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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of petition (s)  
to establish nondiscriminatory  
rates, terms, and conditions for  
resale involving exchange companies  
and alternative local exchange  
companies pursuant to Section  
364.162, Florida Statutes

DOCKET NO. 950984-TP

IN RE: PREHEARING CONFERENCE  
BEFORE: COMMISSIONER J. TERRY DEASON  
PLACE: BETTY EASLEY CONFERENCE  
CENTER, ROOM 152  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA  
TIME: COMMENCED AT 2:00 P.M.  
CONCLUDED AT 2:20 P.M.  
DATE MARCH 1, 1996  
REPORTED BY: NANCY S. METZKE, RPR, CCR  
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3 Service Commission.

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6 20007.

7 RICHARD D. MELSON, ESQUIRE, MCI Metro, Hopping,  
8 Green, Sams & Smith, Post Office Box 6526, Tallahassee,  
9 Florida 32314.

10 J. JEFFREY WAHLEN, ESQUIRE, Sprint United-Centel,  
11 McFarlane, Ausley, Ferguson and McMullen, 227 South Calhoun  
12 Street, Tallahassee, Florida 32301.

13 FLOYD R. SELF, ESQUIRE, LDDS WorldCom, Messer,  
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18 DONALD L. CROSBY, ESQUIRE, Continental  
19 Cablevision, 7800 Belfort Parkway, Suite 270, Jacksonville,  
20 Florida 32256-6925.

21 ROBERT S. COHEN, ESQUIRE, Time Warner and Digital  
22 Media Partners, Pennington, Culpepper, Moore, Wilkinson,  
23 Dunbar & Dunlap, P.A., Post Office Box 10095, Tallahassee,  
24 Florida 32302-2095.

25 ANTHONY P. GILLMAN, ESQUIRE, GTE Florida, Post  
Office Box 110, FLTC0007, Tampa, Florida 33601.

PATRICK K. WIGGINS, ESQUIRE, Intermedia, Wiggins  
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Florida 32302.

ROBIN D. DUNSON, ESQUIRE, AT&T, 1200 Peachtree  
Street N.E., Promenade I, Room 4038, Atlanta, Georgia  
30309.

\* \* \* \*

P R O C E E D I N G S

1  
2 COMMISSIONER DEASON: We'll proceed then directly  
3 into the 84 docket. We'll begin by having the notice  
4 read.

5 MS. CANZANO: Pursuant to notice, a prehearing  
6 conference has been set for this time and place in  
7 Docket 950984.

8 COMMISSIONER DEASON: Thank you. Take  
9 appearances.

10 MR. COHEN: Bob Cohen of the Pennington law firm,  
11 Tallahassee, for Time Warner and Digital Media  
12 Partners. The address, P. O. Box 10095, Tallahassee,  
13 32302.

14 MR. WAHLEN: Jeff Wahlen and Lee L. Willis of the  
15 McFarlane, Ausley law firm, P. O. Box 931,  
16 Tallahassee, Florida, 32302. On behalf of Central  
17 Telephone Company of Florida and United Telephone.

18 MR. GILLMAN: Tony Gillman, One Tampa City  
19 Center, Post Office Box 110, Tampa, Florida, 33601.  
20 Appearing in this docket on behalf of GTE Florida,  
21 Incorporated.

22 MR. WIGGINS: Patrick Wiggins, Wiggins &  
23 Villacorta, P. O. Box 1657, Tallahassee, 32302.  
24 Appearing on behalf of Intermedia Communications of  
25 Florida, Inc.

1 MS. WILSON: Laura Wilson appearing on behalf of  
2 the Florida Cable Telecommunications Association, 310  
3 North Monroe Street, Tallahassee, Florida 32301.

4 MR. MELSON: Richard Melson of the law firm  
5 Hopping, Green, Sams & Smith P.A., P. O. Box 6526,  
6 Tallahassee, appearing on behalf of MCI Metro Access  
7 Transmission Services, Inc.

8 MS. DUNSON: Robin Dunson appearing on behalf of  
9 AT&T Communications of the Southern States, Inc., 1200  
10 Peachtree Street, Atlanta, Georgia, 30309.

11 I would also like to enter an appearance for Mike  
12 Tye as well as Mark Logan and Brian Ballard of the law  
13 firm Bryant, Miller and Olive, 201 South Monroe  
14 Street, Suite 500, Tallahassee, Florida, 32301.

15 MR. FALVEY: James Falvey and Richard Rindler of  
16 the law firm of Swidler & Berlin, 3000 K Street N.W.,  
17 Suite 300, Washington, D.C. on behalf of Metropolitan  
18 Fiber Systems of Florida.

19 MR. SELF: Floyd Self and Norman H. Horton, Jr.  
20 of the Messer, Caparello law firm, P. O. Box 1876,  
21 Tallahassee, Florida. Appearing on behalf of WorldCom  
22 Inc., d/b/a, LDDS, WorldCom communications.

23 MS. CANZANO: Donna Canzano, Tracy Hatch and  
24 Scott Edmonds, appearing on behalf of the Commission  
25 staff, 2540 Shumard Oak Boulevard, Tallahassee,

1 Florida.

2 COMMISSIONER DEASON: Thank you. Preliminary  
3 matters.

4 MS. CANZANO: Again, we have the same preliminary  
5 matters that we just heard in Docket 950985. It would  
6 be a proposed stipulation by GTE and MFS and a request  
7 for oral argument and a motion filed by United-Centel.

8 COMMISSIONER DEASON: Well, the motion that was  
9 filed by Sprint-Centel, the ruling would be the same  
10 as was done earlier, and the issue will be added to  
11 the issues. And when we get to that issue if there is  
12 any concern with the wording, likewise, we can discuss  
13 it. But apparently there was no concern earlier, so I  
14 don't anticipate any concern in this docket either.

15 The stipulation I assume that it will be handled  
16 similarly as it was handled in the -- or it will be  
17 planned to be handled in the 85 docket.

18 MS. CANZANO: That's a good idea.

19 COMMISSIONER DEASON: Very well. Any other  
20 concerns?

21 MR. GILLMAN: Well, the only comments about that,  
22 we just have one document, one stipulation that deals  
23 with both dockets, issues in both dockets.

24 COMMISSIONER DEASON: Well, I think the reality  
25 of it is, is when it is addressed by the Commission in

1 the 85, well, then it will be -- that in effect will  
2 be addressing it for the 84 docket. Perhaps the  
3 commissioners themselves need to be told of the effect  
4 of the stipulation itself and it does affect more than  
5 one docket. I'm sure that it probably will be self  
6 evident when the stipulation itself is reviewed.

7 MS. CANZANO: Yes.

8 COMMISSIONER DEASON: Any other preliminary  
9 matters?

10 MS. CANZANO: None that I'm aware.

11 COMMISSIONER DEASON: Okay. We will proceed into  
12 the draft prehearing order, Section I, case  
13 background; Section II, confidential information.

14 Mr. Melson.

15 MR. MELSON: Commissioner Deason, in accordance  
16 with the requirement to give seven days' notice, MCI  
17 Metro would like to give notice that we intend to use  
18 some confidential discovery documents of GTE Florida  
19 and Sprint United-Centel as exhibits at the hearing.

20 MR. FALVEY: Commissioner Deason, MFS would  
21 likewise to give notice that it may use confidential  
22 documents of GTE and Sprint United-Centel at the  
23 hearing and that we are familiar with the procedures  
24 for handling such documents.

25 COMMISSIONER DEASON: Okay. Any other parties

1 going to use confidential information?

2 MS. CANZANO: Staff may also use confidential  
3 material produced during discovery.

4 COMMISSIONER DEASON: Very well. Section III,  
5 prefiled testimony and exhibits.

6 (NO RESPONSE)

7 COMMISSIONER DEASON: Section IV, order of  
8 witnesses.

9 MR. WAHLEN: Commissioner Deason, I would make  
10 the same suggestion I made in the previous docket, and  
11 that would be to have the intervenor witnesses come  
12 after MFS and before GTEFL in the order and for direct  
13 and rebuttal to be taken together at the same time.

14 COMMISSIONER DEASON: Any objection to this  
15 suggestion?

16 MS. DUNSON: AT&T doesn't have any objections;  
17 however, we would like for Mr. Guedel to go before  
18 Mr. Gillan since Mr. Gillan is only offering rebuttal  
19 testimony.

20 COMMISSIONER DEASON: Very well.

21 MR. WAHLEN: And United and Centel would also  
22 request that Witness Khazraee be moved before Witness  
23 Poag in the order of witnesses.

24 COMMISSIONER DEASON: Any objection?

25 (NO RESPONSE)

1           COMMISSIONER DEASON: Very well that change will  
2 be made.

3           Any other concerns with the order of witnesses?  
4           (NO RESPONSE)

5           COMMISSIONER DEASON: Very well. Section V,  
6 basic positions. Changes or corrections?  
7           (NO RESPONSE)

8           COMMISSIONER DEASON: Section VI, issues and  
9 positions. Issue 1?  
10           (NO RESPONSE)

11           COMMISSIONER DEASON: Issue 2?  
12           (NO RESPONSE)

13           COMMISSIONER DEASON: Issue 3?  
14           (NO RESPONSE)

15           COMMISSIONER DEASON: Issue 4?  
16           (NO RESPONSE)

17           COMMISSIONER DEASON: And Issue 5 will be added  
18 consistent with the previous ruling. Any changes or  
19 concerns with the wording?  
20           (NO RESPONSE)

21           COMMISSIONER DEASON: And the positions for Issue  
22 5 I think would be consistent with the positions that  
23 would be taken in the 85 docket, and those positions  
24 can simply be incorporated into the 84 order. Is  
25 there any objection to that procedure?

1 (NO RESPONSE)

2 COMMISSIONER DEASON: Very well.

3 MR. WAHLEN: Could I ask one question on that?  
4 It just came to mind, and I apologize for not raising  
5 it beforehand. Do you anticipate that the Commission  
6 will render a decision on these legal issues at the  
7 conclusion of oral argument, or will it be something  
8 that is addressed in the briefing schedule? And the  
9 reason that I ask is because if the Commission's  
10 ruling is that the non-petitioning ALECs will be bound  
11 by the decision, I guess it's conceivable that those  
12 may elect to just not participate any further. And if  
13 that's what we want to do, we don't have any objection  
14 to that, but I don't want to preempt the Commission's  
15 decision on that.

16 COMMISSIONER DEASON: I can't speak for the other  
17 commissioners, and I don't know what they will be  
18 prepared to do, that is why I'm asking staff to make  
19 them -- have them a file prepared with all of the  
20 filings and all necessary background information so  
21 that at -- hopefully at the conclusion of oral  
22 argument a decision can be made. That is what my  
23 desire and my recommendation to my fellow  
24 commissioners would be so that parties who may be  
25 affected by that decision would know how they need to

1 proceed with the hearing. I.e., they may wish to  
2 excuse themselves from further participation. That  
3 would be my desire.

4 Obviously if we had a longer time frame to  
5 conduct these proceedings, this may be such an issue  
6 that should be briefed and orally argued before the  
7 hearing even begins, but we do not have that luxury.  
8 So yes, I would hope there would be a decision. But  
9 obviously if my fellow commissioners are not in a  
10 position to make that decision, we will just have to  
11 cross that bridge when we come to it.

12 MR. WAHLEN: Okay. That is fine. I just thought  
13 it would be good for us to know.

14 COMMISSIONER DEASON: It would be desirable to  
15 have a decision at the conclusion of oral argument.  
16 We may need to take a recess and have staff prepare  
17 some recommendations for the commissioners, but we --  
18 Here again, that will be Chairman Clark's call at that  
19 time.

20 MR. WAHLEN: Okay. Thank you.

21 COMMISSIONER DEASON: Any other questions  
22 concerning the Legal Issue 5?

23 (NO RESPONSE)

24 COMMISSIONER DEASON: Section VII, exhibit list?

25 (NO RESPONSE)

1           COMMISSIONER DEASON: Section VIII, proposed  
2 stipulations?

3           (NO RESPONSE)

4           COMMISSIONER DEASON: Section IX, pending  
5 motions. That motion is no longer pending except to  
6 the extent that there is going to be an Issue 5  
7 incorporated and will be orally argued, and that  
8 ruling can be shown in Section X.

9           Any other matters in the 85 docket -- I'm sorry,  
10 in the 84 docket?

11          (NO RESPONSE)

12          COMMISSIONER DEASON: Well, I must say this  
13 really went smoothly. Maybe it's Friday, because it's  
14 a Friday afternoon. Maybe we should start this  
15 hearing on a Friday afternoon. Thank you all for  
16 being so well prepared. This prehearing conference is  
17 adjourned.

18          (WHEREUPON, THE HEARING WAS ADJOURNED)

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COURT CERTIFICATE

STATE OF FLORIDA       )  
COUNTY OF LEON        )

I, NANCY S. METZKE, Certified Shorthand Reporter and Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 3rd day of March, 1996.

  
NANCY S. METZKE, CCR, RPR