

1 APPEARANCES:

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3 Service Commission.

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7 RICHARD D. MELSON, ESQUIRE, MCI Metro, Hopping,
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9 Florida 32314.

10 J. JEFFREY WAHLEN, ESQUIRE, Sprint United-Centel,
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13 FLOYD R. SELF, ESQUIRE, McCaw, Messer, Caparello,
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18 DONALD L. CROSBY, ESQUIRE, Continental
19 Cablevision, 7800 Belfort Parkway, Suite 270, Jacksonville,
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21 ROBERT S. COHEN, ESQUIRE, Time Warner and Digital
22 Media Partners, Pennington, Culpepper, Moore, Wilkinson,
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25 ANTHONY P. GILLMAN, ESQUIRE, GTE Florida, Post
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PATRICK K. WIGGINS, ESQUIRE, Intermedia, Wiggins
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1 P R O C E E D I N G S

2 COMMISSIONER DEASON: Call the prehearing
3 conference to order. Have the notice read, please.

4 MS. CANZANO: Yes. Pursuant to notice, a
5 prehearing conference has been set in Docket Number
6 950985 for this time and place.

7 COMMISSIONER DEASON: I take it that we are going
8 to begin with the 985 docket; is that correct?

9 MS. CANZANO: Yes, we are.

10 COMMISSIONER DEASON: Okay. Take appearances.

11 MR. COHEN: Bob Cohen for Time Warner and Digital
12 Media Partners.

13 MR. WAHLEN: Jeff Wahlen and Lee L. Willis of the
14 McFarlane, Ausley law firm, P. O. Box 391,
15 Tallahassee, Florida, 32302. Appearing on behalf of
16 Central Telephone Company of Florida and United
17 Telephone Company.

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

21 MS. CANZANO: Donald Crosby, regulatory counsel
22 for the southeastern region of Continental
23 Cablevision, 7800 Belfort Parkway, Suite 270,
24 Jacksonville, Florida, 32256.

25 MS. WILSON: Laura Wilson representing the

1 Florida Cable Telecommunications Association, 310
2 North Monroe Street, Tallahassee, Florida, 32301.

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

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

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

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

18 MR. SELF: Floyd Self and Norman H. Horton, Jr.,
19 of the Messer, Caparello law firm, P. O. Box 1876,
20 Tallahassee, Florida. Appearing on behalf of McCaw
21 Communications of Florida, Inc. and its Florida
22 regional affiliates.

23 MS. CANZANO: I'm Donna Canzano, and I'm
24 appearing on behalf of the Commission Staff, and with
25 me is Scott Edmonds and Tracy Hatch. And we are at

1 2540 Shumard Oak Boulevard, Tallahassee, Florida.

2 MR. WIGGINS: Commissioner Deason, I stepped back
3 for a minute while they went down. Pat Wiggins -- I
4 didn't want to make it too simple -- of Wiggins &
5 Villacorta, P. O. Box 1657, Tallahassee, Zip Code,
6 32302, on behalf of Intermedia Communications of
7 Florida, Inc.

8 COMMISSIONER DEASON: Are there any preliminary
9 matters?

10 MS. CANZANO: I think there are a couple. First,
11 the easy one first, that GTE and MFS have agreed to
12 stipulate certain issues. I do have one question on
13 that. I wasn't sure if Issue Number 11 is indicated
14 that is stipulated. The prehearing statement of MFS
15 says -- omits Number 11, but GTE says Number 11, if
16 they could just clarify that for me.

17 COMMISSIONER DEASON: Mr. Gillman.

18 MR. GILLMAN: It was GTE's position that this
19 issue was fully stipulated.

20 COMMISSIONER DEASON: Mr. Falvey.

21 MR. FALVEY: You know, according to my prehearing
22 statement on Page 6, it says that it is stipulated
23 also. You know, to the extent that there are minor,
24 there may be some minor operational issues that we
25 have folded over into Issue 13, and that may be where

1 the confusion arises from, but I think GTE and MFS are
2 on all four squares in terms of what we have agreed
3 upon and what we have not agreed upon.

4 MS. CANZANO: So in other words, Mr. Falvey, in
5 the section called "Proposed Stipulations," do you
6 modify that to include that it is stipulated? Because
7 that is where I'm getting that from.

8 MR. FALVEY: Yes, we can modify that to include
9 11.

10 MS. CANZANO: Thank you.

11 COMMISSIONER DEASON: Okay.

12 MS. CANZANO: And there is a second preliminary
13 matter. United-Centel has filed a motion, and a
14 number of parties have responded to that motion, and
15 United-Centel has requested oral argument regarding
16 that motion.

17 COMMISSIONER DEASON: Who has requested oral
18 argument? Mr. Wahlen, you requested oral argument?

19 MR. WAHLEN: Yes, we have.

20 COMMISSIONER DEASON: Is oral argument
21 discretionary?

22 MS. CANZANO: Yes, it is.

23 COMMISSIONER DEASON: Okay. I've read all of
24 the -- I've read the motion and the responses to that
25 motion, and I'm prepared to rule on it. Is now the

1 appropriate time?

2 MS. CANZANO: Yes, it is.

3 COMMISSIONER DEASON: Okay. I'm going to allow
4 the issue, which you have described to be included in
5 both dockets, it will be enumerated as an issue. It
6 will be determined by the full commission. I'm also
7 going to allow oral argument on that issue at the
8 beginning of the hearing, the first day of the
9 hearing. All parties who wish to present oral
10 argument on that legal issue should be prepared to do
11 so at that time, and that's how we are going to
12 resolve the matter.

13 And all parties are put on notice that this could
14 be binding on them as a result of the decision by the
15 full commission, and you need to conduct yourselves
16 accordingly. And I realize there is some risk
17 involved with you participating in this docket, that
18 you potentially could be bound by a decision that
19 perhaps you don't want to be bound by. That is your
20 decision. If we were in a more relaxed time schedule,
21 perhaps we could set this issue for its own separate
22 oral argument with perhaps a resolution before the
23 hearing begins, but we know we are on a shortened time
24 frame; we don't have that luxury.

25 I think it is a valid issue. I don't know what

1 the result is going to be. I think it needs to be
2 addressed by the full commission, and this is the most
3 expeditious and fair way I know to handle the
4 situation, and that's the way it will be resolved.

5 Any other preliminary matters?

6 MS. CANZANO: Just one further one because it
7 also is an issue in the 984 docket, the resale docket,
8 and I believe all the parties present at this time are
9 also in the 84 and 85 dockets. Would they agree to
10 stipulate today the decision, so we just hear this
11 oral argument once?

12 COMMISSIONER DEASON: I agree that the argument
13 is essentially the same, it should only be heard once,
14 and we can take it up in the 85 docket. The 85 docket
15 is the hearing that begins --

16 MS. CANZANO: That begins March 11th.

17 COMMISSIONER DEASON: Right. Okay. All right.
18 Is there any objection to having the issue orally
19 argued at the beginning of the hearing in the 85
20 docket and having that determination also be effective
21 for the 84 docket?

22 MR. WAHLEN: We don't have any objection to that.
23 As indicated in our motion, we think people should
24 have one bite at the apple, so we don't need to handle
25 it in both dockets.

1 COMMISSIONER DEASON: Any other concerns or
2 comments?

3 MR. SELF: Commissioner Deason we have no
4 objection. But for the record, LDDS WorldCom is a
5 party in the 984 docket, and McCaw is a party to the
6 985 docket; but we would be happy to just have the one
7 argument.

8 COMMISSIONER DEASON: Very well.
9 Okay. Any other preliminary matters?

10 MR. MELSON: Just a matter of the clarification.
11 The issue that will be added will be the issue as
12 worded in GTE, Sprint's motion?

13 COMMISSIONER DEASON: Yes, but if there is a
14 problem with that wording, I'm open to discussing
15 that. It doesn't, I think that pretty much addresses
16 what the basic issue is, but if there is some
17 modification of that issue or fine tuning of the
18 wording, I'm open to suggestions if there is a
19 concern. Any concern with the wording of the issue?

20 MR. MELSON: No, sir. I was just trying to make
21 sure that I -- I hadn't quite found it at the time you
22 ruled. I was still looking for the precise wording.
23 I found it now. Thank you.

24 COMMISSIONER DEASON: All right. Any other
25 preliminary matters?

1 MS. CANZANO: None that I'm aware of.

2 COMMISSIONER DEASON: Okay. We can proceed then
3 to the draft prehearing order. And we'll begin with
4 Section I, case background. Any questions or
5 concerns?

6 (NO RESPONSE)

7 COMMISSIONER DEASON: Section II addresses
8 confidential information, which is a standard
9 provision in prehearing orders. Let me ask, is there
10 going to be an introduction of confidential
11 information at the hearing?

12 MR. WAHLEN: There has been -- excuse me, I'm
13 here. There has been quite a bit of confidential
14 information handled during the discovery process. We
15 have entered into confidentiality agreements or are
16 about to enter into confidentiality agreements with
17 all of the parties that will have access to that. The
18 time has not been set yet under those nondisclosure
19 agreements for deciding whether confidential
20 information will be used in the hearing; that will be
21 happening. My anticipation is that there will be some
22 confidential information used in the hearing.

23 COMMISSIONER DEASON: Well, my only concern is
24 that all parties adequately are informed of the
25 procedures within the prehearing order and know how we

1 conduct the utilization of confidential information so
2 that no one is caught off guard at the hearing, and
3 that's my -- And there is a provision within the
4 prehearing order that there be at least seven days'
5 notice; is that correct, Ms. Canzano?

6 MS. CANZANO: Yes, it is.

7 COMMISSIONER DEASON: Okay. And I just want to
8 make sure all parties are fully aware of the
9 requirements.

10 MS. CANZANO: Also, GTE has filed, as part of its
11 testimony certain portions are treated as
12 confidential. They have a request for confidentiality
13 pending on that.

14 MR. GILLMAN: That is true, Commissioner. There
15 were certain numbers in the exhibit to the testimony
16 which were designated as confidential. We also expect
17 that there will be certain exhibits offered by other
18 parties which may be confidential. We have entered
19 agreements, and we will work within the confines of
20 this order.

21 COMMISSIONER DEASON: Very well.

22 MR. MELSON: Commissioner Deason, since the order
23 requires notice no later than seven days, which would
24 be next Monday, I'm going to give oral notice now that
25 I will be using confidential information obtained from

1 both GTE-Florida and Sprint at the hearing. Between
2 now and the hearing I will work with them on the
3 procedures to ensure that it complies with the
4 prehearing order and that none of it is disclosed
5 verbally.

6 COMMISSIONER DEASON: Thank you, Mr. Melson.

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

8 COMMISSIONER DEASON: Very well.

9 MR. FALVEY: Commissioner Deason, I would also
10 like to give similar notice that we may use
11 confidential information obtained from GTE and
12 United-Centel at the hearing.

13 COMMISSIONER DEASON: Mr. Falvey, I believe you
14 have been at a hearing where we have utilized
15 confidential information, and you are familiar with
16 the procedure; is that correct?

17 MR. FALVEY: That's correct.

18 COMMISSIONER DEASON: Very well.

19 MS. CANZANO: Well, I might as well just add that
20 staff might use some too since everyone else is saying
21 it.

22 COMMISSIONER DEASON: Ms. Canzano, are you
23 familiar with the procedure?

24 MS. CANZANO: Yes, I am.

25 MR. HATCH: In excruciating detail.

1 COMMISSIONER DEASON: Section III addresses
2 prefiled testimony and exhibits. Any questions or
3 concerns?

4 (NO RESPONSE)

5 COMMISSIONER DEASON: Section IV, order of
6 witnesses.

7 MR. WAHLEN: I have a suggestion, Commissioner
8 Deason. First of all, United and Centel believe that
9 the intervenors in this case should present their
10 testimony before the respondents, which are
11 United-Centel and GTE. So our first suggestion would
12 be that to the extent MCI Metro and AT&T are allowed
13 to present witnesses, they would go before the
14 incumbent local exchange companies. We would also
15 suggest that due to the short time period available
16 for the hearing that direct and rebuttal be presented
17 at the same time.

18 COMMISSIONER DEASON: Responses to the
19 suggestions by Mr. Wahlen?

20 MR. GILLMAN: Commissioner Deason, on behalf of
21 GTE, I think that is a good suggestion and would join
22 in it.

23 COMMISSIONER DEASON: Any other responses to the
24 suggestion?

25 MR. MELSON: No objection from MCI Metro.

1 MS. WILSON: FCTA does not object to that either.

2 MS. DUNSON: AT&T does not object either.

3 MR. FALVEY: MFS does not object either.

4 MR. COHEN: And no objection from Time Warner or
5 Digital Media Partners.

6 MR. CROSBY: No objection from Continental.

7 COMMISSIONER DEASON: Isn't this nice. Maybe you
8 are just setting me up for later objections.

9 Staff have any objections?

10 MS. CANZANO: Oh, no.

11 COMMISSIONER DEASON: Does staff understand the
12 suggestion?

13 MS. CANZANO: Excuse me?

14 COMMISSIONER DEASON: Does staff understand the
15 nature of the suggestion?

16 MS. CANZANO: Yes.

17 COMMISSIONER DEASON: Okay. And it is understood
18 then that we would be doing direct and rebuttal at the
19 same time?

20 (AFFIRMATIVE INDICATIONS)

21 COMMISSIONER DEASON: Very well. Any other
22 concerns with the order of witnesses and their
23 availability?

24 MS. WILSON: Just as a matter of clarification,
25 would that mean that essentially you would use the

1 same order but you would take GTE and United and put
2 those witnesses at the end?

3 COMMISSIONER DEASON: That is my understanding.

4 MS. WILSON: Okay. Other than that, the same
5 order.

6 MR. GILLMAN: And Commissioner, I'd just -- just
7 a matter of clarification then, assuming that the
8 stipulation gets approved by the full commission, we
9 anticipate, you know, not offering testimony on some
10 of the stipulated issues since they would be
11 controlled by the agreement with MFS. So where the
12 witnesses say they are going to testify regarding
13 certain issues, that could be revised depending on the
14 stipulation as approved. I don't know if the order
15 has to be clarified. I just wanted to point that out.

16 COMMISSIONER DEASON: That raises a very good
17 question, and perhaps now is the time to address it.

18 Does staff envision that the stipulation will be
19 presented to the Commission for resolution before the
20 taking of testimony on those issues for which there is
21 a stipulation?

22 MS. CANZANO: Yes, I would imagine that would be
23 a preliminary matter at the beginning of the hearing.

24 MR. GILLMAN: And I have no problem with that,
25 and based upon my conversations with Mr. Falvey, that

1 he's also agreeable to that procedure.

2 MR. FALVEY: That's correct. MFS is agreeable to
3 that procedure.

4 On a similar note, with respect to the issues
5 that Mr. Devine will direct his testimony to, some of
6 the testimony on some of the issues will only relate
7 to its petition to United, Sprint United-Centel to the
8 extent that the stipulation will have resolved those
9 issues as between MFS and GTE. I have no problem with
10 the way the prehearing order is currently worded.

11 COMMISSIONER DEASON: Very well.

12 MR. MELSON: Commissioner Deason.

13 COMMISSIONER DEASON: Yes.

14 MR. MELSON: In an abundance of caution I'm going
15 to ask for clarification because something Mr. Wahlen
16 just said seemed to me to indicate he and I may
17 understand your ruling differently. He indicated that
18 MCI's witnesses should come before GTE and Sprint
19 assuming we are allowed to present testimony. My
20 understanding was that the oral argument is on the
21 substance of the legal issue as to the extent to which
22 we are bound and that you have ruled that we are
23 entitled to participate as a party. Did I understand
24 your ruling correctly?

25 COMMISSIONER DEASON: Yes, I'm glad you brought

1 that to my attention because perhaps it does need to
2 be clarified. That is correct. I have made the
3 ruling that you are a party and that to the extent you
4 wish to participate, you may be allowed to
5 participate, realizing it may be putting yourself at
6 some risk if you do choose to participate. But that
7 if you so, if you wish to exercise that right, you
8 have full standing as a party to participate in this
9 hearing.

10 MR. MELSON: Thank you.

11 COMMISSIONER DEASON: And that is the ruling,
12 Mr. Wahlen.

13 MR. WAHLEN: Okay. Thank you for the
14 clarification.

15 MS. CANZANO: I would like to make a suggestion.
16 For GTE and MFS, if the Commission approves the
17 stipulation, could you be prepared on the day of the
18 hearing to say which portions of the testimony you are
19 withdrawing, like explicitly?

20 MR. GILLMAN: Yes, GTE would be so prepared.

21 MR. FALVEY: Yes, MFS would also be so prepared.

22 COMMISSIONER DEASON: Very well.

23 MR. COHEN: As will Time Warner and Digital Media
24 Partners.

25 COMMISSIONER DEASON: I take it that availability

1 of witnesses is not going to be a problem? This is
2 set for a two-day hearing.

3 MR. WAHLEN: The only constraint we have is that
4 Mr. Michaelson will only be available the second day,
5 but in view of the way things are shaking out, we
6 don't think that is going to be a problem.

7 While we are on the witness, we would like
8 the prehearing order to be amended to reflect that
9 Mr. Poag will be testifying on all issues, and
10 Mr. Michaelson will be testifying on Issue 1, which is
11 the rates, terms and conditions. And I apologize for
12 not including that in our prehearing statement.

13 COMMISSIONER DEASON: Very well.

14 Staff, let me ask this question. Do we feel that
15 we are going to have adequate time to conduct this
16 hearing within the two days that are allowed?

17 MS. CANZANO: It's hard to tell. I think we
18 will. I don't know.

19 COMMISSIONER DEASON: Well, the only reason I
20 mention it, and I don't want to be premature, but I do
21 want -- if I'm going to err, I want to err on the side
22 of putting all parties on notice, that if for some
23 reason that the hearing cannot be done in two days, it
24 may be necessary to continue the hearing for another
25 day within that week. I understand there are three

1 days of hearings that are scheduled for a Florida
2 Power and Light matter which may not take the entire
3 three days.

4 I know that that is speculation at this point. I
5 know that this is a hearing which needs to be
6 conducted as quickly as possible, and obviously that
7 is something that would be done at the chairman's
8 direction not at mine. I'm just putting everyone on
9 notice that I think the Commission will make every
10 endeavor to have the hearing completed within the two
11 days and that probably we'll be working into the
12 evenings. But if it becomes impossible and it appears
13 that the FPL hearing is not going to take the entire
14 three days, that it is a possibility, here again, at
15 the chairman's direction, to continue these hearings
16 for later on the same week.

17 And you may want to make some inquiries with your
18 expert witnesses to see if they are available, and if
19 there is a problem, we may need to make accommodation
20 to make sure that certain witnesses are heard on
21 either Monday or Tuesday, which are scheduled for this
22 hearing. And that is just to try to help persons and
23 put you on notice that that is a possibility.
24 Hopefully we can have the hearing completed within the
25 two days and we won't have to look at this as a

1 potential problem.

2 Okay. Section V addresses basic positions. Any
3 changes or corrections?

4 (NO RESPONSE)

5 COMMISSIONER DEASON: Section VI addresses the
6 specific issues, and we'll begin with Issue 1.
7 Changes, corrections, questions?

8 (NO RESPONSE)

9 COMMISSIONER DEASON: Issue 2?

10 (NO RESPONSE)

11 COMMISSIONER DEASON: Issue 3?

12 (NO RESPONSE)

13 COMMISSIONER DEASON: Issue 4?

14 MR. WAHLEN: Yes, I have a correction, and I
15 have -- It's on Page 23 of the prehearing order. The
16 words "Spring United-Centel" need to be changed to
17 Sprint United-Centel, and I have a marked up copy of
18 that for staff's use in preparing the final order.

19 And I have a similar change on Page 36 that I
20 would like to submit to staff as well.

21 COMMISSIONER DEASON: Very well.

22 MR. WAHLEN: Thank you.

23 COMMISSIONER DEASON: Any other questions or
24 corrections for -- I'm sorry, we were on Issue 3; is
25 that correct?

1 MR. EDMONDS: 4.
2 COMMISSIONER DEASON: Issue 4, I'm sorry. Issue
3 4?
4 (NO RESPONSE)
5 COMMISSIONER DEASON: Issue 5a?
6 (NO RESPONSE)
7 COMMISSIONER DEASON: Issue 5b?
8 (NO RESPONSE)
9 COMMISSIONER DEASON: Issue 6?
10 (NO RESPONSE)
11 COMMISSIONER DEASON: Issue 7?
12 (NO RESPONSE)
13 COMMISSIONER DEASON: Issue 8?
14 (NO RESPONSE)
15 COMMISSIONER DEASON: Issue 9?
16 (NO RESPONSE)
17 COMMISSIONER DEASON: Issue 10?
18 (NO RESPONSE)
19 COMMISSIONER DEASON: Issue 11?
20 (NO RESPONSE)
21 COMMISSIONER DEASON: Issue 12?
22 (NO RESPONSE)
23 COMMISSIONER DEASON: Issue 13?
24 (NO RESPONSE)
25 COMMISSIONER DEASON: Issue 14?

1 (NO RESPONSE)

2 COMMISSIONER DEASON: And consistent with my
3 previous ruling, Issue 15?

4 (NO RESPONSE)

5 COMMISSIONER DEASON: Very well. Section VII
6 addresses the exhibit list. Changes or corrections to
7 the exhibit list?

8 (NO RESPONSE)

9 COMMISSIONER DEASON: Section VIII addresses
10 proposed stipulations. We have already addressed to
11 some extent the GTE and MFS stipulation. Any other
12 concerns or changes?

13 MR. FALVEY: Commissioner Deason, I have a
14 question with regard to the exhibit list and the
15 handling of exhibits in general, stepping back to
16 Section VII. Do you anticipate that exhibits will be
17 separately entered with respect to United-Centel and
18 GTE petitions, or that there will be one seriatim list
19 of all exhibits?

20 COMMISSIONER DEASON: We will begin with Exhibit
21 Number 1, and they will be identified, and there will
22 not be another set of exhibits beginning again with
23 Number 1 for the two different LECs which are the
24 subject of this hearing.

25 MR. FALVEY: Okay. Thank you.

1 COMMISSIONER DEASON: That's my understanding.
2 Staff, is that correct?

3 MS. CANZANO: That's right.

4 COMMISSIONER DEASON: Okay. Any other questions
5 on the exhibit list?

6 (NO RESPONSE)

7 COMMISSIONER DEASON: Okay, Section VIII,
8 proposed stipulations. Questions or concerns?

9 (NO RESPONSE)

10 COMMISSIONER DEASON: Section IX addresses
11 pending motions, and I believe that motion has been
12 ruled upon to the extent that the prehearing officer
13 is going to deal with that motion. And I believe that
14 can be shown in the rulings in Section X.

15 MS. CANZANO: Yes, it will.

16 COMMISSIONER DEASON: Staff, it probably would be
17 expeditious for you to make available to the other
18 commissioners the pleadings which have been filed in
19 relation to the Legal Issue 15.

20 MS. CANZANO: We will certainly do that.

21 COMMISSIONER DEASON: Whatever background you
22 think would be appropriate so that commissioners may
23 be prepared for the oral argument at the beginning of
24 the hearing.

25 Any other matters?

1 MR. WAHLEN: Could I just inquire briefly?
2 Centel and United have taken a position on Issue 15,
3 and I was curious what the procedure would be for
4 other parties who would like to have their positions
5 reflected in the prehearing order.

6 COMMISSIONER DEASON: That is a good point. Let
7 me first of all, are all parties planning to take a
8 position on Issue 15? I would think so. Mr. Melson,
9 I'm sure that you will.

10 I would suggest that that be provided to staff in
11 writing. I am not going to ask for that right at this
12 moment, Mr. Wahlen, but I would also ask that when
13 that is provided to staff, those positions, that it
14 also be, likewise be given to all the other parties in
15 an expeditious manner.

16 Ms. Canzano, when would be an appropriate time
17 for you to have that in writing from all parties for
18 incorporation into the order?

19 MS. CANZANO: The prehearing order would need to
20 be issued next week, by the end of next week, but we
21 have to pull in those positions. Is by close of
22 business reasonable for everybody on Tuesday?

23 (AFFIRMATIVE INDICATIONS)

24 COMMISSIONER DEASON: Close of business Tuesday;
25 is that fine?

1 MS. DUNSON: That's fine.

2 COMMISSIONER DEASON: Any objections?

3 (NO RESPONSE)

4 COMMISSIONER DEASON: And let me just remind you
5 that make your positions short. You will be given an
6 opportunity to orally argue your position at the
7 hearing.

8 MS. CANZANO: And I would request that all the
9 parties file that on a diskette so this way it reduces
10 human error. I want to make sure your positions are
11 as accurate as possible.

12 COMMISSIONER DEASON: Ms. Canzano, perhaps we
13 also need to discuss what would be an appropriate time
14 limit for the oral argument on Issue 15, if we are
15 going to do it strictly -- give so much time to every
16 party to this proceeding. How do you envision that
17 being handled realizing we only have two days?

18 MR. HATCH: We've got two days, that's what I was
19 pondering. I would expect if they can't make the
20 point in ten minutes or less then they've got real
21 trouble. My recommendation would be ten minutes.

22 COMMISSIONER DEASON: For each party?

23 MR. HATCH: For each party.

24 MR. MELSON: Chairman Deason, I wonder if the
25 parties who are active petitioners in the docket, it

1 would seem to me that they've got no need to argue. I
2 would think GTE and Sprint would want to, but
3 Continental, MFS, Time Warner and FCTA -- I'm
4 sorry --

5 COMMISSIONER DEASON: FCTA is on your side,
6 Mr. Melson.

7 MR. MELSON: Right. Would not need to argue.
8 Well, she whispered FCTA, and I thought I'm supposed
9 to add that to the list I'm reading. But it seemed to
10 me that the other, the non-petitioning intervenors
11 would want to argue but that you might be able to
12 eliminate argument from three parties and simply do it
13 quicker.

14 MR. CROSBY: Commissioner Deason, Continental
15 would have one problem with that. As you know, we
16 originally filed a petition against all three parties,
17 United, Centel and GTE; and then in the fullness of
18 time and in the interest of economy decided to
19 withdraw our petition with regard to GTE. So now I'm
20 left in the position of where I guess I'm -- I have
21 dual status. I suppose I'm a petitioning party with
22 respect to certain local exchange companies, and I'm
23 an intervenor with respect to another one. And I
24 don't know, frankly, as I sit here what my position is
25 going to be with respect to United-Centel's motion in

1 this matter.

2 COMMISSIONER DEASON: Well, let me ask, do you
3 consider yourself an intervening party in the United
4 petition?

5 MS. CANZANO: No, I'm a petitioning party there.

6 COMMISSIONER DEASON: Okay. And are you a
7 petitioning party in the GTE?

8 MR. CROSBY: Former petitioning party who is now
9 an intervening party I would suppose.

10 COMMISSIONER DEASON: That does put you in a
11 fairly unique position. I think you will probably
12 need 15 minutes, but I'm only going to give you ten.

13 MR. CROSBY: Thank you.

14 MR. FALVEY: Commissioner Deason, a simpler
15 concern on behalf of MFS, I could foresee a situation
16 where the shoe would be on the other foot six months
17 from now and we would find ourselves in a similar
18 situation as MCI on a separate petition; and to the
19 extent that we will be a party to this proceeding and
20 sitting here for the argument, I would request, you
21 know, even two minutes to summarize our position on
22 this issue. But I -- Having prepared to argue this
23 today, I honestly don't expect that I would use the
24 full two minutes.

25 COMMISSIONER DEASON: Thank you.

1 MR. HATCH: I have to tell you, Commissioner
2 Deason, that when I suggested ten minutes, I did not
3 anticipate ten minutes for every party because not
4 everybody has -- but if it looks like everybody at the
5 bench is going to argue, ten minutes is going to put
6 you way into the day.

7 COMMISSIONER DEASON: That is what my concern is
8 as well.

9 MR. HATCH: I assumed only those directly
10 affected, for example, like MCI, you would only have
11 three or four people arguing. If it's going to be
12 ten, then you need to shorten ten minutes by a
13 longshot, perhaps as much as five.

14 MR. FALVEY: I can agree to forego argument.
15 Maybe we can file something in writing, which we
16 haven't done up to this point, and I think that would
17 take care of MFS's concern.

18 MR. WIGGINS: If it helps, Intermedia will not be
19 making argument.

20 COMMISSIONER DEASON: You are always helpful,
21 Mr. Wiggins.

22 MR. WIGGINS: Thank you.

23 COMMISSIONER DEASON: Well, would it be
24 appropriate to allocate 20 minutes per side? It would
25 be up to GTE and Sprint-Centel to divide their 20

1 minutes however they see fit and for the petitioning
2 ALECs and the non-petitioning ALECs to divide up their
3 20 minutes as they see fit. And 20 minutes is just a
4 suggestion. Maybe it should be more or less than 20
5 minutes if we tried to divide the time up on a side
6 versus side basis as opposed to allocating specific
7 time to each intervening party.

8 MR. GILLMAN: Commissioner Deason, if we are
9 arguing only the issue of whether a party is bound by
10 it, I don't believe that United and GTE necessarily
11 agree on that legal issue, so I don't know that you
12 can group us together.

13 MR. WAHLEN: He can be in with Mr. Crosby.

14 MR. GILLMAN: I mean our issue, if they are not
15 going to be bound, then they should be dismissed. But
16 it's my understanding that issue will not be
17 addressed.

18 COMMISSIONER DEASON: The question of dismissal
19 of parties is not going to be addressed within the
20 context of Issue 15. Issue 15 is strictly the effect
21 of a party's participation if they choose to exercise
22 their right to participate, but the ruling has been
23 made they do have full rights to participate if they
24 wish to exercise those rights.

25 Well, what I'm going to do, and I'm going to

1 leave it up to the parties if they want to work out
2 among themselves a more expeditious way, but each
3 intervening party is going to be given five minutes to
4 argue their position; and if they wish to combine that
5 with others, so be it. I think, if anything, that put
6 perhaps Mr. Wahlen at a little bit of a disadvantage;
7 but since he wrote such an eloquent argument to begin
8 with, I'm sure he can explain it in five minutes. So
9 that is going to be the situation. I don't know any
10 other simpler way to do it.

11 Any other matters?

12 MS. CANZANO: None that I'm aware of.

13 COMMISSIONER DEASON: Any other parties have any
14 other matters?

15 (NO RESPONSE)

16 COMMISSIONER DEASON: Very well. That concludes
17 then the 85 docket.

18 Do we need to take a recess before we begin the
19 84?

20 MS. CANZANO: We don't need to.

21 COMMISSIONER DEASON: Fine with me.

22 (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 ORPR