers.

9 MS. BARONE: If you can get that to me; you  
10 can fax it to me, whatever.

11 MS. RULE: Okay. And BellSouth has filed  
12 objections so they are of record.

13 MS. BARONE: Nancy?

14 MS. WHITE: That's true.

15 MS. BARONE: Okay. Nancy, you were trying  
16 to find out something from Nancy Sims.

17 MS. WHITE: Nancy Sims. I think our  
18 objections pretty much set it forth. Would you rather  
19 argue before the Commission?

20 MS. SIMS: Who are you asking?

21 MS. WHITE: I'm asking Nancy Sims.

22 MS. RULE: That wasn't me "uhmming."

23 MS. SIMS: I don't think?

24 MS. BARONE: Of course, she might decide  
25 that the full Commission will hear it. I don't know.

1           **MS. SIMS:** I think we just as soon argue it  
2 in front of the Commission, Nancy.

3           **MS. WHITE:** Okay. Well, then I guess maybe  
4 we'll have to do a Motion to Compel and Answer.

5           **MS. RULE:** If there's a chance just to do it  
6 orally and get it taken care of this afternoon or  
7 tomorrow, I think that would be a whole lot better.

8           **MS. WHITE:** I could live with that.

9           **MS. BARONE:** I will let the Chairman know.  
10 But she is on vacation and she is literally on the  
11 road, so I just wanted to let you know that --

12           **MS. WHITE:** I probably should have brought  
13 it up before she got off the phone.

14           **MS. BARONE:** I'll let her know what's going  
15 on and find out what she wants to do.

16           **MS. RULE:** You're willing to argue it, I'm  
17 willing to argue it orally.

18           **MS. WHITE:** Yeah, I'm willing to argue it  
19 orally.

20           **MS. RULE:** I think that's probably, given  
21 the short time we have, that's probably the best thing  
22 to do. If we can get the Chairman to hear it for ten  
23 minutes this afternoon or tomorrow.

24           **MS. BARONE:** If not, then --

25           **MS. RULE:** If not then Tuesday morning, I

1 guess. We don't have a lot of choice.

2 MS. BARONE: Are you going to file the  
3 Motion to Compel is my question?

4 MS. RULE: Well, depending on if we have to.  
5 If the Chairman says --

6 MS. BARONE: I know. That's my question. I  
7 asked if she is not available are you going to file --

8 MS. RULE: File it this afternoon.

9 MS. BARONE: Okay. All right. Any other  
10 matters?

11 MS. WHITE: Of course, are you saying I'd  
12 have to file my response tomorrow?

13 MS. BARONE: Yes.

14 MS. RULE: No, you could file that this  
15 afternoon, too, Nancy. I'd be happy to let you.

16 MS. WHITE: I guess -- is anybody from  
17 Sprint on the phone?

18 MS. BARONE: No.

19 MS. WHITE: They filed a "me too" for AT&T's  
20 the day after discovery that was returnable the day  
21 after discovery was over, and we've objected to those.  
22 If they are going to try to do a Motion to Compel we  
23 better find out.

24 MS. BARONE: Maybe we need to try to get  
25 them on the phone. If you'll hold on I'll try to get

1 them on the phone.

2 MS. WHITE: All right.

3 (Brief recess.)

4 MS. BARONE: While we're trying to get them  
5 on the phone, is there anything else?

6 MS. CANZANO: This is Donna Canzano.  
7 Intermedia just received today Late-filed Deposition  
8 Exhibit 17 of Bob Scheye. It says "proprietary  
9 information" and we intend to use this at hearing. I  
10 wanted to put the parties on notice.

11 MR. HATCH: Monica, this is Tracy. That  
12 goes into a question I was going to raise.

13 Now lots and lots of the paper that we've  
14 received, it's not entirely clear this every case, all  
15 of the late-filed deposition exhibits we've received,  
16 what is proprietary and what is not. That's a  
17 question I have. We have been treating them all as  
18 proprietary pending clarification. For example,  
19 Mr. Milner's, I'm not sure whether the entire stack is  
20 proprietary or not. I'm assuming it is until I hear  
21 otherwise. The question it does raise to the extent  
22 we intend to use those in the hearing process, who is  
23 going to be providing the actual copies that get  
24 handed out and gathered back up? Is that the party  
25 that's going to be using its responsibility or is

1 Staff going to undertake that? That has gone both  
2 ways in the past. I just need to know one way or the  
3 other.

4 **MS. BARONE:** I think since you have that  
5 information and since you know what you need I think  
6 it's better in this case for the parties to do that.

7 **MS. CANZANO:** This is Donna. Even if it is  
8 a part of a deposition?

9 **MR. HATCH:** That's the question. For  
10 example, Mr. Milner's -- I don't know how much is  
11 proprietary. You assume that it all is for the  
12 purposes of argument here, then is Staff going to make  
13 a sufficient number of copies so we hand it out and  
14 gather it back up, or are we? Understanding if it's  
15 proprietary we have to go through the proprietary  
16 hoops during the trial.

17 **MS. BARONE:** Right. First, let me ask  
18 Nancy, I don't think that all of Milner's late-fileds  
19 were proprietary, were they?

20 **MS. WHITE:** I don't think all of them were.

21 **MS. BARONE:** I think I remember a question  
22 on that. I think there was a notice of intent but  
23 BellSouth didn't identify which portion --

24 **MS. SIMS:** On Milner the proprietary  
25 exhibits are No. 2, 9, 12, 13, 17 and 20.

1           **MR. MCGLOTHLIN:** Read those off again.

2           **MS. SIMS:** 2, 9, 12, 13, 17 and 20.

3           **MR. HATCH:** Those are the only ones I have  
4 spent any time with -- a lot, frankly, but I don't  
5 know about any or all of the others either. But the  
6 begs the question.

7           **MS. CANZANO:** This is Donna Canzano. May I  
8 make a suggestion?

9           **MS. BARONE:** Certainly.

10          **MS. CANZANO:** Is it possible -- I don't know  
11 Nancy, either of the Nancys -- you have time to do  
12 this, if you could prepare a list of the deposition  
13 exhibits that you consider to be proprietary and fax  
14 it to all of the parties and Staff so everybody knows  
15 we treat them as confidential. That still doesn't  
16 answer the other question, the main question.

17          **MS. BARONE:** I know. Whether Staff will or  
18 whether --

19          **MS. CANZANO:** Especially given the fact that  
20 Staff has said, represented to us, Monica, that you  
21 intend to introduce the entire deposition.

22          **MS. BARONE:** Right.

23          **MS. CANZANO:** Do you also intend to  
24 introduce into evidence the late-fileds?

25          **MS. BARONE:** Yes. So we will have all of



1 that available. I guess what I need to do is make  
2 sure that my understanding is that Staff will have all  
3 of that. And what I'll do, is I will confirm that  
4 with you before the hearing. I'll try to do that by  
5 tomorrow in terms of making the copies and having that  
6 available for everybody.

7 MS. WHITE: As far as -- Donna, was it you  
8 who said you all are going to use Late-filed 17 of  
9 Scheye's.

10 MS. CANZANO: Yes.

11 MS. WHITE: I believe we filed a Notice of  
12 Intent on it so it will just have to be kept  
13 proprietary when we use it.

14 MS. SIMS: Yes, 17 is proprietary.

15 MS. CANZANO: Absolutely, and we will treat  
16 it as such.

17 MS. WHITE: Nancy, do you have a list right  
18 now of Scheye's --

19 MS. SIMS: Yes. It's 9, 14, 16 and 17.

20 MS. WHITE: Are proprietary.

21 MS. SIMS: Right.

22 MS. RULE: How about the others while you're  
23 at it?

24 MS. SIMS: Well, the only other one I've got  
25 is is Stacy. I've got to write out Varner. Of

1 course, Calhoun's hasn't been filed. Stacy is 4, 5,  
2 6, 7 and 8. I'll check on Varner. I don't know if  
3 Varner had any that were proprietary, but I'll check  
4 on that. I don't think he did but --

5 MS. BARONE: I'll tell you what, if you will  
6 just give me a list, we will fax out that to the  
7 parties.

8 MS. SIMS: Okay. You just want on the  
9 deposition exhibits.

10 MS. BARONE: Yes. Which ones?

11 MS. WHITE: Numbers of the ones that are  
12 proprietary.

13 MS. SIMS: Okey-dokey.

14 MR. HOFFMAN: Nancy White, this is Ken  
15 Hoffman.

16 MS. WHITE: Yes.

17 MR. HOFFMAN: I think Nancy Sims mentioned  
18 is Stacy 4, 5, 6, 7 and 8. I don't think that we have  
19 those. Are those on their way?

20 MS. SIMS: I don't know how they are  
21 distributed, Nancy, the proprietary ones.

22 MS. WHITE: I don't either. I think the  
23 proprietary ones, Staff was the only one who got a  
24 whole copy and we were trying to send the parties  
25 their pieces of the proprietary information, isn't

1 that right, Nancy?

2 MS. SIMS: Yes.

3 MS. WHITE: So if there wasn't any  
4 information concerning your client in Stacy's  
5 late-fileds, that may be why you didn't get anything.  
6 But the only thing I can say is we can go back and  
7 look.

8 MR. HOFFMAN: Okay. Particularly on 6,  
9 Late-filed Deposition Exhibit 6, Nancy, that was the  
10 call blocking information.

11 MS. WHITE: Right. So then you definitely  
12 would have had something.

13 MR. HOFFMAN: That request pertains not only  
14 to Teleport but to other ALECs and independent LECs.

15 MS. WHITE: Nancy, could you check that one  
16 out?

17 MS. SIMS: Yeah.

18 MS. WILSON: Nancy, this is Laura Wilson.  
19 If you could check the same type of thing for me as  
20 well. I sent a letter last week requesting the  
21 confidential information supplied on behalf of our  
22 members, and confirmation to the extent that there was  
23 no information supplied, confirmation of that so I  
24 would know. I haven't yet received any of that  
25 information. I think most of it related to

1 Mr. Varner's late-filed deposition exhibits.

2 MS. SIMS: I'll check on that.

3 MS. WILSON: Thank you.

4 MS. BARONE: Has anyone joined the call?

5 MR. FINCHER: Yeah, Monica. I just got in  
6 the office about five minutes ago. I have been out of  
7 town all week.

8 MS. BARONE: Okay. Before we go back to the  
9 Motion to Compel, is there anything else?

10 MR. HORTON: Monica, this is Doc. I think I  
11 sent a letter to you yesterday about a scheduling  
12 conflict I've got with a witness I don't know when I  
13 need to address that with you.

14 MS. BARONE: Okay. I haven't seen that yet,  
15 Doc.

16 MR. HORTON: I sent a copy to all of the  
17 parties. There's a hearing that the second week and  
18 just wanted to see if we could get a day certain for  
19 Jim Falvey to testify since he's involved in that  
20 other hearing.

21 MS. WHITE: First week?

22 MR. HORTON: Second week. We're just asking  
23 if we could take him on September 8th.

24 MS. BARONE: What you can do is I'll ask the  
25 Chairman and if -- what you probably need to do is

1 just bring that up as a preliminary matter at the  
2 hearing.

3 **MS. WHITE:** I've got one too. Mr. Stacy --  
4 I sincerely doubt we will reach him -- but just in  
5 case Mr. Stacy is not available next Wednesday, as I  
6 said, I sincerely doubt we would reach him since he's  
7 our last witness on Wednesday but just in case he  
8 would not be available.

9 **MR. McGLOTHLIN:** I don't think it's going to  
10 be a problem.

11 **MS. WHITE:** I don't think so either but I  
12 figured I better mention it just in case some miracle  
13 happens.

14 **MS. BARONE:** Okay.. Anything else?

15 All right. Nancy and Marsha, do you want to  
16 bring Ben up to speed on the Motion to Compel.

17 **MS. WHITE:** Yeah. Been, Marsha filed some  
18 interrogatories and PODs that we've objected to, and  
19 you all have filed a "me too," filed the same  
20 objections plus one saying you were a day late. AT&T  
21 is planning on either filing or orally arguing a  
22 Motion to Compel, and I wanted to know if you all are  
23 going to move forward on that basis as well?

24 **MR. FINCHER:** Nancy, to be honest with you  
25 I'd have to check and see. I've been out of town all

1 week in Kentucky, just walked back in the door. I  
2 don't have the file front of me. Can I check on that  
3 and get back with you?

4 **MS. WHITE:** You'd have to get back to  
5 Monica.

6 **MR. FINCHER:** Right. Okay. Let me get back  
7 to Monica. We probably would just -- you know, since  
8 we "me too" with AT&T, we'll probably just follow AT&T  
9 on that. Let me check on that. Monica, I can get  
10 back with you within the hour.

11 **MS. BARONE:** Okay. Great. All right.  
12 Anything else? Okay.

13 Then I'll get back with you on the  
14 late-filed confidential exhibits, and if we're going  
15 to make enough packets or everyone. And the exhibit  
16 packets with cover sheets are available for you to  
17 pick up. I will speak with the Chairman when she  
18 calls me about this Motion to Compel, whether she can  
19 hear it orally. And I need to know which specific  
20 interrogatories those are, Marsha if you could let me  
21 know that.

22 **MS. RULE:** Well --

23 **MS. BARONE:** Did you only have one set?

24 **MS. RULE:** Yes. Okay. But we had one set  
25 of those interrogatories, one set of PODs. And Bell

1 has objected to many of the PODs and interrogatories.  
2 But I will give you specific list. And, Nancy, I'll  
3 fax you same list so you know what Monica is working  
4 from.

5 MS. BARONE: Are you basically compelling  
6 everything they objected to?

7 MS. RULE: Yes.

8 MS. BARONE: Okay. No problem. I'll just  
9 take a look at that. And you don't need to send me a  
10 list. Okay. I think that's it.

11 If we're going to have a call on the motion,  
12 do any of the parties want to know other than those  
13 that are involved?

14 MS. KAUFMAN: The Association wants to know.

15 MS. BARONE: We'll just send out another  
16 fax. All right. And we will fax you a list of the  
17 proprietary information attached to the depositions.  
18 I think that's the last thing that we discussed. All  
19 right. Thank you. That's it.

20 (Hearing concluded at 12:15 p.m.)

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1 STATE OF FLORIDA)  
2 COUNTY OF LEON )

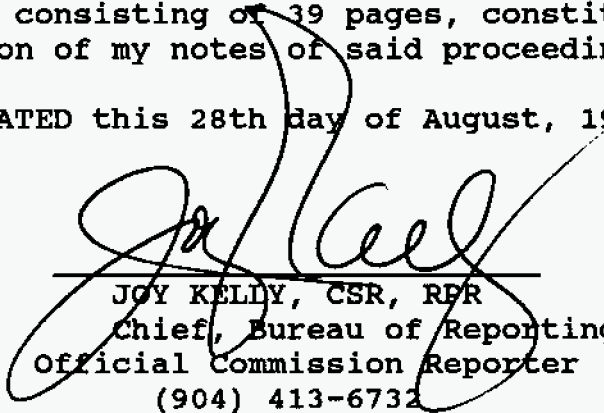
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3 I, JOY KELLY, CSR, RPR, Chief, Bureau of  
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7 Officer at the time and place herein stated; it is  
8 further

9 CERTIFIED that I stenographically reported  
10 the said proceedings; that the same has been  
11 transcribed under my direct supervision; and that this  
12 transcript, consisting of 39 pages, constitutes a true  
13 transcription of my notes of said proceedings.

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Chief, Bureau of Reporting  
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