

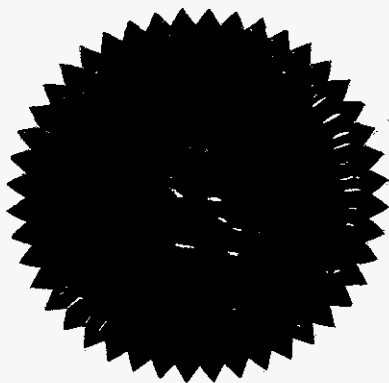
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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

Petition by MCI
Telecommunications Corporation
for arbitration with United
Telephone Company of Florida and
Central Telephone Company of
Florida concerning
interconnection rates, terms,
and conditions, pursuant to the
Federal Telecommunications Act
of 1996.

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: DOCKET NO. 961230-TP
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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER DIANE K. KIESLING
 Prehearing Officer

DATE: Thursday, December 12, 1996

TIME: Commenced at 9:40 a.m.
 Concluded at 10:25 a.m.

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

REPORTED BY: ROWENA NASH HACKNEY
 Official Commission Reporter

(13263-96)
DOCUMENT NUMBER-DATE

1 **APPEARANCES:**

2 **RICHARD D. MELSON**, Hopping Green Sams and
3 Smith, Post Office Box 6526, Tallahassee, Florida
4 32314, appearing on behalf of MCI Telecommunications
5 Corporation and MCImetro Access Transmission Services,
6 Inc.

7 **JOHN P. FONS** and **J. JEFFRY WAHLEN**, Ausley &
8 McMullen, Post Office Box 391, Tallahassee, Florida
9 32302, appearing on behalf of United Telephone Company
10 of Florida and Central Telephone Company of Florida.

11 **MARTHA CARTER BROWN** and **COCHRAN KEATING**,
12 Florida Public Service Commission, Division of Legal
13 Services, 2540 Shumard Oak Boulevard, Tallahassee,
14 Florida 32399-0870, appearing on behalf of the
15 Commission Staff.

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P R O C E E D I N G S

(Hearing convened at 9:40 a.m.)

COMMISSIONER KIESLING: The hearing will come to order. Counsel, would you please read the notice?

MR. KEATING: Pursuant to notice, dated November 15, 1996, this time and place have been set for a Prehearing Conference in Docket No. 961230, petition by MCI Telecommunications Corporation for arbitration with United Telephone Company of Florida and Central Telephone Company of Florida concerning interconnection rates, terms, and conditions, pursuant to the Federal Telecommunications Act of 1996.

COMMISSIONER KIESLING: Would you enter appearances, please?

MR. MELSON: Richard Melson of the law firm, Hopping Green Sams & Smith, P.A., Post Office Box 6526, Tallahassee, on behalf of MCI Telecommunications Corporation and MCI metro Access Transmission Services.

Also appearing with me at the hearing will be Martha McMillin of MCI in Atlanta.

MR. FONS: I'm John Fons with the law firm of Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302, appearing on behalf of United Telephone Company of Florida and Central

1 Telephone Company of Florida.

2 Also appearing with me is J. Jeffry Wahlen
3 of the same law firm.

4 MR. KEATING: Cochran Keating and Martha
5 Brown, appearing on behalf of PSC Staff, 2540 Shumard
6 Oak Boulevard, Tallahassee, Florida 32399-0850.

7 COMMISSIONER KIESLING: Thank you. What
8 preliminary matters do we have to take up before we
9 start going through the actual document?

10 MR. KEATING: I believe that the parties
11 have some matters regarding issues and testimony that
12 they need to bring before the Commission.

13 COMMISSIONER KIESLING: Okay. Who's going
14 to speak?

15 MR. MELSON: I'll start. In terms of
16 preliminary matters, the parties have reached a
17 stipulation and agreement that resolves a great number
18 of the issues that have been identified in this case
19 and resolves them generally in accordance with the way
20 those issues were resolved in either your -- the
21 Commission's vote in either the MCI/BellSouth
22 arbitration and/or the MCI/GTE arbitration.

23 We've got a partially executed agreement. I
24 understand Sprint has agreed; they just haven't yet
25 been able to get it to the right person to have the

1 signature fixed. When that's done, the parties intend
2 to file this formally in the docket. And I guess we'd
3 ask that reference in the section of the Prehearing
4 Order relating to stipulations, reference be made to
5 this agreement, and perhaps be attached to the
6 Prehearing Order and be an item that the Commission
7 could take up at the outset of the hearing to
8 hopefully approve.

9 **COMMISSIONER KIESLING:** All right. And
10 that's acceptable to the rest of the parties?

11 **MR. FONS:** It is as far as United and Centel
12 are concerned.

13 **COMMISSIONER KIESLING:** Staff's in agreement
14 that that is an acceptable procedure?

15 **MR. KEATING:** Yes.

16 **COMMISSIONER KIESLING:** All right. Then
17 we'll deal with the stipulation and agreement by
18 referencing it in the stipulation portion of the
19 Prehearing Order. But rather than setting it forth in
20 toto in the body of the order, we'll just attach it.
21 And if Staff will indicate to the Chairman when we
22 begin this hearing that this matter needs to be taken
23 up as a preliminary matter and be approved, then that
24 seems like a good way to handle it.

25 Any other preliminary matters?

1 **MR. MELSON:** No other preliminary matters
2 from MCI.

3 **COMMISSIONER KIESLING:** Any from
4 United/Centel?

5 **MR. FONTS:** Are we going to address motions
6 as we get further down the line?

7 **COMMISSIONER KIESLING:** Yes.

8 **MR. KEATING:** Yes, I was going to say that
9 that's --

10 **COMMISSIONER KIESLING:** That is Staff's
11 preliminary issue.

12 **MR. FONTS:** Okay.

13 **MR. KEATING:** Yes. We have a couple of
14 motions. Actually, a request from MCI for Mediation
15 Plus procedure still pending, and Sprint's Motion to
16 Dismiss is also still pending.

17 **COMMISSIONER KIESLING:** Okay. Since those
18 matters will relate to what the issues are that we are
19 going to talk about coming up, I'm going to take those
20 matters up out of order, and take them up first so
21 that we are all clear on what's going to be included
22 in this proceeding and what isn't.

23 And to the Mediation Plus, in my mind it's
24 not something that is subject to a Motion to Dismiss,
25 but we've made it clear in other proceedings that

1 because of the time constraints, it's not something we
2 are able to take up. So rather than dismiss your
3 request, I'm just going to deny your request for
4 Mediation Plus for the reasons that have been
5 expressed in prior cases.

6 On the Motion to Dismiss, I think there's
7 four remaining items then, if I understand it
8 correctly. One was the dim and dark fiber, whether
9 that's going to be an element.

10 MR. FONS: That particular issue is removed.
11 We have settled on that issue.

12 COMMISSIONER KIESLING: Okay.

13 MR. FONS: Actually, there will only be one
14 issue left out of the Motion to Dismiss. You've
15 already ruled on the Mediation Plus. The dim and dark
16 fiber was settled and is included in our stipulation
17 and agreement. And the request for liquidated
18 damages, that has also been disposed of in our
19 stipulation and agreement. The fifth issue, which is
20 the failure to furnish necessary documentation, we're
21 withdrawing that particular issue.

22 So the only issue left is the resale of
23 voice mail and inside wire maintenance. The issue of
24 calling card services is also disposed of in the
25 stipulation and agreement. So it's just that one

1 issue remaining now.

2 **COMMISSIONER KIESLING:** So the only things
3 remaining which need to be addressed pursuant to your
4 Motion to Dismiss is Sprint's position that voice
5 mail, inside wire maintenance -- and inside wire
6 maintenance are not telecommunications services?

7 **MR. FONS:** That is correct.

8 **COMMISSIONER KIESLING:** All right. Let me
9 just ask Staff. Have we, in some of the prior
10 arbitrations we've had, included voice mail and inside
11 wire or not? Is this the --

12 **MS. SHELFER:** No, we have not.

13 **COMMISSIONER KIESLING:** And is that because
14 we do not believe they are telecommunications services
15 or just because they were not raised?

16 **MS. SHELFER:** There was no request.

17 **COMMISSIONER KIESLING:** There was no
18 request. Okay. Then does Staff have a position or
19 recommendation on voice mail and inside wire
20 maintenance?

21 **MS. BROWN:** May we have just a minute,
22 Commissioner?

23 **COMMISSIONER KIESLING:** Sure. (Pause)

24 **MR. KEATING:** Staff's position is that those
25 two issues are arguably within the scope of what we

1 may arbitrate and what the Commission may arbitrate
2 under the Act and that they should be left in for
3 litigation.

4 **COMMISSIONER KIESLING:** Okay. I would also
5 take the position that I think it would not be -- I
6 think that it would be better to have those two issues
7 go to the full Commission. And if the full Commission
8 in hearing this matter decide that they are not
9 telecommunications services, then fine. But I don't
10 think it would be appropriate for me to dismiss them
11 out of this proceeding at this point being simply the
12 Prehearing Officer on that.

13 So I am going to deny the Motion to Dismiss
14 as to voice mail and inside wire maintenance and allow
15 those to stay in as issues. And one of the issues is:
16 Is this one of the elements that is a
17 telecommunications service or not, so --

18 Do I have other preliminary motions? I
19 think there was a Motion to Compel. Do you want me to
20 take that up now, or does it have any impact on the
21 issues?

22 **MR. WAHLEN:** I understand that that is moot.
23 We have reached an agreement on our discovery dispute,
24 and so there's no need to discuss or rule on the
25 Motion to Compel at this time.

1 **COMMISSIONER KIESLING:** Okay. You are in
2 concurrence with that?

3 **MR. MELSON:** Yes, ma'am.

4 **COMMISSIONER KIESLING:** Okay. Then the
5 Motion to Compel, you are going to withdraw?

6 **MR. WAHLEN:** Yes.

7 **COMMISSIONER KIESLING:** Okay. Then let's go
8 ahead and start through the -- are there any other
9 motions that I haven't dealt with that I don't know
10 about?

11 Okay. Let's start going through the
12 Prehearing Order then. Case background, any changes,
13 additions, corrections? If not, then let's go to the
14 order of witness.

15 And before we start them, I notice that the
16 MCI and MCImetro witnesses don't have issue numbers.
17 For whatever, if that testimony is going to remain,
18 you need to furnish actual issue numbers.

19 **MR. MELSON:** We can do that today. If we
20 could though, Commissioner, if we could go back to
21 Item 2, the procedure for handling confidential
22 information.

23 **COMMISSIONER KIESLING:** Okay.

24 **MR. MELSON:** MCI has notified Sprint, and I
25 guess would hereby notify the Prehearing Officer, we

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1 intend to use as exhibits during the hearing, two sets
2 of work papers that were provided to us on a
3 confidential basis during the deposition of Sprint's
4 Witness Farrar. There may also be some additional
5 confidential materials produced between now and the
6 time of the hearing. The Order requires that we
7 advise parties no later than the prehearing
8 conference, and we are attempting to do that.

9 **COMMISSIONER KIESLING:** All right. And
10 assuming this is adequate notification, it is still
11 going to remain confidential, and you are going to
12 deal with it as we usually do?

13 **MR. MELSON:** Yes, ma'am. We will deal with
14 it in a way that does not disclose it verbally during
15 the hearing.

16 **COMMISSIONER KIESLING:** Okay.

17 **MR. FONS:** We were just furnished, this
18 morning, confidential information from MCI which we've
19 not had an opportunity to analyze in how we would use
20 that in the hearing, but we'll put MCI on notice that
21 there's the possibility that we will use their
22 confidential information during the hearing.

23 **COMMISSIONER KIESLING:** Okay.

24 **MS. BROWN:** And, Commissioner, if I may
25 request that the parties inform the Staff of the

1 procedures they intend to use, so we are up to speed
2 on it as well, for purposes of the hearing to protect
3 the confidential information. Just let us know what
4 you are going to do.

5 **MR. MELSON:** Commissioner Kiesling, I would
6 expect we will handle it the way we traditionally do.
7 We'll furnish copies to the Staff and the Commission
8 in red folders and ask questions in a way that does
9 not disclose confidential numbers.

10 **MS. BROWN:** Okay. So we'll do it as we
11 traditionally do it.

12 **COMMISSIONER KIESLING:** Then, to the
13 witnesses.

14 **MR. MELSON:** MCI, as a result of -- assuming
15 the stipulation is approved by the Commission, we will
16 have a number of changes in witnesses, and I can go
17 through those with you now, if you like.

18 **COMMISSIONER KIESLING:** Okay.

19 **MR. MELSON:** There will be a Mr. Price who
20 is listed as our first witness, would not appear.
21 There would be a portion of his testimony that would
22 be stipulated into the record. And we hope to have --
23 I've got a draft at this stage that indicates what
24 pieces of testimony would be in and what would be out.
25 As soon as that's finalized, we'll furnish that to the

1 Staff and, I guess, let them furnish it to the
2 Commissioners so you don't read unnecessary testimony.

3 COMMISSIONER KIESLING: When you say parts
4 are going to be stipulated, is that part of the direct
5 and part of the rebuttal or is one of those gone
6 completely?

7 MR. MELSON: I believe it's part of both
8 direct and part of rebuttal.

9 COMMISSIONER KIESLING: Okay. When you
10 furnish that, if you would also furnish the issues
11 that he'll be addressing. And that goes for all of
12 your witnesses since you have not identified specific
13 issues.

14 MR. MELSON: The issues that he is
15 addressing are issues that we have agreed to withdraw
16 in the sense of the Commission's not being asked to
17 rule on them at this time. They are issues where we
18 are not yet in agreement, and where the competing --
19 if we can't agree by the time we get to the end of the
20 process and follow your posthearing procedures for
21 filing of a comprehensive agreement, we might be
22 filing competing agreements on those.

23 COMMISSIONER KIESLING: Wait a minute, now
24 I'm confused. I mean, when we are at hearing,
25 whatever is not agreed to and withdrawn or stipulated

1 to, you are going to have to litigate. And whatever
2 you litigate, needs to be set out in the Prehearing
3 Order.

4 MR. MELSON: Commissioner Kiesling, let me
5 see if I can try to explain what the parties intended.

6 COMMISSIONER KIESLING: Okay.

7 MR. MELSON: There were at least two issues
8 in the BellSouth case where the Commission indicated
9 in its vote that it was not going to resolve the
10 details in the arbitration, but instead would leave
11 those to continue to be negotiated and would, at the
12 end of the day, pick one agreement or another if the
13 parties were unable to come to complete agreement.

14 COMMISSIONER KIESLING: Okay.

15 MR. MELSON: In essence, we've identified
16 three issues that we would propose to have treated in
17 the same way. Not asking the Commission to make a
18 decision up front, but recognizing that we are not in
19 agreement, that we may ask the Commission at the very
20 end of the process when, if competing agreements are
21 filed, the Commission would be choosing one or the
22 other. And the intention was to allow into the
23 record, on a stipulated basis and very limited,
24 testimony that went to those issues so that if the
25 Commission has to pick one version verses another,

1 there is some basis in the record on which you might
2 do that.

3 As a result, they are issues that do not
4 appear in the Prehearing Order. They appear in the
5 stipulation and agreement that would be attached as
6 issues that have been -- at least the procedures
7 resolving which have been set out by the parties.

8 COMMISSIONER KIESLING: Well, I'm looking
9 over there at Staff hoping that someone can tell me
10 what it is that we are going to be doing with this.

11 MS. BROWN: May we have just a minute?

12 COMMISSIONER KIESLING: Absolutely. And, in
13 fact, if we need to take, like five minutes or so, so
14 that you all can talk to them, too. Because I'm
15 having difficulty understanding.

16 MS. BROWN: We did receive this stipulation
17 this morning, but we were not aware that this was
18 going to be part of what's in it. So it would be good
19 if we can have a minute -- five minutes.

20 COMMISSIONER KIESLING: Go ahead and take
21 five minutes.

22 MS. BROWN: All right.

23 COMMISSIONER KIESLING: Just turn off your
24 mikes because I'm not going to leave.

25 (Brief recess.)

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MS. BROWN: Commissioner, I think we have a resolution of your concerns, and I think I'm going to ask that the parties describe it to you.

COMMISSIONER KIESLING: Okay.

MR. MELSON: Commissioner Kiesling, we would identify Mr. Price as addressing Issues 3d, 16 and 19 and suggest that a footnote be placed next to those to cross reference Paragraph 2 of the attached stipulation and agreement for a discussion of how the parties intend those issues to be handled from a procedural point of you.

COMMISSIONER KIESLING: Okay. Let's get to the substance of the footnote when we actually get to those issues then. Is that where --

MR. MELSON: Those issues are no longer listed in the draft Prehearing Order because they are issues that the parties --

COMMISSIONER KIESLING: So where do you want the footnote?

MR. MELSON: I would put it here in the order of witnesses just next to the identification of those issues.

COMMISSIONER KIESLING: Okay. And you and Staff are going to be able to agree on the language

1 for that footnote?

2 MR. MELSON: Yes, ma'am.

3 MS. BROWN: Yes.

4 COMMISSIONER KIESLING: Okay. And then
5 Mr. Murphy.

6 MR. MELSON: Mr. Murphy will address
7 Issues 2, 21, and 23.

8 COMMISSIONER KIESLING: And, therefore, I
9 assume some of his testimony is going to be withdrawn
10 when he takes the stand?

11 MR. MELSON: Yes, correct.

12 COMMISSIONER KIESLING: Okay.

13 MR. MELSON: We are withdrawing
14 Mr. Martinez's testimony in its entirety at this time.

15 COMMISSIONER KIESLING: Okay.

16 MR. MELSON: Mr. Wood will address Issues 2,
17 3b and 3c, and we will offer only Mr. Wood's direct
18 testimony. We are withdrawing his rebuttal and
19 supplemental rebuttal.

20 COMMISSIONER KIESLING: Okay.

21 MR. MELSON: Mr. Cabe will address Issue 2
22 and 3b, and we will be withdrawing pieces of his
23 testimony.

24 Mr. Darnell will address Issues 7, 8, and 9,
25 and we will be withdrawing pieces of his testimony as

1 well.

2 And in terms of order of witnesses, I prefer
3 to start with Mr. Murphy, number one; Mr. Cabe, number
4 two; Mr. Darnell, number three; and Mr. Wood, number
5 four.

6 **COMMISSIONER KIESLING:** Okay. Who after
7 Wood then? Where does Mr. Price go?

8 **MR. MELSON:** Mr. Price's will be stipulated.
9 He will not be making an appearance.

10 **COMMISSIONER KIESLING:** Okay. Now I'm with
11 you.

12 Okay. Is everybody clear on that then?
13 Then how about starting with Sprint. Mr. Hunsucker.

14 **MR. FONS:** We will be withdrawing portions
15 of Mr. Hunsucker's direct and rebuttal testimony. He
16 will continue to address -- and I don't have the
17 specific issues which he will address in that. But
18 I'm fairly confident that they will mirror those same
19 issues that have been identified for MCI. And we can
20 provide those to you.

21 **COMMISSIONER KIESLING:** Okay. And you'll
22 provide an updated issues list?

23 **MR. FONS:** Yes, yes.

24 **COMMISSIONER KIESLING:** And Mr. Dunbar.

25 **MR. FONS:** Mr. Dunbar, his testimony will

1 remain intact, and he will continue to provide
2 testimony on Issue 3b.

3 COMMISSIONER KIESLING: Farrar.

4 MR. FONS: Farrar, all of his testimony will
5 remain, and he will continue to provide testimony on
6 3b and 9.

7 COMMISSIONER KIESLING: Just so that I'm
8 clear then, is it fair for me to assume that of the
9 issues that are not going to be withdrawn, that
10 Mr. Hunsucker will be the witness who will provide
11 testimony on, for example, 7, 8, 3c, 21, 22 -- I mean,
12 21, 23, or 2, whatever --

13 MR. FONS: Yes, that is correct.

14 COMMISSIONER KIESLING: -- since the other
15 two are quite limited?

16 MR. FONS: Yes.

17 COMMISSIONER KIESLING: Okay. When will you
18 be able to provide that clarifying information to
19 Staff?

20 MR. FONS: In about five minutes, if I can.

21 COMMISSIONER KIESLING: Okay. That's fine.
22 That's soon enough.

23 On the basic positions I've received a
24 revised basic position from MCI.

25 MR. MELSON: Commissioner Kiesling, we have

1 furnished that to the Staff on diskette as well. It
2 simply takes some things out that have now been
3 resolved by the parties in their stipulation.

4 **COMMISSIONER KIESLING:** Okay. Then the
5 revised position will be inserted in the place of the
6 position of the statement that's in there.

7 How about for Sprint? Are you going to do a
8 revised one to reflect the agreements that you've
9 reached?

10 **MR. FONS:** I do not believe that our basic
11 position has to be changed, nor do our positions
12 change with regard to the individual issues.

13 **COMMISSIONER KIESLING:** All right. Then
14 let's start with Issue 1 and see what we still have to
15 litigate. Issue 1 withdrawn?

16 **MR. MELSON:** Issue 1 is gone, yes, ma'am.

17 **COMMISSIONER KIESLING:** Okay. 2 is still
18 in.

19 **MR. MELSON:** Correct.

20 **COMMISSIONER KIESLING:** I would just suggest
21 a slight rewording of 2. Instead of saying what
22 should be, say what is the appropriate compensation
23 mechanism, since I think that's the standard we are
24 going to be using, "appropriate." Is that acceptable?
25 Do you agree with that?

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1 MR. KEATING: Yes.

2 COMMISSIONER KIESLING: 3b, any changes?

3 MR. MELSON: No, ma'am.

4 MR. FONS: No, ma'am.

5 COMMISSIONER KIESLING: 3c.

6 MR. KEATING: Could I have just a minute
7 with Staff?

8 COMMISSIONER KIESLING: Sure. (Pause)

9 MR. KEATING: Staff would like to move the
10 list of unbundled elements that were included in the
11 original Issue 3a into 3b.

12 COMMISSIONER KIESLING: Okay.

13 MR. KEATING: And into 3c.

14 COMMISSIONER KIESLING: So what are the
15 issues going to say then?

16 Where it says each of the items considered
17 to be network elements, you are going to list them
18 like you did in 3a.

19 MR. KEATING: Yes. Instead of "these are
20 the items," it would say, "each of the following
21 items."

22 COMMISSIONER KIESLING: Okay. And then
23 rather than list them in 3c, you will just refer back
24 to the list?

25 MR. KEATING: Yeah, that sounds fine.

1 **COMMISSIONER KIESLING:** And 7.

2 **MR. MELSON:** MCI has a minor change to its
3 position in Issue 7. The last sentence that begins
4 with the word "specifically," we would strike the
5 words "Lifeline and LinkUp services." We would --
6 after "voice mail service," we would insert the word
7 "and."

8 So it would read "voice mail service and
9 inside wire maintenance service," and then we would
10 strike the words, "and calling card service."

11 **COMMISSIONER KIESLING:** All right.

12 **MR. FONS:** On our response, our position on
13 Issue 7, similarly, "voice mail," strike the comma and
14 insert "and." And then after "maintenance," strike
15 the comma and the language "and calling card
16 services."

17 So it will read, "Voice mail and inside wire
18 maintenance are not telecommunications services under
19 the Act," et cetera. And then I believe we will
20 strike the balance of our position.

21 **COMMISSIONER KIESLING:** All right. Issue 8.

22 **MR. MELSON:** MCI has a corresponding change
23 to its position on Issue 8. At the end of the first
24 sentence where it says "resale of services," we would
25 change the period to a comma and add the words

1 "including voice mail and inside wire maintenance
2 services," period.

3 And then we would strike the remainder of
4 that position. Strike the sentence beginning with "No
5 restrictions."

6 COMMISSIONER KIESLING: Any change to
7 Sprint's?

8 MR. FONS: No change to Sprint's.

9 COMMISSIONER KIESLING: Issue 9.

10 MR. MELSON: No change.

11 COMMISSIONER KIESLING: And Issue 21.

12 MR. MELSON: MCI has a change. In the
13 second sentence, "MCI should have the ability to
14 collocate equipment of its choice, including" --
15 strike "digital loop carrier and." Continue with the
16 sentence "remote digital line units," period. And
17 strike the remainder of the position.

18 COMMISSIONER KIESLING: All right. Any
19 change on Sprint's?

20 MR. FONS: No change on Sprint's.

21 COMMISSIONER KIESLING: Issue 23.

22 MR. MELSON: No change.

23 COMMISSIONER KIESLING: All right. And will
24 there be any changes on the exhibits having reached
25 agreement on a number of things?

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1 **MR. FONS:** There may be a change in Sprint's
2 position on Issue 23.

3 **COMMISSIONER KIESLING:** Okay.

4 **MR. FONS:** It may take me a moment to make
5 that change. I'll provide that.

6 **COMMISSIONER KIESLING:** Take your time.

7 **MR. FONS:** I'm going to have to eliminate
8 some language, but I'm going to have to add some
9 language. So if I can do that --

10 **COMMISSIONER KIESLING:** Go for it.

11 **MR. FONS:** Not right now. I'm saying it
12 will take me more than just a few moments to do that
13 in order to capture our position on the remaining
14 aspects of this issue.

15 **COMMISSIONER KIESLING:** Are you going to be
16 able to provide that today so that the Staff can get
17 the order out?

18 **MR. FONS:** Shortly, yes. And while we are
19 at it, I can provide the Commissioner and the Staff
20 with the positions, the issues that will be addressed
21 by Mr. Hunsucker.

22 **COMMISSIONER KIESLING:** All right.

23 **MR. FONS:** That will be Issues 2, 3b, 3c,

24 7 --

25 **COMMISSIONER KIESLING:** Wait a minute. I'm

1 sorry, I was still turning my pages.

2 MR. FONS: I'm sorry.

3 COMMISSIONER KIESLING: 2 --

4 MR. FONS: 3b, 3c, 7, 8, 9, 21, and 23.

5 COMMISSIONER KIESLING: Okay. And I
6 neglected to ask you at the time, the order of your
7 three witnesses. Is this the order you want:
8 Hunsucker, Dunbar and Farrar?

9 MR. FONS: We may want to reverse the order
10 on Dunbar and Farrar.

11 COMMISSIONER KIESLING: When are you going
12 to know that?

13 MR. FONS: Why don't we do that now.

14 COMMISSIONER KIESLING: Okay. And back over
15 to the exhibits then. Will some of these exhibits
16 disappear?

17 MR. MELSON: Commissioner Kiesling, none of
18 MCI's exhibits will disappear. There were three
19 exhibits -- items that have been exhibits to the
20 petition that we had identified in our prehearing
21 statement that inadvertently got left out of the draft
22 Prehearing Order. They are Exhibit 1, Exhibit 2, and
23 Exhibit 3.

24 COMMISSIONER KIESLING: Whose exhibits are
25 they going to be?

1 **MR. MELSON:** Mr. Price was going introduce
2 them. I believe Sprint will stipulate them in at this
3 point.

4 **MR. FONS:** We will so stipulate.

5 **COMMISSIONER KIESLING:** Okay. Then that
6 will be another preliminary matter to take up at the
7 beginning of the hearing for Staff.

8 **MS. BROWN:** Yes, that would be fine. I
9 would like the parties to repeat what exhibits those
10 are for us.

11 **COMMISSIONER KIESLING:** If I understand
12 correctly, it was Exhibits 1, 2, and 3 to the
13 petition.

14 **MR. MELSON:** Petition Exhibits 1, 2, and 3,
15 they are shown on Page 2 of our prehearing statement
16 with their titles.

17 **MS. BROWN:** Okay, great. Thanks.

18 **COMMISSIONER KIESLING:** Okay. Other than
19 that, none of your other witness's exhibit numbers are
20 going to change in any way?

21 **MR. MELSON:** That's correct.

22 **COMMISSIONER KIESLING:** Sprint, any changes
23 to your exhibits?

24 **MR. FONS:** No changes to our exhibits.

25 **COMMISSIONER KIESLING:** Okay. Well, we've

1 already dealt with one major stipulation. Are you
2 anticipating the possibility of reaching any further
3 stipulations before the hearing?

4 MR. MELSON: There is that possibility. We
5 are continuing to negotiate.

6 COMMISSIONER KIESLING: Okay.

7 MR. MELSON: I also need to tell you that
8 I'm pretty confident we will not reach a complete
9 stipulation. There will remain some issues to be
10 litigated.

11 COMMISSIONER KIESLING: Sure. All I am
12 going to do, again, is just say if you do reach
13 additional stipulations, you'll need to bring those up
14 at the beginning of the hearing since they won't be
15 included here. And I'm not going to put a continuing
16 burden on Staff to continue to update this as things
17 develop. We have got to have a final one that I can
18 sign.

19 And I've already dealt with the pending
20 motions. Are there any other matters that need to be
21 taken up?

22 MR. WAHLEN: The request for confidential
23 classification, No. 3, I've talked with Staff this
24 morning about using confidential information. And
25 it's our opinion that before any rulings are made on

1 those, we ought to see what goes in the record first.
2 So we don't think that this needs to be addressed at
3 this time.

4 COMMISSIONER KIESLING: All right.

5 MS. BROWN: Staff agrees.

6 COMMISSIONER KIESLING: Okay. And nothing
7 else?

8 MR. WAHLEN: Could we have just a half a
9 second?

10 COMMISSIONER KIESLING: Sure. You can have
11 a whole one.

12 MR. FONS: We may have a procedural; we may
13 have a substitutive issue here. You denied our Motion
14 to Dismiss on inside wire and voice mail, and I don't
15 believe in your ruling that you have decided the
16 ultimate fact of whether or not these are
17 telecommunications services.

18 COMMISSIONER KIESLING: No. In fact, I
19 thought I indicated that I thought that was an issue
20 that the whole Commission should address as opposed to
21 the Prehearing Officer.

22 MR. FONS: You have disposed of our issue
23 then, thank you.

24 COMMISSIONER KIESLING: Anything else? Then
25 any other changes to your position you will have to

1 Staff by --

2 MR. FONS: Hopefully before we leave here
3 this morning.

4 COMMISSIONER KIESLING: I just want to be
5 sure it gets to them today so that they can get a
6 document out.

7 MR. FONS: Yes. Right.

8 COMMISSIONER KIESLING: Anything further
9 from Staff?

10 MR. KEATING: Yes. If I could have just one
11 more minute with Staff?

12 COMMISSIONER KIESLING: Sure. (Pause)

13 MS. BROWN: Commissioner, Staff would like
14 some clarification with respect to the changes in
15 positions for Issue 7. What Staff wants some
16 confirmation of is that the only issues to be resolved
17 with respect -- remaining to be resolved with respect
18 to Issue 7 are whether Sprint should provide voice
19 mail and inside wire maintenance service. And Staff
20 is interested in hearing from the parties whether the
21 other issues that -- other services that have
22 specifically been identified have been resolved in the
23 stipulation.

24 COMMISSIONER KIESLING: Let me try to
25 interpret that. Does that mean that Staff would like

1 to see the language of Issue 7 change to make it clear
2 that all other services have been resolved, but that
3 those are the two remaining services?

4 MS. BROWN: That would be great. That would
5 be an effective way to do that. And I suppose hear
6 some proposed language change, should Sprint provide
7 voice mail and inside wire maintenance service as
8 services for resale for MCI, or something like that.

9 COMMISSIONER KIESLING: All right.

10 Mr. Melson.

11 MR. MELSON: That's fine.

12 COMMISSIONER KIESLING: Do you have any
13 other language you might prefer?

14 MR. MELSON: I'm looking at Page 2 of our
15 stipulation. We might say: What is the scope of
16 Sprint's obligation, if any, to resell voice mail
17 service and inside wire maintenance service.

18 COMMISSIONER KIESLING: Could you repeat
19 that so I can write at the same time?

20 MR. MELSON: Sure.

21 Is that okay with you guys?

22 MR. FONS: That's fine.

23 MR. MELSON: What is the scope of Sprint's
24 obligation, if any, to resell voice mail service and
25 inside wire maintenance service.

1 **COMMISSIONER KIESLING:** Then how about we
2 leave out the "service," and just say voice mail and
3 inside wire services.

4 **MR. MELSON:** Inside wire maintenance
5 services.

6 **COMMISSIONER KIESLING:** That's what I meant.

7 **MR. MELSON:** Fine.

8 **MR. FONS:** We don't consider them to be
9 services.

10 **COMMISSIONER KIESLING:** Okay. So this is
11 the new issue. What is the scope of Sprint's
12 obligation, if any, to resell voice mail and inside
13 wire maintenance services.

14 **MR. FONS:** I'm tempted to say if you would
15 remove the word "services" at the end, that we'd be
16 perfectly happy with that issue.

17 **MR. MELSON:** And we've got no objection. We
18 are obviously arguing about whether they are services
19 within the meaning of the Act.

20 **COMMISSIONER KIESLING:** Okay. Then we'll
21 remove the word "services."

22 **MR. FONS:** Wasn't the idea to combine 7 and
23 8 or to get rid of one? Replace what we've just given
24 for 7 and then eliminate 8?

25 **MR. MELSON:** That would be fine.

1 MS. BROWN: Eliminate 8 all together?

2 MR. MELSON: Yes.

3 MR. FONS: Yes.

4 MS. BROWN: All right.

5 COMMISSIONER KIESLING: Yes? So the
6 language we just came up with for 7 will solve 8?

7 MR. FONS: Yes.

8 COMMISSIONER KIESLING: Or will encompass 8?

9 MR. FONS: Right.

10 COMMISSIONER KIESLING: So 8 will be
11 withdrawn. And are the parties still happy with their
12 stated positions on 7 then? Are they inclusive
13 enough?

14 MR. FONS: Sprint's is inclusive enough.

15 MR. MELSON: MCI's is inclusive.

16 COMMISSIONER KIESLING: Then I guess back up
17 here in who is going to testify on what issues, we'll
18 just remove 8 from Mr. Darnell and from
19 Mr. Hunsucker's list of issues.

20 If we keep whittling away at them, we may
21 get down to just one or two of them. This is a good
22 start. And I would encourage the parties to continue
23 to talk, obviously, and see what they can resolve.

24 As I indicated earlier, obviously, if you
25 can reach a resolution that satisfies both of you, you

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1 are in better shape than if you leave it to us to
2 decide.

3 MR. FONS: We understand.

4 COMMISSIONER KIESLING: I know. Anything
5 else?

6 MR. MELSON: Nothing from MCI.

7 MR. FONS: Nothing for --

8 COMMISSIONER KIESLING: Okay. Then I thank
9 you very much. And the hearing is adjourned.

10 (Thereupon, the hearing concluded at 10:25
11 a.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, ROWENA NASH HACKNEY Official Commission
4 Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 961230-TP was heard by the
7 Prehearing Officer at the time and place herein
8 stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 33 pages, constitutes a true
13 transcription of my notes of said proceedings

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DATED this 12th day of December, 1996.



ROWENA NASH HACKNEY
Official Commission Reporter
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