

CASE NO. 88,627

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

Resolution of petition(s) to
establish nondiscriminatory rates,
terms, and conditions for
resale involving local exchange
companies and alternative local
exchange companies pursuant to
Section 364.162, F.S.

DOCKET NO. 950984-TP

PROCEEDINGS:

PREHEARING CONFERENCE

BEFORE:

COMMISSIONER J. TERRY DEASON

DATE:

Friday, December 22, 1995

TIME:

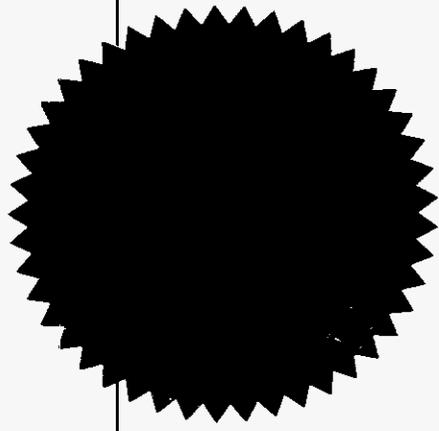
Commenced at 10:23 a.m.
Terminated at 10:35 a.m.

PLACE:

Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY:

SARAH B. GILROY, CP, RPR
Notary Public in and for
the State of Florida at
Large



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Tallahassee, Florida 32302
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FPSC-RECORDS/REPORTING

1 PARTICIPATING:

2 DONNA CANZANO, ROBERT ELIAS, TRACY HATCH, SCOTT
3 EDMONDS, FPSC Division of Legal Services.

4 PRENTICE P. PRUITT, FPSC Office of General Counsel
5 KENNETH A. HOFFMAN, Teleport Communications Group,
6 Inc.

7 DONALD L. CROSBY, Continental Cablevision, Inc.

8 RICHARD M. RINDLER, Metropolitan Fiber Systems of
9 Florida, Inc.

10 RICHARD D. MELSON, MCI Metro Access Transmission
11 Services, Inc.

12 CHARLES W. MURPHY, Time Warner AXS of Florida
13 Limited Partnership and Digital Media Partners

14 R. DOUGLAS LACKEY, NANCY B. WHITE, BellSouth
15 Telecommunications, Inc. d/b/a Southern Bell Telephone and
16 Telegraph Company

17 MICHAEL W. TYE, AT&T Communications of the Southern
18 States, Inc.

19 LAURA L. WILSON, Florida Cable Telecommunications
20 Association, Inc.

21 FLOYD R. SELF, NORMAN H. HORTON, JR., McCaw
22 Communications of Florida, Inc. and its regional affiliates

23 C. EVERETT BOYD, JR., Sprint Communications Company
24 Limited Partnership
25

1 (Hearing convened at 10:23 a.m.)

2 COMMISSIONER DEASON: Okay. We will go ahead and
3 proceed. We will begin by having notice read.

4 MS. CANZANO: Pursuant to notice issued September
5 22nd, 1995 the prehearing conference has been set for
6 this time and place in Docket 950984-TP.

7 COMMISSIONER DEASON: Take appearances.

8 MR. MURPHY: Charles Murphy on behalf of Time
9 Warner Access of Florida Limited Partnership and Digital
10 Media Partners.

11 MS. WILSON: Laura Wilson appearing on behalf of
12 the Florida Cable Telecommunications Association.

13 MR. RINDLER: Richard Rindler appearing on behalf
14 of Metropolitan Fiber Systems of Florida, Inc.

15 MS. WHITE: Nancy White and Doug Lackey appearing
16 on behalf of BellSouth Telecommunications, 675 West
17 Peachtree Street, Atlanta, Georgia 30375.

18 MR. MELSON: Richard Melson of the law firm
19 Hopping, Green, Sams & Smith, P. O. Box 6526,
20 Tallahassee appearing on behalf of MCI Metro Access
21 Transmission Services, Inc. With me at the hearing will
22 be Michael J. Henry of MCI in Atlanta.

23 MR. TYE: Michael W. Tye, 101 North Monroe Street,
24 Suite 700, Tallahassee, Florida, 32301, appearing on
25 behalf of AT&T Communications of Southern States, Inc.

1 Appearing with me at the hearing will be Robin D. Dunson
2 of the AT&T legal department in Atlanta.

3 MR. SELF: Floyd R. Self and Norman H. Horton, Jr.
4 of the Messer, Caparello law firm, P. O. Box 1876,
5 Tallahassee, Florida, appearing on behalf of WorldCom
6 Inc., d/b/a LDDS WorldCom Communications.

7 MR. BOYD: Everett Boyd of the Ervin, Varn law
8 firm, Post Office Box 1170, Tallahassee, Florida on
9 behalf of Sprint Communications Company Limited
10 Partnership.

11 MR. WIGGINS: Patrick K. Wiggins, law firm of
12 Wiggins & Villacorta, P. O. Box 1657, Tallahassee, 32302
13 here on behalf of Intermedia Communications of Florida,
14 Inc.

15 MR. ELIAS: Robert V. Elias, appearing with Donna
16 Canzano, Tracy Hatch and Scott Edmonds on behalf of the
17 Public Service Commission staff. Our address is 2540
18 Shumard Oak Boulevard, Tallahassee, Florida.

19 MR. PRUITT: And I'm Prentice Pruitt, same address,
20 counsel to the Commissioners.

21 COMMISSIONER DEASON: Staff, are there any parties
22 who are listed on the draft prehearing order who did not
23 make an appearance today?

24 MS. CANZANO: I think everybody is here.

25 COMMISSIONER DEASON: Very well. Are there any

1 preliminary matters? Staff, no preliminary matters?

2 MS. CANZANO: None that I know of.

3 COMMISSIONER DEASON: Any parties have any
4 preliminary matters? Very well. We will proceed then
5 into the draft prehearing order. And we will begin with
6 Section 1, case background. Changes to the case
7 background?

8 Section 2 addresses procedure for handling
9 confidential information, which is standard. Changes or
10 corrections? Questions?

11 Section 3 addresses the prefiled testimony and
12 exhibits.

13 Section 4, order of witnesses. Changes or
14 questions concerning order of witnesses?

15 MR. LACKEY: I have one, Mr. Chairman.

16 COMMISSIONER DEASON: Yes.

17 MR. LACKEY: In this one I have essentially the
18 same problem I had in 85, and that is that Mr. Guedel is
19 testifying after my witnesses. I would request that he
20 be placed after Dr. Cornell and before the BellSouth
21 witnesses in this proceeding.

22 And I'm going to make the same request with regard
23 to the rebuttal, and that's Mr. Joe Gillan, testifying
24 on behalf of AT&T again.

25 COMMISSIONER DEASON: Mr. Tye?

1 MR. TYE: I have no objection to moving Mr. Guedel
2 ahead of the BellSouth witnesses and behind Dr. Cornell
3 on direct, Commissioner Deason.

4 I don't know if we're going to combine direct and
5 rebuttal here. I think I do have a problem with putting
6 Mr. Gillan on the stand ahead of the witnesses that he's
7 going to be rebutting.

8 COMMISSIONER DEASON: Okay. Well you've kind of
9 raised another question; that is, the combining of
10 direct and rebuttal testimony for hearing purposes.
11 Maybe we need to address that at this time.

12 What is staff's intent or understanding -- first of
13 all, has there been any understanding reached by the
14 parties as to whether direct and rebuttal will be taken
15 together?

16 MS. CANZANO: Not that I'm aware, we haven't
17 discussed that.

18 COMMISSIONER DEASON: Okay. Does staff have a
19 preference?

20 MS. CANZANO: No, we don't.

21 COMMISSIONER DEASON: Okay. I will take comments
22 from any of the interested parties as to that question.

23 MR. RINDLER: Your Honor, I would move that in fact
24 we do have combined testimony from the witnesses. I
25 think it's been used recently by the Commission in a

1 number of proceedings and quite effectively. And I
2 think it reduces the time for the hearings.

3 MR. LACKEY: I agree with the attorney for MFS. I
4 think combining it will facilitate matters.

5 COMMISSIONER DEASON: Mr. Melson?

6 MR. MELSON: I hate to be the grinch that stole
7 Christmas. But at this point I have a problem with
8 combining direct and rebuttal.

9 There is substantial rebuttal by Dr. Cornell to
10 Dr. Banerjee. And it seems to me that rebuttal would be
11 best understood if Mr. Banerjee had previously been on
12 the stand and been cross-examined.

13 So I may feel differently at the hearing. But at
14 this point I would have a problem with combining the
15 two.

16 COMMISSIONER DEASON: Mr. Tye?

17 MR. TYE: Commissioner Deason, the only problem I
18 have is, if we do combine the two, since Mr. Gillan has
19 no direct testimony, I would ask that he go after the
20 BellSouth witnesses.

21 MR. LACKEY: Mr. Chairman, I would have no
22 objection to that, since Mr. Gillan filed no direct.

23 COMMISSIONER DEASON: Mr. Self?

24 MR. SELF: I'm amenable to whatever the parties
25 agree to.

1 COMMISSIONER DEASON: Any other comments? Given
2 that the normal sequence is to have direct and rebuttal,
3 and we do have an objection by one of the parties, I'm
4 going to rule that we will have direct and then rebuttal
5 separate. But given the time at hearing and that there
6 will be -- the Chairman will be presiding over these
7 hearings, she may be inclined to do otherwise. And
8 obviously that's her prerogative too.

9 But at least as prehearing officer I'm not going to
10 direct that we combine direct and rebuttal testimony.

11 MR. LACKEY: Mr. Chairman, my acquiescence in
12 putting Mr. Gillan last only went to the extent that we
13 combine the testimony --

14 COMMISSIONER DEASON: I understand that. So we're
15 now back to the question of the order of witnesses with
16 the understanding that we will have direct and then
17 rebuttal. There is no -- there is no objection,
18 Mr. Tye, to placing Mr. Guedel following Dr. Cornell?

19 MR. TYE: No, sir, no objection to that. And if we
20 do not combine direct and rebuttal, I don't object to
21 placing Mr. Gillan after Dr. Cornell in the rebuttal
22 phase.

23 COMMISSIONER DEASON: Very well. In the rebuttal
24 then Mr. Gillan will follow Dr. Cornell.

25 MR. TYE: Thank you, sir.

1 COMMISSIONER DEASON: Any other questions following
2 the order of witnesses?

3 MR. TYE: Mr. Chairman, there was one other thing
4 we talked about in the previous docket. If by some odd
5 reason Mr. Gillan gets to the point where he has to be
6 able to get on the stand Wednesday he probably won't be
7 here. He's available Thursday and Friday for this
8 case.

9 COMMISSIONER DEASON: Right now this is going to
10 proceed following the interconnection --

11 MR. TYE: Yes, sir. I don't think there is a
12 danger of that happening.

13 COMMISSIONER DEASON: But he will be available
14 Thursday and Friday?

15 MR. TYE: Thursday and Friday, yes, sir.

16 COMMISSIONER DEASON: I don't think there will be a
17 problem. But if there is, bring it to our attention.
18 I'm sure we will make every endeavor to make that
19 accommodation.

20 MR. TYE: Thank you, sir.

21 MS. CANZANO: I just have a clarification. The
22 draft prehearing order does not indicate that Divine
23 filed rebuttal testimony. But I think he filed rebuttal
24 testimony; is that right? That's what I thought. I
25 just need to make sure I need to put him in prior to Don

1 Price for rebuttal.

2 COMMISSIONER DEASON: I'm sorry, who filed rebuttal
3 testimony?

4 MS. CANZANO: Mr. Divine for MFS, and he would be
5 prior to Don Price for rebuttal. I just omitted that,
6 my error.

7 COMMISSIONER DEASON: So you're going to make that
8 change then?

9 MS. CANZANO: Yes, I will.

10 COMMISSIONER DEASON: Any other questions
11 concerning order of witnesses? Very well.

12 We will proceed then to Section 5, basic
13 positions. Changes to basic positions?

14 MR. MURPHY: Like last time, Time Warner has
15 changed its positions or amended them in light of the
16 approved stipulation that we've distributed these and
17 would ask that staff adopt those in the prehearing
18 order.

19 COMMISSIONER DEASON: They will be incorporated.
20 Other changes? Ms. Wilson.

21 MS. WILSON: We have no changes.

22 MR. RINDLER: We have no changes, but we would like
23 the same right, which is with respect to the changes
24 handed in today, we would have the opportunity to speak
25 to that by the same deadline.

1 COMMISSIONER DEASON: Is there a Wednesday noon
2 deadline on that as well?

3 MS. CANZANO: That would be just fine with me.

4 MR. RINDLER: Thank you, Your Honor.

5 COMMISSIONER DEASON: Any changes that need to be
6 made? There is a Wednesday deadline. Are there any
7 changes that need to be discussed here today to basic
8 positions?

9 MR. WIGGINS: It's just simple enough for me to say
10 we're going to be taking no position on the basic
11 position and other issues as well.

12 COMMISSIONER DEASON: Very well. That's
13 Intermedia; correct?

14 MR. WIGGINS: Yes, sir.

15 COMMISSIONER DEASON: We will proceed now to the
16 specific issues which are addressed in Section 6. Issue
17 1, changes or corrections? Issue 2? Issue 3? Issue
18 4?

19 Any questions or concerns with the issues
20 generally? Very well. That concludes Section 5 -- I'm
21 sorry, Section 6.

22 Section 7 addresses the exhibit list. Changes or
23 corrections to the exhibit list? Section 8 addresses
24 the proposed stipulation. Section 9, pending motions.
25 I understand there are no pending motions.

1 Is there anything else to be brought before the
2 prehearing officer in Docket 984?

3 MR. LACKEY: Mr. Chairman, it's me again.

4 COMMISSIONER DEASON: Yes.

5 MR. LACKEY: MFS and BellSouth have the same
6 agreement with regard to discovery that we discussed in
7 the 985 docket in this docket as well. And as with the
8 earlier docket, we have discovery outstanding I think to
9 all the parties in this proceeding. And with regard to
10 any party who has signed an agreement with us on this
11 matter, we withdraw that discovery.

12 COMMISSIONER DEASON: Okay. I show that discovery
13 withdrawn. Any other matter to be brought before the
14 prehearing officer?

15 MS. CANZANO: None that I'm --

16 COMMISSIONER DEASON: Does staff have any
17 outstanding discovery?

18 MS. CANZANO: No, not in this docket with regard to
19 people who had signed the agreement.

20 COMMISSIONER DEASON: Very well. Anything else?
21 Hearing none -- before I conclude I want to express my
22 appreciation to the staff on handling this complex
23 matter in a short time frame and to all the parties as
24 well and wish everyone a happy holidays, and we will be
25 prepared to start the work in January.

1 Thank you all. The prehearing conference is
2 adjourned.

3 (The proceedings were concluded at 10:35 p.m.)
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STATE OF FLORIDA)

CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, SARAH B. GILROY, CP, RPR

DO HEREBY CERTIFY that the Prehearing Conference in Docket No. 950984-TP was heard by Commissioner J. Terry Deason at the time and place herein stated; it is further

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

DATED this 26th day of December, 1995.

Sarah B. Gilroy

SARAH B. GILROY

STATE OF FLORIDA)

COUNTY OF LEON)

The foregoing certificate was acknowledged before me this 26th day of December, 1995, by SARAH B. GILROY, who produced a Florida driver's license as identification.

Notary Public - State of Florida
My Commission No.