

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T ) Docket No. 960833-TP  
 Communications of the Southern ) Docket No. 960846-TP  
 States, Inc., MCI ) Docket No. 960916-TP  
 Telecommunications Corporation, )  
 MCI Metro Access Transmission )  
 Services, Inc., American )  
 Communications Services, Inc. )  
 and American Communications )  
 Services of Jacksonville, Inc. )  
 for arbitration of certain terms )  
 and conditions of a proposed )  
 agreement with BellSouth )  
 Telecommunications, Inc. )  
 concerning interconnection and )  
 resale under the )  
 Telecommunications Act of 1996 )

PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER J. TERRY DEASON  
 Prehearing Officer

DATE: Thursday, October 3, 1996

TIME: Commenced at 9:07 a.m.  
 Concluded at 10:55 p.m.

PLACE: Betty Easley Conference Center  
 Room 148  
 4075 Esplanade Way  
 Tallahassee, Florida

REPORTED BY: LISA GIROD JONES, RMR, RPR

*W. Paul Rayborn  
 and Associates*

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## 1 APPEARANCES:

2 TRACY HATCH, Attorney, and MICHAEL W. TYE,  
3 Attorney, AT&T Communications of the Southern States,  
4 Inc., 101 North Monroe Street, Suite 700, Tallahassee,  
5 Florida 32301; appearing on behalf of AT&T  
6 Communications of the Southern States, Inc.

7 RICHARD D. MELSON, Attorney at Law, Hopping,  
8 Green, Sams & Smith, 215 South Calhoun Street,  
9 Tallahassee, Florida 32301; appearing on behalf of MCI  
10 Telecommunications Corporation and MCI Metro Access  
11 Transmission Services, Inc.

12 NANCY B. WHITE, General Attorney, BellSouth  
13 Telecommunications, Inc., 675 West Peachtree Street,  
14 Suite 4300, Atlanta, Georgia 30375-0001; appearing on  
15 behalf of BellSouth Telecommunications, Inc.

16 NORMAN H. HORTON, JR., Attorney at Law, and  
17 FLOYD R. SELF, Attorney at Law, Messer, Caparello,  
18 Madsen, Goldman & Metz, P.A., 215 South Monroe Street,  
19 Suite 701, Tallahassee, Florida 32301; appearing on  
20 behalf of American Communications Services, Inc.

21 JAMES FALVEY, Esquire, 131 National Business  
22 Parkway, Suite 100, Annapolis Junction, Maryland 20701;  
23 appearing on behalf of American Communications Services,  
24 Inc.

25 MARK HERRON, Attorney at Law, and  
E. GARY EARLY, Attorney at Law, Akerman, Senterfitt &  
Eidson, P.A., 216 South Monroe Street, Suite 200,  
Tallahassee, Florida 32301-1859; appearing on behalf of  
BellSouth Advertising & Publishing Company.

DONNA CANZANO, MONICA M. BARONE, CHARLIE  
PELLEGRINI, LORNA WAGNER and BETH CULPEPPER, Staff  
Counsel, 2540 Shumard Oak Boulevard, Tallahassee,  
Florida 32399-0863; appearing on behalf of the  
Commission Staff.

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DEPOSITION

COMMISSIONER DEASON: Call the prehearing conference to order. Could we have the notice read, please?

MS. CANZANO: Pursuant to notice issued September 12th, a prehearing conference has been set for this time and this place in Docket Nos. 960833, 960846 and 960916-TP.

COMMISSIONER DEASON: Take appearances.

MS. WHITE: Yes, Nancy White for BellSouth Telecommunications Company, 675 West Peachtree Street, Atlanta, Georgia 30375.

MR. MELSON: Richard Melson, of the law firm Hopping, Green, Sams and Smith, P.A., P. O. Box 6526, Tallahassee, appearing on behalf of MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. Appearing with me at the hearing will be Martha McMillin of MCI in Atlanta.

MR. HATCH: Tracy Hatch, 101 North Monroe Street, Tallahassee, Florida, Suite 700, appearing on behalf of AT&T. Also appearing with me momentarily, I hope, is Mr. Michael W. Tye.

MR. HORTON: Norman H. Horton, Jr. and Floyd R. Self, Messer, Caparello, Madsen, Goldman and Metz, P. O. Box 1876, Tallahassee, on behalf of ACSI.

1           Also Mr. James C. Falvey of ACSI, 131 National  
2 Business Parkway, Suite 100, Annapolis Junction,  
3 Maryland 20701. Mr. Falvey is a member of the Bar and  
4 has participated in proceedings before this Commission  
5 before.

6           Appearing at the hearing will be Mr. Brad E.  
7 Mutschelknaus -- I'll give you the spelling -- of Kelly,  
8 Drye & Warren, L.L.P., 1200 19th Street, N.W., Suite  
9 500, Washington, D.C.

10           COMMISSIONER DEASON: Thank you.

11           MR. HERRON: Mark Herron on behalf of  
12 BellSouth Advertising & Publishing Company with the law  
13 firm Akerman, Senterfitt & Eidson here in Tallahassee,  
14 Florida. Also here today is Gary Early of Akerman,  
15 Senterfitt as well.

16           COMMISSIONER DEASON: I'm sorry, I'm  
17 confused. I didn't know you were a party to this  
18 proceeding.

19           MR. HERRON: I'm not, but in case you want to  
20 address any BAPCO issues, we have made a filing in the  
21 file, in case you want to address any of those issues.

22           COMMISSIONER DEASON: You need to repeat your  
23 name again, please, and spell it.

24           MR. HERRON: Mark Herron, H-E-R-R-O-N, on  
25 behalf of BellSouth Advertising & Publishing Company, of

1 the law firm Akerman, Senterfitt & Edison here in  
2 Tallahassee.

3 COMMISSIONER DEASON: And you mentioned  
4 another name as well?

5 MR. HERRON: Also here is Gary Early of  
6 Akerman, Senterfitt as well.

7 COMMISSIONER DEASON: E-A-R-L-Y?

8 MR. HERRON: Yes, sir.

9 MS. CANZANO: And I'm Donna Canzano, and  
10 appearing with me is Charlie Pellegrini, Monica Barone,  
11 Beth Culpepper and Lorna Wagner, appearing on behalf of  
12 the Commission Staff.

13 COMMISSIONER DEASON: Could you give me  
14 everyone that's -- are all those attorneys from Staff  
15 going to be here today?

16 MS. CANZANO: Yes, we're here. We've divided  
17 up different responsibilities in this case.

18 COMMISSIONER DEASON: Go through those names  
19 again, please.

20 MS. CANZANO: Me, Donna Canzano, Charlie  
21 Pellegrini, Monica Barone, Beth Culpepper and Lorna  
22 Wagner.

23 COMMISSIONER DEASON: Okay. Do we have any  
24 preliminary matters?

25 MS. CANZANO: We have a number of matters.

1 One is preliminary, and Mr. Pellegrini will handle  
2 that.

3 MR. PELLEGRINI: Commissioner Deason, there's  
4 the pending matter of disputed issues in the MCI  
5 BellSouth docket, 960846. Staff recommends that Issues  
6 8, 9, 22, 24 and 27 be excluded from this proceeding in  
7 the belief that they have been negotiated in the interim  
8 or partial agreement of 5-15-96 approved by this  
9 Commission on 8-13-96.

10 Staff further recommends that Issues 29, 25,  
11 26 and 30 are appropriate or arbitratable issues in this  
12 proceeding. Issue 29 appears not to have been  
13 negotiated in the partial agreement.

14 And Issues 25, 26 and 30 are not to be  
15 precluded, in Staff's belief, from negotiation and  
16 arbitration merely because they may be more  
17 appropriately addressed in the generic proceeding.

18 COMMISSIONER DEASON: Mr. Melson, are you  
19 withdrawing any of these issues at this time?

20 MR. MELSON: Let me double check,  
21 Commissioner. Issue 29 MCI will withdraw.

22 COMMISSIONER DEASON: Very well.

23 MR. MELSON: But the other issues we do not.

24 MS. CANZANO: And Staff would just like to  
25 clarify. Mr. Melson, are you withdrawing that from your

1 petition?

2 MR. MELSON: Yes.

3 MS. CANZANO: Thank you.

4 COMMISSIONER DEASON: Was it contemplated that  
5 we would have oral argument on this matter, or have we  
6 already had a full round of filings in this?

7 MS. CANZANO: The parties have filed letters  
8 addressing this issue, but it would be up to your  
9 discretion whether or not you want to listen to oral  
10 argument on this.

11 COMMISSIONER DEASON: I'm prepared to rule on  
12 it and put the parties on notice that Issues 8, 9, 22,  
13 24 and 27 will not be part of this proceeding. Issues  
14 25, 26 and 30 shall. And there will be an order that  
15 will be -- actually this will be incorporated into the  
16 prehearing order that comes out of this proceeding.

17 MS. CANZANO: And that would be as those  
18 issues relate to MCI, correct?

19 COMMISSIONER DEASON: As they relate to MCI.  
20 It's my understanding they only pertain to MCI; is that  
21 correct?

22 MR. PELLEGRINI: That's correct.

23 COMMISSIONER DEASON: Very well.

24 MS. WHITE: I apologize, Commissioner Deason.  
25 Could you repeat those numbers again?

1           COMMISSIONER DEASON: Issues 8, 9, 22, 24 and  
2 27 will not be part of this arbitration proceeding.  
3 Issue 29 has been withdrawn. Issues 25, 26 and 30 shall  
4 be part of this arbitration proceeding.

5           MR. MELSON: Commissioner Deason?

6           COMMISSIONER DEASON: Yes.

7           MR. MELSON: That ruling is going to be  
8 incorporated into the prehearing order?

9           COMMISSIONER DEASON: That's correct.

10          MR. MELSON: It is likely our intention to  
11 seek review of that ruling by the full Commission, and  
12 we will make an appropriate filing as soon as the order  
13 has been issued.

14          COMMISSIONER DEASON: I would encourage you to  
15 do that as quickly as possible. In fact, you may want  
16 to do it even before the prehearing order is issued,  
17 since you know what the ruling is.

18          MR. MELSON: All right, thank you.

19          MR. PELLEGRINI: Commissioner Deason, there's  
20 an additional preliminary matter, that is the matter of  
21 BAPCO's notice of request for clarification of issue  
22 preclusion, or in the alternative, notice of substantial  
23 interest, which was filed on 9-11-96 and its  
24 supplemental filing on 10-2-96. BAPCO seeks  
25 clarification of the procedural orders in this



1 proceeding and confirmation that BAPCO is not bound by  
2 the Commission's rulings in these proceedings concerning  
3 directory publication matters. It is Staff's belief that  
4 BAPCO's concerns are adequately addressed by the  
5 procedural orders in these dockets. For example, Order  
6 No. PSC-96-0933, Page 2, paragraph 2, which state that  
7 only the party requesting interconnection and the  
8 incumbent local exchange company shall be parties to the  
9 arbitration proceeding and bound, therefore, by the  
10 agreement to result from said proceeding.

11 COMMISSIONER DEASON: Very well. Is it  
12 contemplated that this issue would be addressed today,  
13 or is the -- do we already have adequate pleading basis  
14 to make a decision?

15 MR. PELLEGRINI: Well, we merely have BAPCO's  
16 notice at this point, but yes, I wanted to raise the  
17 issue so that you could determine whether or not you  
18 wished to address it in this proceeding.

19 COMMISSIONER DEASON: I'll give the parties an  
20 opportunity to address this, including BAPCO, briefly  
21 this morning before I make a ruling.

22 MR. HERRON: Commissioner Deason, Mark Herron  
23 on behalf of BellSouth Advertising & Publishing  
24 Company. I'm not going to rehash in any great detail  
25 what was set forth in our notice, in our pleading, but

1 our points are basically twofold. One is that the  
2 directory issues relating to the branding of the  
3 directory that we would publish for -- in this case now  
4 it's AT&T, because I believe the MCI issues have been  
5 withdrawn as a result of the previous order -- are not  
6 subject to arbitration under the federal provisions to  
7 Section 251, 252. The issues clearly set forth in that  
8 federal law relate to interconnection, unbundling and  
9 resale. Publishing of a directory is not one of those  
10 issues.

11           There is no -- and again, the pertinent  
12 question that needs to be asked and addressed by the  
13 Commission, by the Commission Staff, is where in Section  
14 251 are directory issues made a proper subject for  
15 arbitration? It's not there. Arbitration --

16           COMMISSIONER DEASON: Well, let me ask you, if  
17 it's not subject to arbitration, well then we're not  
18 going to arbitrate it, and why are you here?

19           MR. HERRON: Well, I believe it says that  
20 Issue 23, in the listing of issues here, talks about  
21 should BellSouth be required to allow AT&T and MCI to  
22 have an appearance, logo or name on the cover of the  
23 white and yellow page directories? The parties that  
24 brought the arbitration to you have listed it in their  
25 petition. We have -- believe that it's not a proper

1 subject for arbitration and that's why we're here asking  
2 for that kind of clarification from you and the  
3 Commission.

4 COMMISSIONER DEASON: Well, I need to know the  
5 basis of your position that you need to intervene in  
6 this -- and your standing to intervene in this  
7 proceeding.

8 MR. HERRON: We are asking not to intervene as  
9 a party. We are asking for clarification that this  
10 issue is not subject to arbitration in this proceeding.  
11 This federal law sets forth, in our belief, specific  
12 subjects which are required to be arbitrated. This is  
13 not one of them. This is a matter subject to  
14 negotiation between BAPCO and AT&T and MCI. BellSouth  
15 Telecommunications is not the real party in interest  
16 here to negotiate that issue or to have that issue  
17 arbitrated.

18 COMMISSIONER DEASON: Ms. Sims, do you care to  
19 provide any additional information?

20 MS. WHITE: I didn't hear you.

21 COMMISSIONER DEASON: Do you care to make any  
22 presentation on this question?

23 MS. WHITE: No, no, I don't. Well, I would  
24 agree that BellSouth Telecommunications does not have  
25 the authority to agree with the parties requesting this

1 matter. That's a matter for BAPCO, and BAPCO has been  
2 negotiating directly with MCI and AT&T, and BellSouth  
3 Telecommunications has not been a party to those  
4 negotiations on the directory issues.

5 COMMISSIONER DEASON: Mr. Hatch.

6 MR. HATCH: Yes, sir, Commissioner Deason.

7 While on one hand, in a pure, strict, legal, structural  
8 sense, BAPCO isn't technically, or may not technically  
9 be a phone company -- we're not ready to concede that --  
10 but even assuming that, arguendo, it is certainly an  
11 affiliate of BellSouth Telecommunications, Inc. by  
12 virtue of its having a common parent in BellSouth Corp.  
13 BellSouth Telecommunications, Inc., has, by directive of  
14 the Commission pursuant to the Commission's rules, the  
15 obligation to publish and provide directories. It is no  
16 accident that BellSouth's name appears on the cover of  
17 that directory. BellSouth, or BAPCO, exists principally  
18 to fulfill that function for BellSouth  
19 Telecommunications, Inc.

20 And so while there is a technical corporate  
21 structural separation, they have a common parent and  
22 they are clearly affiliates, and it is unlikely that  
23 BAPCO could ever take a position inconsistent or at odds  
24 with BellSouth Telecommunications, Inc. While we have  
25 cut a partial agreement with respect to BAPCO in terms

1 of the call guide pages and so forth, the cover of the  
2 directory issue itself remains an issue with us.

3           With respect to Mr. Herron's argument that it  
4 doesn't come within the scope of the act, basically our  
5 argument is, is it falls within the parity requirements  
6 that BellSouth be required to provide all of those  
7 services to the extent that it provides them to other  
8 carriers the same way that it provides it to itself.  
9 And if BellSouth's name is going to be on that  
10 directory, then so should AT&T's and MCI's.

11           COMMISSIONER DEASON: Mr. Horton, do you have  
12 anything to -- not your issue, right?

13           MR. HORTON: Not our issue.

14           COMMISSIONER DEASON: I thought you had  
15 already -- this is not an issue for MCI.

16           MR. MELSON: The directory issue, No. 24, was  
17 excluded. The issue regarding the directory cover,  
18 Issue 23, was not. I would adopt what Mr. Match said.  
19 I would additionally point out that the Commission does  
20 have jurisdiction over BellSouth in this proceeding. We  
21 believe it is a proper subject for arbitration. And  
22 while the Commission may not be able to bind BAPCO  
23 directly, I believe you could craft an appropriate order  
24 directed to BellSouth that would achieve what we are  
25 seeking, which is the ability to have the logo on the

1 cover, to the same extent that BellSouth's appears on  
2 the cover.

3 COMMISSIONER DEASON: Mr. Herron, do you have  
4 any concluding remarks?

5 MR. HERRON: Yes, sir. With respect to the  
6 issue of a common parent, we do not have a common  
7 parent. BellSouth Advertising & Publishing Company's  
8 parent is BellSouth Enterprises, Inc. and not BellSouth  
9 Telecommunications. And the common parent of BellSouth  
10 Telecommunications is not BellSouth Enterprises Group.

11 With respect to the issue of whether this is  
12 an arbitratable issue or not, the supplemental authority  
13 that we filed yesterday with the Commission, we filed  
14 orders from the Georgia PSC in a proceeding similar to  
15 this, prehearing order, where it was also determined  
16 that this was not an arbitratable issue under the  
17 Federal Act, and we recommend your review of that prior  
18 to making a ruling.

19 COMMISSIONER DEASON: Staff, final thoughts?

20 MR. PELLEGRINI: Well, Staff would continue to  
21 rely on the procedural order which binds only the  
22 parties to the negotiation to its rulings in this  
23 proceeding.

24 COMMISSIONER DEASON: I'm not going to deviate  
25 from the prehearing order. I think it's clear on its

1 face that only the parties which are in the status of  
2 arbitration are parties to this proceeding. I'm going  
3 to maintain that as such.

4 As to the question of whether this is an issue  
5 which is subject to arbitration, I think that issue can  
6 adequately be addressed by the parties as they exist  
7 now, and I think the prehearing order is already clear  
8 that BAPCO and other parties are not bound by the  
9 decisions in this proceeding. Therefore I would agree  
10 with Staff's recommendation, and that is the ruling that  
11 I am making at this time.

12 Other preliminary matters?

13 MS. CANZANO: I would just like to go back to  
14 the discussion about the issues earlier that we've --  
15 that you have excluded MCI. AT&T is covered for Issues  
16 8, 9 and 22. AT&T took positions on those issues, so I  
17 would just like to point out that those issues should  
18 relate to AT&T only.

19 COMMISSIONER DEASON: 8, 9 and 22 are still  
20 subject to arbitration as they relate to AT&T?

21 MS. CANZANO: That's my understanding.

22 COMMISSIONER DEASON: But in this, since these  
23 issues are addressed by the agreement pertaining to MCI,  
24 8, 9 and 22 would only be applicable to AT&T?

25 MS. CANZANO: Right. And what I can do is

1 move them to the section of the prehearing order that  
2 relates only to AT&T and BellSouth.

3 COMMISSIONER DEASON: Very well. Other  
4 preliminary matters?

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

6 COMMISSIONER DEASON: Parties have any  
7 preliminary matters?

8 MS. WHITE: Well, I have a couple issues to  
9 bring up about the hearings themselves, but I don't know  
10 whether you want to discuss that now or wait until after  
11 we go through the prehearing statement.

12 COMMISSIONER DEASON: Well, it may help us  
13 when we go through the order. So if you will bring it  
14 up now, that will be fine.

15 MS. WHITE: And I was just trying to think of  
16 things. I know that we have a lot of witnesses and a  
17 lot of testimony to get through in three days of  
18 hearings. So I was trying to think of some ways that  
19 would -- or might help move the hearing along. And one  
20 thing I came up with was a time limit on witness  
21 summaries, the summaries that the witnesses usually give  
22 when their testimony has been entered into the record  
23 and before they're available for cross-examination. I  
24 wanted to suggest that maybe a time limit be put on  
25 those summaries. I don't have anything -- any time



1 specific in mind, maybe ten minutes.

2 COMMISSIONER DEASON: Do you have any other  
3 preliminary matters?

4 MS. WHITE: I did want some clarification on  
5 the cross-examination. From the order of consolidation,  
6 I want to make sure that I know -- understand what it  
7 means about which parties can participate fully and  
8 how. I'm taking the order on consolidation as a  
9 three -- the three guidelines that you set forth in  
10 that order to be that all parties can cross-examine  
11 BellSouth witnesses on the common issues, but if the  
12 parties are in agreement on an issue, they can't cross  
13 each other's witness on that issue. And I guess what  
14 I'm looking for is an indication of whether that's a --  
15 I'm right or wrong in that belief.

16 COMMISSIONER DEASON: Other preliminary  
17 matters?

18 MS. WHITE: I wanted to put forth the  
19 suggestion on whether the parties or the commissioner  
20 thought whether opening statements of a specific time  
21 period would be of any assistance. And again, I did not  
22 have a time frame in mind, maybe X number of minutes on  
23 the common areas for each side, and then if a party has  
24 specific non-common areas, they would get a time frame  
25 in which to make an opening statement on that, and

1 BellSouth would get an equal time frame to reply. But  
2 again, that's just a suggestion. I'm not insisting on  
3 opening statements, just putting it forth.

4 COMMISSIONER DEASON: Okay.

5 MS. WHITE: And the last thing is with regard  
6 to a CD-ROM that AT&T, I believe, wants to use in the  
7 hearing. I'm not sure exactly how they want to use it,  
8 so we may have to have a discussion on this, and maybe  
9 if there's going to be a break, I could talk to Tracy  
10 about this and maybe get my concerns responded to then.

11 COMMISSIONER DEASON: Well, I would encourage  
12 you to whatever anybody can talk about off the record  
13 and get worked out, certainly I encourage that. And if  
14 you think that's possibility, we won't even address it  
15 at this time.

16 MS. WHITE: I guess what I'm concerned about  
17 is I would like to know how they plan to use it, with  
18 what witness and whether they're putting it forward as  
19 substantive evidence or demonstrative evidence, in other  
20 words merely using it to illustrate --

21 COMMISSIONER DEASON: We'll take a break at  
22 some point and I encourage you to talk to counsel for  
23 AT&T, and if you have any concerns after that  
24 discussion, I'll give you an opportunity to bring that  
25 up.

1 MS. WHITE: Thank you. I think that's about  
2 it.

3 MS. CANZANO: I would like to raise one  
4 other -- and this might be appropriate to raise in that  
5 section -- and that would be the possibility of  
6 combining direct and rebuttal testimony in an effort to  
7 save some time.

8 MS. WHITE: You're right, that was the most  
9 basic one, I forgot, and yes, BellSouth has no problem  
10 with that if everyone else agrees.

11 COMMISSIONER DEASON: Okay. Mr. Melson, do  
12 you have any comments on the suggestions that have been  
13 made thus far by BellSouth?

14 MR. MELSON: MCI has got no problem with a  
15 reasonable time limit on summaries.

16 With regard to cross-examination of non-Bell  
17 witnesses on common issues, there are some common issues  
18 where our position does not lay down with AT&T, and I  
19 believe that since we are both going to be bound by a  
20 single decision in this proceeding, I had understood  
21 that I would have the latitude to cross-examine AT&T  
22 witnesses as appropriate in those areas.

23 Opening statements, we're certainly willing to  
24 make one, if the Commission believes that would be  
25 helpful, and we will, if any other party does.

1 Combining direct and rebuttal, my personal  
2 preference is to keep them separate, but recognizing the  
3 severe time constraints we're under in this proceeding,  
4 we would not object if you determine that combination  
5 was the way the Commission wanted to proceed.

6 CHAIRMAN DEASON: Mr. Hatch?

7 MR. HATCH: Commissioner Deason, with respect  
8 to opening statements, AT&T would like the opportunity  
9 to make an opening statement. We were going to propose  
10 that in the sense of perhaps a ten-minute time limit,  
11 something like that. Nothing too long or lengthy.

12 With respect to limiting the witnesses'  
13 summaries, that's particularly problematic, because  
14 that's going to involve, at least in one instance, our  
15 presentation of that CD-ROM that Ms. White referred to.  
16 To the extent that you want to limit a witness summary  
17 to, for example, ten minutes, that's okay with us. The  
18 only request that we would make is that we have the  
19 opportunity to be cumulative on the ten minutes per  
20 witness. For example, we could use 15 minutes on one  
21 and no time on another witness, or some example like  
22 that, because it will involve, particularly the  
23 presentation of the CD-ROM.

24 With respect to combination of direct and  
25 rebuttal, AT&T would like the opportunity to present

1 rebuttal, and we would like to keep them separate.  
2 Clearly we understand the time constraints that we're  
3 on, but nonetheless would still like the opportunity to  
4 keep them separate if possible.

5           And I would echo Mr. Melson's comments with  
6 respect to there are some instances where AT&T does not  
7 line up with MCI, and would like the opportunity to  
8 explore the differences.

9           MR. FALVEY: With respect to the time limit  
10 for witness summaries, ACSI supports that idea and --  
11 but would like a minimum of ten minutes, and I also  
12 support AT&T's suggestion that we have the latitude to  
13 perhaps do 15 minutes for a costing witness and, you  
14 know, five minutes for a technical witness.

15           With respect to opening statements, if the  
16 Commission believes that they would be helpful, ACSI  
17 would be happy to comply, and it might help bring the  
18 elements of the case together up front so that you can  
19 see where the testimony fits in as it comes in.

20           In terms of consolidating direct and rebuttal,  
21 ACSI would prefer to consolidate its direct and  
22 rebuttal, given the number of witnesses and the timing  
23 of putting our witnesses on. I don't think we want to  
24 be putting them on on Wednesday and then flying them  
25 back down here on Saturday night at 11 p.m., or whenever

1 the final rebuttal is put on.

2           In terms of friendly cross on non-common  
3 issues, I think we understand the time constraints, but  
4 ACSI would also like to have -- I think my main concern  
5 on that issue is that the Commission recognize the  
6 extent to which the testimony is intertwined, that if  
7 there are costing issues on one subject, and they're,  
8 for instance, on the switching component, but the  
9 discussion goes to critical costing methodology issue,  
10 that we be permitted to engage in that give and take.  
11 So that would be my only concern on -- in that respect.

12           COMMISSIONER DEASON: I guess I'm a little  
13 confused. You want to be able to engage in what give  
14 and take?

15           MR. FALVEY: My concern is that there will be  
16 costing issues that will thread throughout the  
17 proceeding and that some of these issues may come up in  
18 the context of an element that we are not a party to,  
19 and I would -- I'm not saying we're going to be crossing  
20 on every issue, and like I said, we understand the  
21 overall framework of this proceeding, but I don't want  
22 four hours of costing cross, on generic costing issues,  
23 to take place on the switching or the transport element  
24 and have ACSI precluded from participating in that four  
25 hours of cross and redirect and so on.

1 COMMISSIONER DEASON: Staff?

2 MS. CANZANO: Regarding -- Staff would  
3 recommend we combine direct and rebuttal testimony to  
4 save time.

5 The cross-examination issue of the witnesses,  
6 I would recommend that where the parties need to clarify  
7 and conduct appropriate cross-examination to point out  
8 the differences in positions, they should be allowed to  
9 cross the witnesses even though they do have the same  
10 issues, but I would caution the parties that that would  
11 be subject to objections, as appropriate, by BellSouth,  
12 or Staff, if we perceive friendly cross being  
13 conducted.

14 With regard to time limit on the witnesses'  
15 summaries and the opening statements, that would be  
16 within the -- your discretion as to whether you think  
17 that will be helpful, and I believe that -- I assume  
18 that we're going to go off the record and take a break  
19 to discuss the purpose of the CD-ROM that AT&T wants to  
20 present. So I have no recommendation on that at this  
21 time.

22 COMMISSIONER DEASON: Ms. White, was it your  
23 suggestion that there be opening statements?

24 MS. WHITE: Again, I don't think we  
25 necessarily have a position one way or the other. I

1 just wanted to make it a suggestion, in case the other  
2 parties were interested, or the commissioner thought it  
3 might help the process of the hearing.

4 COMMISSIONER DEASON: Staff, opening  
5 statements are discretionary; is that correct? They're  
6 discretionary?

7 MS. CANZANO: Yes.

8 COMMISSIONER DEASON: All right. For purposes  
9 of the hearing we will combine direct and rebuttal  
10 testimony. Cross-examination on common issues will be  
11 limited to differences in positions on those issues, and  
12 to the extent that there is commonality of positions and  
13 cross-examination is used to reinforce that commonality  
14 of position is subject to objection, Ms. White.

15 There will not be opening statements. I think  
16 parties need to realize that we have a draft prehearing  
17 order and a final prehearing order that's going to  
18 probably be in the neighborhood of 50 to 100 pages.  
19 That will be reviewed by the commissioners prior to the  
20 beginning of the hearing. I don't think that opening --  
21 given the time crunch that we're going to be under,  
22 opening statements will not add anything to this  
23 proceeding. Therefore we will not have opening  
24 statements.

25 The witness summaries are going to be limited



1 to five minutes and there will not be any accumulation  
2 of time from one witness to another witness. Each  
3 witness has five minutes. I will allow a request for a  
4 particular witness to be made at the time that witness  
5 takes the stand, and the chairman can deal with that.  
6 Right now my ruling is five minutes, and that is going  
7 to be the ruling unless there is some valid reason that  
8 the chairman agrees with to change that ruling.

9 Anything else of a preliminary nature?

10 Mr. Melson?

11 MR. MELSON: Chairman Deason, I don't know  
12 whether this is preliminary or not, but I'll bring it  
13 up. During the deposition of one of the BellSouth cost  
14 witnesses -- I don't frankly remember whether it was  
15 this week or last, the days run together -- we learned  
16 that BellSouth has additional cost studies underway, at  
17 least one of which is supposed to be completed tomorrow,  
18 and possibly additional cost studies that could be  
19 completed prior to the time of the hearing. We would  
20 like to try and understand whether BellSouth intends to  
21 offer those cost studies at the hearing. To the extent  
22 that they come on the eve of the hearing, MCI would not  
23 have an adequate opportunity to review them and would  
24 likely object, and I thought maybe this was something we  
25 could get clarified this morning.

1 COMMISSIONER DEASON: Very well. Ms. White?

2 MS. WHITE: Yes, sir. The cost studies that  
3 Mr. Melson is talking about are the total element long  
4 run incremental cost studies that the FCC order  
5 requires, and which MCI, AT&T and ACSI have been looking  
6 for ever since the order came out. When the order came  
7 out, BellSouth reviewed it, looked at what the  
8 methodology was involved in order to conduct a TELRIC  
9 cost study -- because it has not conducted those  
10 before -- and began developing TELRIC studies in  
11 accordance with the FCC order for various elements and  
12 for various states. They're state specific studies.

13 It's my understanding that the TELRIC cost  
14 studies for the loops, the two-wire analog, the  
15 four-wire digital and -- the two- and four-wire analog  
16 and the four-wire digital, are to be completed  
17 tomorrow.

18 I believe it was asked of our witness in  
19 deposition if BellSouth was conducting TELRIC studies,  
20 and she said yes and advised the Commission and the  
21 other parties that these studies would be available  
22 tomorrow.

23 To the extent that MCI and AT&T are saying  
24 that you must default to the proxy rate if you don't  
25 have a TELRIC cost study, then I think the TELRIC cost

1 studies are important and need to be made a part of the  
2 record for whatever weight the Commission wants to give  
3 them.

4 I understand the parties' frustration at the  
5 fact that they're not ready until the Friday before the  
6 hearing. However, as I said, this was definitely not  
7 intentional. You know, we've been working on them as  
8 fast as we can. And of all the unbundled elements that  
9 these parties are seeking, only the -- these three loops  
10 will the cost studies be completed by. So I think it's  
11 wrong to say that they shouldn't be used at the hearing,  
12 because they are specifically relevant until the -- as I  
13 said, I don't know what's going to happen today with  
14 regard to the stay of the FCC order. If that stay is  
15 not continued, then the rules would go into effect and  
16 we would -- BellSouth would be required to provide  
17 TELRIC studies. As of tomorrow, it will have these  
18 three TELRIC studies. I don't think it's right or  
19 appropriate for the Commission to be asked to ignore  
20 them.

21 COMMISSIONER DEASON: Mr. Melson?

22 MR. MELSON: Let me respond briefly. During  
23 the deposition we were told the two-wire analog study  
24 would be available tomorrow. I am now learning for the  
25 first time that there are two additional studies that

1 expect to be completed. MCI has put forward a study in  
2 this proceeding which we believe is a TELRIC cost  
3 study. We're not asking the Commission to ignore them,  
4 we're asking them to look to the studies that are on  
5 file in the proceeding.

6           To the extent that BellSouth's cost witness  
7 could be made available to us for further deposition,  
8 MCI would not have an objection to the three cost  
9 studies that Ms. White has identified. I took it from  
10 her comments that there are no studies beyond those that  
11 BellSouth expects to have completed by the time of the  
12 hearing, and again, that's a clarification beyond what  
13 we had heard during the deposition. We would object to  
14 anything beyond those three.

15           COMMISSIONER DEASON: Ms. White, are there any  
16 cost studies beyond the three which we just discussed?

17           MS. WHITE: Ms. Sims is advising me that there  
18 may be some ready next week. I do not know that for a  
19 fact. If it would help matters, I think BellSouth could  
20 agree that if we could provide Ms. Caldwell, who is our  
21 cost witness, for a deposition on these three TELRIC  
22 loop cost studies, and we would just file the other  
23 TELRIC studies when they are developed but would not  
24 expect them to necessarily be a part of this case. I  
25 mean it might -- we might have to come back and revisit

1 it, I guess, because if the Commission decides to put in  
2 a proxy rate until a TELRIC study is done and the TELRIC  
3 study is done, then you might have to have another  
4 hearing on that. But if it would help matters along, I  
5 would agree to be able to produce Ms. Caldwell for  
6 another deposition on the TELRIC loop studies that will  
7 be ready by tomorrow.

8 COMMISSIONER DEASON: That being the two- and  
9 four-wire analog and four-wire digital loop?

10 MS. WHITE: Yes.

11 COMMISSIONER DEASON: Mr. Melson.

12 MR. MELSON: So long as we are then given some  
13 latitude to have our cost witness respond, if necessary,  
14 at the hearing, I believe that -- what Ms. White has  
15 suggested would be appropriate.

16 MS. WHITE: And of course, I think that would  
17 be only fair.

18 COMMISSIONER DEASON: Mr. Hatch?

19 MR. HATCH: I would echo Mr. Melson's  
20 comments.

21 COMMISSIONER DEASON: Mr. Falvey?

22 MR. FALVEY: I would just like to add briefly  
23 that, frankly, ACSI's position is that cost studies  
24 produced four days before the hearing cannot be  
25 effectively analyzed. They may be available in Florida

1 on Friday. Our expert is up in Maryland. So he's going  
2 to receive them on Saturday. My concern here is that,  
3 you know, a TELRIC study is very similar to a TSLRIC  
4 study. The TSLRIC standard has been floating around the  
5 FCC for years, and this train has been coming down the  
6 track for a long time. And it seems to me that the --  
7 these studies could have been produced a lot earlier  
8 than four days before the hearing. Where there's a will  
9 there's a way, and I don't see the way --

10 COMMISSIONER DEASON: Mr. Falvey, I agree  
11 where there's a will there's a way. You can review  
12 those studies. If you want to address them somehow in  
13 this proceeding, you shall, you will be granted that  
14 opportunity. I want to point out to you that you  
15 requested to be consolidated in this proceeding with the  
16 time frames in this proceeding and we all have to  
17 operate under them. Understood?

18 MR. FALVEY: Understood, Commissioner.

19 COMMISSIONER DEASON: Very well. Staff?

20 MS. CANZANO: If we receive the cost studies  
21 tomorrow, Staff feels that it can have adequate time to  
22 review them. But we are extremely concerned about  
23 something coming in on Monday or Tuesday, a day or two  
24 before the hearing, because these cost studies -- a lot  
25 goes into these cost studies, and Staff has been

1 spending a lot of time reviewing what it already has.  
2 So if we get them tomorrow, we do think we'll be okay in  
3 reviewing them. But those are our concerns.

4 COMMISSIONER DEASON: Okay. Cost studies are  
5 going to be prepared and presented tomorrow, will be  
6 officially -- actually filed with the Commission or just  
7 given to the parties? What is your --

8 MS. WHITE: We'll file with the Commission.  
9 And what I will do is I will commit for the people that  
10 are in Tallahassee, you know, if I have to, I'll put  
11 them on Delta Dash and have Ms. Sims deliver them. That  
12 would probably be the best way to get them down here  
13 tomorrow.

14 MS. CANZANO: And remember, it would have to  
15 come into the clerk's office if it's confidential.

16 MS. WHITE: I understand that.

17 COMMISSIONER DEASON: Are the parties going to  
18 work out the deposition schedule among -- between  
19 themselves?

20 MR. MELSON: We can do that.

21 COMMISSIONER DEASON: Is there any way to  
22 expedite a copy of that to Mr. Falvey's expert in  
23 Maryland?

24 Mr. Falvey, if you will communicate with them  
25 and maybe you can get that a day earlier than Saturday,

1 perhaps you can get it tomorrow.

2 MR. FALVEY: That would be great if we could  
3 fax a summary or something.

4 MS. WHITE: And then we could talk about  
5 faxing it, or whatever plane goes to where your witness  
6 is, maybe we can put it on it.

7 MR. FALVEY: We'll work it out.

8 COMMISSIONER DEASON: I would encourage you to  
9 work it out, and if you can save a day, I would  
10 encourage you to do that.

11 MS. CANZANO: Also, Staff would request  
12 BellSouth have Ms. Caldwell available for possible  
13 deposition on Monday or Tuesday after we review the cost  
14 studies this weekend, and if we feel the need to examine  
15 her.

16 MS. WHITE: Yes, and we'll be glad to do  
17 that. I do have to admit, however, that it may have to  
18 be by telephone, because there are arbitration hearings  
19 going on next week in North Carolina in which she's a  
20 witness. And I'm not sure what day she'll actually be  
21 on the stand.

22 MS. CANZANO: That would be fine.

23 COMMISSIONER DEASON: Other preliminary  
24 matters? Mr. Melson, do you have any others?

25 MR. MELSON: I don't believe so.



1 COMMISSIONER DEASON: Mr. Hatch?

2 MR. HATCH: There is one. In view of the  
3 length and the complexity of the issues in this  
4 proceeding, AT&T would like to request an expansion of  
5 the page limit on post-hearing briefs.

6 COMMISSIONER DEASON: Do you have a  
7 suggestion?

8 MR. HATCH: Our suggestion is 125 pages.

9 COMMISSIONER DEASON: Expand it from 60 to  
10 125?

11 MR. HATCH: Yes, sir.

12 COMMISSIONER DEASON: Other parties wish to  
13 address that suggestion? Ms. White?

14 MS. WHITE: Yes. I'm kind of appalled at 125  
15 pages. I agree that it may need to be expanded, but I  
16 guess 125 pages sounds like an awfully big expansion.  
17 What about a compromise at something like 80 or 90?

18 MR. HATCH: You don't have to use up all 125.

19 MS. WHITE: Yes, but if you write 125, I'll  
20 have to write 125.

21 MS. CANZANO: And Staff will have to read it  
22 all.

23 MS. WHITE: And Staff will have to read it  
24 all. Part of that, though, is the rule says that you  
25 have to set off your position in asterisks in 50 words

1 or less. I think there's some of these issues with so  
2 many subparts that that's not going to be possible. So  
3 we may have a problem in that that may need some relief  
4 there.

5 THE COURT: Mr. Melson?

6 MR. MELSON: I believe some expansion is  
7 appropriate, but I'm not going to have the time to write  
8 125 pages.

9 COMMISSIONER DEASON: Mr. Horton?

10 MR. HORTON: We only have one issue, so 125  
11 pages, that should be plenty for us.

12 COMMISSIONER DEASON: Staff?

13 MS. CANZANO: Staff requests that ACSI does  
14 not take up a full 125 pages for that issue.

15 I believe some expansion may be necessary in  
16 this case, but I think 125 pages is just too much from  
17 our perspective, for the briefs.

18 COMMISSIONER DEASON: Very well. What about  
19 the concern about the word limitation on the position  
20 statement?

21 MS. CANZANO: I think that's a legitimate  
22 concern, and I think that should be expanded.

23 Ms. White, do you have another idea as to what  
24 you think it should be expanded to?

25 MS. WHITE: Well, maybe just expand on --

1 expand on the issues of subparts. I know the issue that  
2 I'm most concerned about is 10a and 10b, because there's  
3 just no way -- and I'm not even sure -- I know I didn't  
4 count them. I tried to make mine as short as possible,  
5 and I didn't count up the words, but I know it's --  
6 maybe if we can just waive the requirement on that  
7 particular issue, 10a and 10b, we might be okay on the  
8 rest.

9 COMMISSIONER DEASON: We'll just interpret the  
10 rule for purposes of this proceeding to be 50 words per  
11 subpart, so that if there is an issue with three  
12 subparts, it's a total of 150 for that particular  
13 issue.

14 As to the request to expand the total pages in  
15 the brief, I think that this case -- if there ever were  
16 a case that was justified to expand the brief, I believe  
17 that this is one. However, I do think 125 is probably  
18 excessive. I'll set the limitation as 100 pages.  
19 Anything else?

20 Any other preliminary matters by any party?  
21 Staff, is it your suggestion we proceed into the draft  
22 prehearing order?

23 MS. CANZANO: Yes, it is.

24 COMMISSIONER DEASON: I have two versions of  
25 the draft. I have one that I was working from

1 yesterday. I have one from this morning. My question  
2 to Staff is, are they substantially the same, or are  
3 they significantly different?

4 MS. CANZANO: They're essentially the same.  
5 We've tried to clean it up as much as we could. We've  
6 added a case background to your version, and some  
7 positions of parties had been omitted from your version,  
8 as well as there were problems with the exhibits. Do  
9 you have both copies with you?

10 COMMISSIONER DEASON: I have both. What I  
11 will probably do is I'm going to work from the version  
12 that I was working from yesterday, which is not the most  
13 current, so that if there's some discrepancy or  
14 whatever, that may be the reason. Staff, just point it  
15 out to me, I'll look it up in the most current version,  
16 because I have some notations I have made on the version  
17 I was working from yesterday, and that's why I want to  
18 work from it.

19 MS. CANZANO: Okay, just recognize that the  
20 page numbers will be different.

21 COMMISSIONER DEASON: Very well. I'll be  
22 working basically with issue numbers most likely.

23 Okay, we can proceed then into the draft  
24 prehearing order, Section 1 being case background. Any  
25 changes or corrections to the case background?

1 MR. MELSON: Commissioner Deason?

2 COMMISSIONER DEASON: Yes.

3 MR. MELSON: On the appearances Ms. McMillin  
4 is listed under AT&T rather than MCI. She should be  
5 moved.

6 MS. CANZANO: We saw that, Rick.

7 MR. MELSON: And I've got several typos that I  
8 don't intend to go through today. I'll just get with  
9 Staff on those, with your permission.

10 COMMISSIONER DEASON: Yes. And I appreciate  
11 your bringing that up. If there are just clerical or  
12 typographical type corrections that need to be made,  
13 obviously you can communicate those to Staff at the  
14 conclusion of the prehearing conference, and I'm sure  
15 they will be glad to incorporate those.

16 MR. MELSON: In the statement of case  
17 background, in the paragraph specifically relating to  
18 MCI, that paragraph does not reflect the date on which  
19 MCI filed its request for arbitration with the  
20 Commission. And I would just like to ask that the Staff  
21 add, perhaps, a sentence at the end of that paragraph to  
22 reflect that we filed our request for arbitration on  
23 August 15th.

24 COMMISSIONER DEASON: Would that be on

25 Page 3?

1 MR. MELSON: Yes, sir.

2 COMMISSIONER DEASON: Staff, you can make that  
3 addition?

4 MS. CANZANO: Yes, we will.

5 COMMISSIONER DEASON: Very well. Anything  
6 else concerning case background?

7 Section 2 addresses procedure for handling  
8 confidential information, which is standard for  
9 Commission proceedings, and there is the requirement  
10 that parties give notice of the intention to utilize  
11 confidential information at the hearing. Has that been  
12 done in this proceeding?

13 MR. MELSON: I don't believe so,  
14 Commissioner. It's my understanding -- and again, this,  
15 I guess, is more a question directed to BellSouth, is  
16 that BellSouth does intend to offer as exhibits at the  
17 hearing a number of proprietary cost studies.

18 MS. WHITE: That's correct. And I believe  
19 that all of the parties to this case, including the  
20 Staff, do have copies of these cost studies, the ones  
21 that were previously filed, and will have copies of the  
22 new cost studies on these three items tomorrow. So I  
23 would assume that they would also be using these, or be  
24 cross-examining on these cost studies. Requests for  
25 confidential classification have been filed by BellSouth

1 on these items.

2 COMMISSIONER DEASON: Staff, have you been put  
3 on notice as to exactly what confidential information is  
4 going to be utilized during the cross-examination of the  
5 witnesses?

6 MS. CANZANO: Not the exact information, but  
7 perhaps during a break we can meet with the parties and  
8 discuss it so this way we make sure that we all agree as  
9 to what will be proffered.

10 COMMISSIONER DEASON: Very well. I just don't  
11 want there to be any surprises at the hearing as far as  
12 confidential information is concerned, so that everyone  
13 is apprised of what is going to be utilized at the  
14 hearing. And obviously I think all parties have  
15 practiced before the Commission long enough to know the  
16 procedure as far as the mechanics of actually  
17 distributing, collecting and discussing confidential  
18 information. And I just would expect all parties to  
19 abide by that.

20 Okay, anything else on the Section 2?

21 Section 3, prefiled testimony and exhibits.

22 MS. WHITE: BellSouth has one change. On  
23 Page 7, at the end of the list of direct witnesses,  
24 BellSouth's witness, Vic Atherton, should be added. I  
25 believe he filed direct testimony, as well as rebuttal.

1 MS. CANZANO: And Ms. White, where would you  
2 place him in your order of witnesses?

3 MS. WHITE: You can put him last.

4 MR. HATCH: We've got a couple of comments  
5 with respect to the order of witnesses.

6 COMMISSIONER DEASON: Just a moment.

7 Ms. White, that was -- who are you adding as a  
8 direct witness?

9 MS. WHITE: The full name is William V.  
10 Atherton, A-T-H-E-R-T-O-N. He is already a witness in  
11 the rebuttal section of the witness list and he needs to  
12 be added to the direct section.

13 COMMISSIONER DEASON: Very well.

14 MS. WHITE: And one other thing for  
15 BellSouth. BellSouth had not put the -- had not matched  
16 the witness to the issue that they were going to testify  
17 about because BellSouth was under the understanding that  
18 a new issue list would be put out. I do have a  
19 handwritten list of which witness goes with each -- what  
20 issue as it's numbered now, and I'll be glad to give  
21 that to the Staff and any party who may want a copy.

22 COMMISSIONER DEASON: Well, there may be some  
23 renumbering as a result of previous decisions today and  
24 maybe some decisions later. I'm not sure. And that  
25 probably would be helpful after the renumbering if you



1 could provide that information, and that would pertain  
2 to all parties as well.

3 MS. WHITE: I'll be glad to. I can provide at  
4 both times this list and a new one, or whichever the  
5 parties want.

6 MS. CANZANO: That would be very helpful for  
7 Staff.

8 COMMISSIONER DEASON: Okay, other questions or  
9 concerns about prefiled testimony and order of  
10 witnesses?

11 MR. HATCH: With respect to the order of  
12 witnesses, I believe we have provided the list of the  
13 issue identification with respect to witnesses to Staff  
14 already, although it's not reflected here.

15 With respect to the order, as it's listed  
16 here, AT&T has a suggested order that's different than  
17 in the prehearing order, and I'll go ahead and read that  
18 to you. What we would prefer to have is Mr. Cresse  
19 first, followed by Mr. Gillan, then Mr. Shurter and  
20 Mr. Tamplin and Dr. Kaserman, Mr. Ellison, Mr. Sather,  
21 Mr. Lerma and then with Mr. Carroll last.

22 COMMISSIONER DEASON: Could you go through  
23 that one more time, please?

24 MR. HATCH: Sure. Mr. Cresse, Mr. Gillan,  
25 Mr. Shurter, Mr. Tamplin, Dr. Kaserman, Mr. Ellison,

1 Mr. Sather, Mr. Lerma and Mr. Carroll.

2 COMMISSIONER DEASON: Did Staff get those  
3 changes?

4 MS. CANZANO: Yes.

5 MR. MELSON: Commissioner Deason, MCI has got  
6 no change in the order of its witnesses. I would like  
7 to note that Mr. Caplan and Dr. Cornell are testifying  
8 in other states that week and neither of them is  
9 available in Florida on the 9th. They would both be  
10 available the 10th or 11th. I think it's unlikely we  
11 would get to them on the 9th in any event, but if we  
12 could note they would not be taken on the first day of  
13 the hearing, I would appreciate it.

14 MS. WHITE: I'm sorry, Rick, which witnesses?

15 MR. MELSON: Mr. Caplan and Dr. Cornell.

16 COMMISSIONER DEASON: We will make a notation  
17 in the prehearing order that they are not available on  
18 those days, that being the 9th. For both Caplan and  
19 Cornell?

20 MR. MELSON: Yes, sir.

21 COMMISSIONER DEASON: And -- but I, in the  
22 prehearing order, am not guaranteeing it. This will be  
23 the chairman's prerogative. She's going to be running  
24 this hearing. It's her responsibility to get this  
25 hearing concluded in the time frames, and if she calls a

1 witness and they're not there, you can just deal with  
2 her at that time.

3 MR. HATCH: One request for clarification,  
4 Commissioner Deason. The question just came up that if  
5 you're combining direct and rebuttal, is your  
6 five-minute limit for both direct and rebuttal  
7 simultaneously?

8 COMMISSIONER DEASON: That's a good question.  
9 I would take it to be your position that since we're  
10 combining, it should be ten minutes?

11 MR. HATCH: Fair guess.

12 COMMISSIONER DEASON: I think the parties  
13 should realize that all the testimony has been prefiled  
14 and that testimony is being reviewed. We're going to be  
15 under severe time constraints to conclude this hearing.  
16 I'm going to leave it at five minutes. You can ask the  
17 chairman that if it is a witness that has both direct  
18 and rebuttal that is being filed, to be given the  
19 latitude to allow ten minutes on the summary. And if  
20 she feels benevolent in that regard, well, then, you can  
21 have ten minutes, but I'm not setting it at ten minutes  
22 in the prehearing order.

23 MR. HORTON: Commissioner Deason, with respect  
24 to ACSI's witnesses, I just want to make one requested  
25 change in the order. We would like to take

1 Mr. Robertson first -- this is on Page 7 --

2 Mr. Robertson, Mr. Stipe and then Dr. Kahn.

3 THE COURT: Mr. Robertson would be first  
4 then?

5 MR. HORTON: Yes.

6 COMMISSIONER DEASON: Other changes in order  
7 of witnesses? Very well.

8 MS. CANZANO: Staff would just like to clarify  
9 that all parties, not just BellSouth, provide Staff with  
10 the issue numbers corresponding to the witness, and that  
11 would be for this copy, as well as the renumbered copy,  
12 so that we can be sure we have it straight.

13 COMMISSIONER DEASON: All parties understand  
14 the request from Staff?

15 MR. MELSON: Yes.

16 COMMISSIONER DEASON: Staff, you're going to  
17 have to provide them the renumbered issues as quickly as  
18 possible as well.

19 MS. CANZANO: Yes, I will.

20 COMMISSIONER DEASON: Section 5, basic  
21 positions. MCI used up their whole brief on their basic  
22 position.

23 MR. MELSON: It's shorter than BellSouth's,  
24 Your Honor.

25 COMMISSIONER DEASON: Changes or corrections

1 to basic positions? Very well. Section 6, issues and  
2 positions, first section being issues common to all  
3 three parties to this proceeding. And that first issue  
4 is -- has been designated Issue 10a. Changes or  
5 corrections to Issue 10a?

6 Very well. Issue 10b?

7 The next section is the section involving  
8 issues common to AT&T, MCI and BellSouth, that first  
9 issue being Issue 12. Changes or corrections?

10 Issue 1? 7? 2? 5? 14? 3a? 3b? Issue  
11 4? Issue 8?

12 MR. MELSON: Commissioner Deason? This is the  
13 first of the issues which you indicated MCI would not be  
14 permitted to arbitrate. I would ask that you retain  
15 MCI's position in the prehearing order, perhaps with a  
16 bold face notation regarding your ruling, but to the  
17 extent that we seek reconsideration of that and it were  
18 granted, I believe it would be more helpful if our  
19 position was set out.

20 COMMISSIONER DEASON: I agree. And it can be  
21 so designated.

22 MS. CANZANO: Yes, it will.

23 COMMISSIONER DEASON: Issue 11. And that  
24 would likewise apply to the other issues as well,  
25 Mr. Melson.

1 MR. MELSON: Yes, sir, I would appreciate  
2 that.

3 COMMISSIONER DEASON: Issue 11? 13? 9? 6?  
4 16? 17a? 17b?

5 MR. MELSON: Commissioner Deason, on Issue  
6 17b, we would adopt the AT&T position.

7 COMMISSIONER DEASON: So you will not have any  
8 cross-examination of AT&T witness on this issue?

9 MR. MELSON: That's correct.

10 COMMISSIONER DEASON: Very well. Issue 19?  
11 Issue 20? Issue 22? Issue 23?

12 Now proceeding to the section involving issues  
13 specific to AT&T and BellSouth. Issue 21? Issue 15?

14 The next section is the section addressing  
15 issues specific to MCI and BellSouth. Issue 24?

16 MR. MELSON: Commissioner Deason, this is the  
17 first of the issues that would be completely taken out  
18 under your ruling. Again, I would like to have the  
19 issue shown and MCI's position stated. It might be  
20 helpful if the Staff grouped the issues that were out  
21 toward the end of this section, so that we had the  
22 issues that clearly were to be arbitrated listed first  
23 and then the ones that have been ruled out toward the  
24 end.

25 COMMISSIONER DEASON: Can Staff make that

1 accommodation?

2 MS. CANZANO: Yes.

3 COMMISSIONER DEASON: Very well. Issue 25?

4 Issue 26? Issue 27 will be treated as we described for

5 Issue 24. Issue 28? Issue 29 will be treated as Issue

6 24.

7 MR. MELSON: Commissioner Deason, Issue 29 --

8 COMMISSIONER DEASON: Oh, that was withdrawn.

9 MR. MELSON: -- has been withdrawn, yes, sir.

10 COMMISSIONER DEASON: Very well. Yes. Issue

11 30? That concludes the MCI-specific issues.

12 The next section addresses the post-hearing  
13 procedure. And we have positions from all the parties.

14 Any changes -- I'm sorry, AT&T?

15 MR. HATCH: Commissioner Deason, I apologize.

16 I've come to term that piece the disappearing document.

17 It was done, it was done as a separate document when we

18 prepared the prehearing statement, and it didn't get

19 attached. So that when we filed it, it wasn't

20 attached. It was done to be filed on Monday, the day

21 after the prehearing statement was due on Friday, and

22 apparently it never happened. But the short answer to

23 your question is, on procedure, is that AT&T's posture

24 on this issue is that 14 days from the date the

25 Commission's order is issued should be sufficient time

1 for us to negotiate an arrangement with BellSouth. If  
2 there is no agreement at that time, then it would be  
3 brought back to the Commission upon an issue-by-issue  
4 arbitration based on proposed contractual language of  
5 each of the parties with respect to the issues still at  
6 issue. Forgive the redundancy.

7 COMMISSIONER DEASON: Can you provide exact  
8 wording to Staff to incorporate?

9 MR. HATCH: Yes.

10 MR. MELSON: Chairman Deason?

11 COMMISSIONER DEASON: Yes.

12 MR. MELSON: I would like to inquire. Do you  
13 expect that either you or the Commission will rule on  
14 this procedure prior to the outset of the hearing? Or  
15 is this a matter that you would expect to have briefed?

16 COMMISSIONER DEASON: I do not anticipate on  
17 ruling on this before the hearing. The first  
18 opportunity that the full Commission could rule upon  
19 this -- I assume it's possible that it could be done at  
20 the hearing itself, but I'm not sure that the other  
21 commissioners would be comfortable with doing so.

22 Staff, do you have any comments?

23 MS. CANZANO: Yes, I was thinking that we  
24 need -- I believe the full Commission needs to rule on  
25 that, and I also think that needs to be phrased as an



1 issue. So a suggestion would be: What is the  
2 proposed -- what is the appropriate -- what are the  
3 appropriate post-hearing procedures for submission  
4 approval of a final arbitrated agreement?

5 COMMISSIONER DEASON: I would anticipate that  
6 it could be briefed, but I would not anticipate it would  
7 be something that would take necessarily a large part of  
8 your brief to address.

9 MR. MELSON: No, sir, I was wondering whether  
10 the intention, frankly, was for the Commission to rule  
11 on it at the outset, or at the conclusion of the  
12 hearing, or whether it would be ruled on only with the  
13 other issues.

14 COMMISSIONER DEASON: Well, to me, it would be  
15 preferable -- and there are four other commissioners,  
16 they may not think it's preferable. I think it would be  
17 preferable to give the parties as much advance notice  
18 before the actual order comes out in this proceeding, so  
19 that the parties would be able to prepare for whatever  
20 the post-hearing procedure is going to be.

21 So I would suggest that Staff somehow  
22 communicate to the other commissioners that this is  
23 something that the parties would like as much advance  
24 guidance as possible. And if it's something that could  
25 be addressed at the hearing itself, perhaps we could do

1 it before the hearing is actually adjourned and give  
2 parties notice as to how the Commission anticipates  
3 proceeding. But if procedurally that can't be done, so  
4 be it, but I think it would be important for parties to  
5 have that guidance.

6 MS. CANZANO: It was also my understanding  
7 that the parties and Staff wanted to brief this issue,  
8 more than just have a paragraph. We anticipated it as  
9 being incorporated into the post-hearing briefs. But  
10 if --

11 COMMISSIONER DEASON: Well, let me ask the  
12 parties, do you have a preference? Do you want to brief  
13 it, or do you want to try to get as much advance  
14 guidance as possible so you can prepare for things to  
15 come?

16 MS. WHITE: I think BellSouth is kind of torn  
17 on that. In order for it to be decided by the whole  
18 commission, it probably needs to be an issue, but then  
19 if it's an issue, it's not briefed and decided until the  
20 order comes out, which is kind of late in the game.

21 I guess I wonder if we could have it as an  
22 issue, but that that issue could have an expedited  
23 decision. I don't know if that's allowed by the rules,  
24 just a suggestion.

25 COMMISSIONER DEASON: I agree. I think it

1 needs to be listed as an issue, but I think that perhaps  
2 we need -- if it is at all possible and the other  
3 commissioners are agreeable to doing so, is to having  
4 this as a bench decision before the end of the hearing,  
5 and give parties an opportunity to make a brief oral  
6 argument on what would be the appropriate procedure, and  
7 if the other commissioners are comfortable in making  
8 that procedural decision, to do that before the hearing  
9 is adjourned, or if that's not possible, to have an  
10 expedited decision before the decisions on all of the  
11 substantive issues and the decision on the order is  
12 issued.

13           Staff, I will leave it to you to try to  
14 communicate that to the other commissioners and express  
15 that there is an interest, a valid interest in trying to  
16 get this procedural guidance as quickly as possible.

17           MS. CANZANO: We will do that.

18           COMMISSIONER DEASON: Very well.

19           MS. WHITE: The only thing I would ask, maybe  
20 if we're going to do it via oral argument, again, maybe  
21 there should be a time limit put on it and a specific  
22 time set, like it's going to be the last thing done  
23 before the hearing is adjourned.

24           MR. HATCH: If it's the last thing done, no  
25 one is going to spend a whole lot of time on it.

1 MS. WHITE: Or the first thing done. It  
2 doesn't matter to me, but I just meant put it in a  
3 specific place and give parties a time limit. I meant  
4 put it in a specific place so we know that at 10:00 on  
5 this date we have to do this. I have to be led by the  
6 hand these days.

7 COMMISSIONER DEASON: Staff, discuss this with  
8 the chairman and find out what her preference is as far  
9 as whether there should be a designated time to address  
10 this during the hearing itself, or if it's going to be  
11 the last matter taken up. I don't know exactly what her  
12 plans are for processing the day-to-day activities of  
13 this hearing, and if you get that input from her, you  
14 can just incorporate that.

15 MS. CANZANO: We will definitely do that.

16 Staff has raised another issue that ought to  
17 be included in this case, and I realize this is the last  
18 minute, but in the other arbitration cases, we have been  
19 raising as an issue is: Should the agreement be  
20 approved pursuant to Section 252(e) of the  
21 Telecommunications Act of 1996?

22 MS. WHITE: I assume by that you mean the --

23 COMMISSIONER DEASON: Let me -- why shouldn't  
24 it?

25 MS. CANZANO: I think there is -- just to set

1 what the standards ought to be in terms of  
2 clarification.

3 COMMISSIONER DEASON: I assume this would be a  
4 legal issue?

5 MS. CANZANO: Yes.

6 COMMISSIONER DEASON: Do the parties get the  
7 issue?

8 MS. WHITE: One more time?

9 MS. CANZANO: Should the agreement be approved  
10 pursuant to Section 252(e) of the Telecommunications Act  
11 of 1996? And that would be the same issue that has been  
12 raised in the BellSouth MFS docket, and also the MFS  
13 United/Centel docket. And parties can give Staff a  
14 position on that later.

15 COMMISSIONER DEASON: When do you plan on  
16 issuing this prehearing order?

17 MS. CANZANO: Probably for the prehearing  
18 order, when we expect it, early next week.

19 COMMISSIONER DEASON: You just need to get  
20 these positions from everyone as quickly as possible.

21 MS. CANZANO: By close of business Friday. Is  
22 that possible?

23 MS. WHITE: Our position on this last issue  
24 that we just added?

25 MS. CANZANO: Yes.

1 MS. WHITE: Yes, that's possible.

2 MR. HATCH: It's probably going to have to  
3 be.

4 COMMISSIONER DEASON: Yes, I think it will  
5 be. My concern is that -- obviously, is that the order  
6 be given to the commissioners as quickly as possible, as  
7 well. There's a lot of meat in the order. And since  
8 we're not going to have opening statements, I'm sure  
9 they're going to want to rely on it even more.

10 There has been an issue which has been  
11 designated Issue 31 raised by ACSI.

12 MR. HORTON: Commissioner, that should be  
13 stricken. That comment goes to the procedures we were  
14 just talking about.

15 COMMISSIONER DEASON: Okay. Any other matters  
16 concerning issues?

17 Section 7, exhibit list?

18 Section 8, proposed stipulations? It would be  
19 acceptable to the Commission if this matter got settled  
20 between now and the hearing.

21 MR. HATCH: I expect nothing would please  
22 everybody, at least in this room, more.

23 COMMISSIONER DEASON: Section 9, pending  
24 motions? Staff?

25 MS. CANZANO: There are a number of discovery

1 motions pending. And I think we should -- I also  
2 believe that there's one motion that could -- I  
3 understand is resolved, regarding ACSI's motion to  
4 shorten time for BellSouth's response; is that correct?

5 MS. WHITE: That's correct.

6 MR. FALVEY: Yes, that's correct.

7 MS. CANZANO: I don't suppose the other  
8 motions are resolved?

9 MR. HATCH: To date, no.

10 MS. WHITE: Today, no. I would be willing to  
11 have the decision be made by the prehearing officer on  
12 the pleadings that have already been submitted, if the  
13 other parties agree.

14 MR. HATCH: Does not bother me, Commissioner  
15 Deason, unless you want to --

16 COMMISSIONER DEASON: Let me -- we're going to  
17 take a break in a few minutes, and the CD-ROM situation  
18 needs to be discussed during that break as well. I need  
19 to get clearly in my mind what is pending and what is  
20 not pending at this point. So if Staff wants to  
21 describe that, or if the parties want to describe that,  
22 it doesn't matter to me, but I need that understanding.  
23 Staff?

24 MS. CANZANO: I would like to put forth what I  
25 believe is at issue still, and if there are other

1 matters, I would like the parties to raise them. I have  
2 that AT&T filed a motion to compel against BellSouth  
3 for -- regarding its first set of interrogatories and  
4 PODs, and that AT&T filed that motion on September  
5 26th. I do not -- I'm not sure if BellSouth has  
6 responded to it yet. I have not seen it.

7 MS. WHITE: The response is due today.

8 COMMISSIONER DEASON: So BellSouth's response  
9 is due today?

10 MS. WHITE: Correct.

11 COMMISSIONER DEASON: And you're willing to  
12 let me rule on the pleadings and you have not yet filed  
13 one?

14 MS. WHITE: Well, the pleading that's going to  
15 be filed today.

16 COMMISSIONER DEASON: Oh, it's going to be  
17 filed today?

18 MS. WHITE: Yes, it's going to be filed today,  
19 and I think I have a copy here if somebody wants it, but  
20 the pleading that's filed today, yes.

21 COMMISSIONER DEASON: Okay.

22 MS. CANZANO: We also have the ACSI, that one  
23 motion to shorten time, which has been resolved. I also  
24 have two motions to compel against BellSouth, one  
25 regarding its first set of interrogatories and the other



1 regarding the first set of PODs.

2 COMMISSIONER DEASON: A motion to compel that  
3 was filed against BellSouth?

4 MS. CANZANO: Yes, by ACSI.

5 COMMISSIONER DEASON: There's been two such  
6 motions filed by ACSI?

7 MS. CANZANO: Yes, regarding motions to  
8 compel.

9 COMMISSIONER DEASON: Okay. What is the first  
10 motion?

11 MS. CANZANO: A motion to compel BellSouth to  
12 answer its first set of interrogatories.

13 COMMISSIONER DEASON: And the second?

14 MS. CANZANO: Motion to compel BellSouth to  
15 answer its first set of PODs.

16 COMMISSIONER DEASON: And this was filed  
17 when?

18 MS. CANZANO: Actually, I don't have the date  
19 written down. Perhaps ACSI could assist me.

20 MR. FALVEY: The motion to compel on the  
21 production of documents filed September 19th, and on the  
22 interrogatories was also filed September 19th.

23 COMMISSIONER DEASON: Very well. And  
24 BellSouth has responded?

25 MS. WHITE: BellSouth has responded to ACSI's

1 motion to compel interrogatories. Apparently there was  
2 a mix-up on the service of the motion to compel  
3 production of documents. BellSouth's request is due  
4 tomorrow, or if you want oral argument on that one, I  
5 could wing it.

6 COMMISSIONER DEASON: So there is a filed  
7 response to the motion to compel as it pertains to the  
8 first set of interrogatories?

9 MS. WHITE: That's correct.

10 COMMISSIONER DEASON: There has not been a  
11 filed response as it pertains to the production of  
12 documents, and that is not due until tomorrow?

13 MS. WHITE: Until tomorrow.

14 COMMISSIONER DEASON: But you're willing to  
15 make an oral argument today?

16 MS. WHITE: If you want to go ahead and get it  
17 over with.

18 COMMISSIONER DEASON: Mr. Falvey?

19 MR. FALVEY: I think it might be a good idea  
20 to do a brief oral argument, at least on the request for  
21 production, in light of the fact that we haven't seen  
22 the papers, and I am prepared to do that today.

23 COMMISSIONER DEASON: Okay. Other pending  
24 matters?

25 MS. CANZANO: Also, BellSouth's motion to

1 compel AT&T regarding discovery, and I believe that  
2 Staff has a draft recommendation for you.

3 COMMISSIONER DEASON: When was this filed?

4 MR. HATCH: There are two of them,  
5 Commissioner Deason. One, I believe, was filed in -- I  
6 think August the 30th. The other one, I believe, was  
7 filed September the 11th, if I'm not mistaken. AT&T  
8 responded to each.

9 COMMISSIONER DEASON: And AT&T has responded  
10 to both. Staff, do you have a recommended resolution of  
11 that motion and response thereto?

12 MS. CANZANO: Staff had drafted a draft order  
13 for you to review.

14 COMMISSIONER DEASON: Okay, any other pending  
15 motions?

16 MS. CANZANO: None that Staff is aware of.

17 COMMISSIONER DEASON: Any of the parties have  
18 any other motions that are still pending that need to be  
19 brought to the prehearing officer's attention?

20 Very well. We're going to take a recess.  
21 Staff, I need to meet with you all and discuss these --  
22 the motions and -- as to how we're going to address them  
23 here today. And I would encourage the parties to  
24 discuss the CD-ROM situation and anything else that may  
25 be out there that needs your attention.

1 We'll stand in recess until 10:45.

2 (Recess from 10:28 until 10:45 a.m.)

3 COMMISSIONER DEASON: Call the prehearing  
4 conference back to order. You may want to check your  
5 microphones.

6 MR. HATCH: I believe, Commissioner Deason,  
7 before you proceed too much further, I think that we  
8 have resolved our discovery battles.

9 MS. WHITE: Some of them. With AT&T and MCI,  
10 not with ACSI.

11 COMMISSIONER DEASON: All right. So explain  
12 to me, is there anything I need to do at this point, or  
13 as far as you're concerned everything is resolved?

14 MR. HATCH: It's my understanding that each  
15 party, at least vis-a-vis AT&T and BellSouth, has agreed  
16 to withdraw their respective motions to compel.

17 COMMISSIONER DEASON: Very good. So then that  
18 leaves the ACSI two motions to compel against BellSouth  
19 as the only pending motions in this matter; is that  
20 correct, Staff?

21 MS. CANZANO: That's correct.

22 COMMISSIONER DEASON: And BellSouth has  
23 suggested that there be oral argument in this matter in  
24 lieu of actually filing a written response to the  
25 motion; is that correct?

1 MS. WHITE: Well, with regard to the  
2 production of document motion to compel. With regard to  
3 the interrogatories, we have filed a response, so we  
4 would ask that that just be decided on the pleadings.

5 MR. FALVEY: I have no problems with the  
6 interrogatories being decided on the pleadings.

7 COMMISSIONER DEASON: Okay. Before we proceed  
8 any further in this regard, let me ask about the  
9 situation concerning the CD-ROM. Has that been  
10 addressed?

11 MR. HATCH: We have made progress with respect  
12 to that. I believe that our agreement is that we would  
13 offer it, I believe the way Ms. -- the way Nancy  
14 characterized it was as demonstrative evidence as  
15 compared to substantive evidence. There may be some  
16 question as to what that means. But principally,  
17 mechanically, for your purposes, Commissioner Deason, I  
18 think what's going on happen is that we are going to use  
19 that CD-ROM with Mr. Tamplin's testimony, as part of his  
20 summary. Now, we understand the time limits and so  
21 forth, and we'll have to make our case to the chairman  
22 in order to deal with that. In addition to that, we are  
23 also getting cleaner, better copies to the folks,  
24 BellSouth, the Staff and so forth, as to the actual  
25 pictures that are embedded in that CD-ROM.

1           COMMISSIONER DEASON: Well, I understand  
2 there's an actual problem of utilizing that CD-ROM with  
3 the equipment that we have here at the Commission?

4           MR. HATCH: For purposes of the hearing it  
5 should not be a problem. We have our own machine that  
6 we're bringing in that is an audio -- it's this giant,  
7 funky computerized audio/visual machine that actually  
8 will play it, we anticipate, on the screen that comes  
9 down behind you, so that everybody will have a good,  
10 clean shot at what's being projected.

11           MS. CANZANO: Mr. Hatch, I would just like to  
12 ask, what is on the CD-ROM, is that the same as those  
13 pictures that are attached to Mr. Tamplin's testimony?

14           MR. HATCH: That is correct. And we are  
15 endeavoring to get you cleaner copies of those.

16           MS. CANZANO: Thank you.

17           MS. WHITE: That's correct. Mr. Hatch's  
18 representation is correct. I think the only thing I  
19 would add is that it's my understanding that only the  
20 paper copies will be entered into the record as the  
21 exhibit to Mr. Tamplin's testimony, and the CD-ROM will  
22 not be entered into the record.

23           MR. HATCH: That is correct.

24           COMMISSIONER DEASON: Very well. Anything  
25 else before I address the motions to compel that were

1 filed by ACSI?

2           In regards to the first set of interrogatories  
3 which is the subject of the motion to compel, I'll be  
4 making a decision based upon the pleadings. In regard  
5 to the production of documents, there will be an oral  
6 argument held today at the conclusion of the GTE  
7 prehearing this afternoon. I cannot tell you what time  
8 that will be, but this matter, this prehearing  
9 conference, will be reconvened at that time. Now if the  
10 parties can work this out in the next four or five  
11 hours, that's great. If you can't, we'll have the oral  
12 argument.

13           MR. FALVEY: Commissioner Deason, we might be  
14 able to work it out in the next four or five minutes. I  
15 don't know if there's any way of bringing it back.  
16 There were some discussions between AT&T and BellSouth  
17 going on while -- in the last break, so I didn't --  
18 Nancy and I didn't have a chance to get together.

19           MS. WHITE: The other suggestion I might make  
20 is that maybe we could get a pleading filed today and  
21 have the decision be made on the pleadings. We would  
22 agree to that.

23           COMMISSIONER DEASON: No, you've got my  
24 interest now. We're going to have oral argument.

25           MR. MELSON: Commissioner Deason, could the

1 non-combatants be excused from the continued  
2 prehearing?

3 MS. WHITE: No, no.

4 COMMISSIONER DEASON: All those that have  
5 already agreed to their discovery disputes may be  
6 dismissed from this prehearing conference, may be  
7 excused. If you think that --

8 MR. HORTON: Commissioner?

9 COMMISSIONER DEASON: Yes, Mr. Horton.

10 MR. HORTON: I was just going to ask, if we  
11 are able to resolve something with BellSouth, can we  
12 simply advise the Staff and --

13 COMMISSIONER DEASON: Absolutely. If it can  
14 be settled, advise the Staff and there will be no need  
15 to reconvene this prehearing conference for purposes of  
16 the oral argument on that discovery dispute.

17 MR. HORTON: Thank you.

18 COMMISSIONER DEASON: Anything else to come  
19 before the prehearing officer at this time?

20 MS. CANZANO: None that I am aware. Just so  
21 that I'm straight, we're going to reconvene unless we're  
22 notified that this matter has been resolved?

23 COMMISSIONER DEASON: Yes. We're going to  
24 reconvene at a short time after the conclusion of the  
25 GTE prehearing conference for purposes of taking oral



1 argument on the motion to compel in regards to the first  
2 set of PODs that was filed by ACSI.

3           So this portion of the prehearing conference  
4 is adjourned, realizing that it may be reconvened for  
5 that limited purpose at a subsequent time this  
6 afternoon.

7           Thank you all.

8           (Hearing concluded at 10:55 a.m.)

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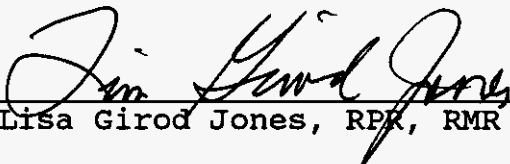
11

12 I certify that the foregoing is a correct transcript  
13 from the record of proceedings in the above-entitled  
14 matter.

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\_\_\_\_\_  
Lisa Girod Jones, RPR, RMR

10/4/96  
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Date

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