

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of
Petition by Metropolitan Fiber
Systems of Florida, Inc. for
arbitration with BellSouth
Telecommunications, Inc.
concerning interconnection, rates,
terms, and conditions, pursuant to
the Federal Telecommunications
Act of 1996.

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DOCKET NO. 960757-TP
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Petition by AT&T Communications
of the Southern States, 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.

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DOCKET NO. 960833-TP
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Petition by MCI Telecommunications
Corporation and MCI Metro Access
Transmission Services, 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.

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DOCKET NO. 960846-TP
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PROCEEDINGS: PREHEARING CONFERENCE

DOCUMENT NO. .
00475-98
FPSC - COMMISSION CLERK

1
2 BEFORE: COMMISSIONER SUSAN F. CLARK
3 Prehearing Officer
4
5 DATE: Friday, January 9, 1998
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7 TIME: Commenced at 10:30 a.m.
8 Concluded at 11:45 a.m.
9
10 PLACE: Betty Easley Conference Center
11 Room 152
12 4075 Esplanade Way
13 Tallahassee, Florida
14
15 REPORTED BY: JOY KELLY, CSR, RPR
16 Chief, Bureau of Reporting
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1 APPEARANCES:

2 NANCY B. WHITE and NANCY SIMS, BellSouth
3 Telecommunications, Inc., c/o Nancy Sims, 150 South
4 Monroe Street, Suite 400, Tallahassee, Florida
5 32399-0850, appearing on behalf of BellSouth
6 Telecommunications, Inc.

7 FLOYD R. SELF, Caparello, & Self, 215 South
8 Monroe Street, Post Office Box 1876, Tallahassee,
9 Florida 32302-1876, appearing on behalf of WorldCom
10 and Metropolitan Fiber Systems of Florida.

11 TRACY HATCH, AT&T Communications of the
12 Southern States, Inc., 101 East College Avenue,
13 Florida 32301, appearing on behalf of AT&T
14 Communications of the Southern States, Inc.

15 CHARLIE PELLEGRINI and RICHARD BELLAK,
16 Florida Public Service Commission, Division of Legal
17 Services, 2540 Shumard Oak Boulevard, Tallahassee,
18 Florida 32399-0870, appearing on behalf of the
19 Commission Staff.

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1 P R O C E E D I N G S

2 (Hearing convened at 10:30 a.m.)

3 COMMISSIONER CLARK: We'll call the
4 prehearing to order. Would you read the notice?

5 MR. PELLEGRINI: Pursuant to notice dated
6 January 7, 1998, this time and place have been set for
7 an emergency prehearing in consolidated docket numbers
8 960757, 960833, and 960846-TP, petitions for
9 arbitration of MFS, AT&T and MCI with BellSouth.

10 COMMISSIONER CLARK: We'll take appearances.

11 MS. WHITE: Nancy White for BellSouth
12 Telecommunications.

13 MR. HATCH: Tracy Hatch on behalf of AT&T
14 Telecommunications of the Southern States, Inc.

15 MR. SELF: Floyd Self on behalf of WorldCom,
16 Inc.

17 MR. PELLEGRINI: Charles Pellegrini, 2540
18 Shumard Oak Boulevard, on behalf of Public Service
19 Commission, Commission Staff.

20 MR. BELLAK: Richard Bellak, same address,
21 representing the Commission.

22 COMMISSIONER CLARK: And Mr. Melson
23 indicated he would like to be excused from this
24 emergency prehearing and we'll note that he is
25 excused.

1 MR. PELLEGRINI: That is correct,
2 Commissioner.

3 COMMISSIONER CLARK: Okay. All right.
4 Staff.

5 MR. PELLEGRINI: Shall I begin?

6 COMMISSIONER CLARK: Yes.

7 On January 2nd, 1998, audit manager Kathy
8 Welch submitted to BellSouth a Notice of Intent to
9 audit certain of the Company's records. The purpose
10 of the audit is to verify some of the data contained
11 in the Company's cost studies that is at variance with
12 the testimony of the other parties or that is
13 inadequately supported. This includes 23 points -- 23
14 specific points of verification of work times, labor
15 rates, material costs, and factors related to
16 collocations, lines and operations support systems.

17 I have with me a detailed enumeration of the
18 points of verification, but I would like to mention
19 just a few of them for illustration.

20 For example, to verify the installation work
21 time, disconnect work time and direct labor rates
22 associated with a nonrecurring dedicated DS-1 facility
23 termination. Verify the material costs for OSS
24 electronic interface per order. Verify the
25 plant-specific factor used for the two-wire analog,

1 voice grade NID. Verify the assumptions for the
2 material, equipment and installation requirements for
3 collocation.

4 BellSouth has thus far refused to allow the
5 auditors access to its records. Section 364.183
6 provides that the Commission shall have access to all
7 records -- all records -- of a telecommunications
8 company that are reasonably necessary for the
9 disposition of the matters within the Commission's
10 jurisdiction. That are reasonably necessary for the
11 disposition of matters within the Commission's
12 jurisdiction.

13 And Rule 25-4.020(1) addresses reasonable
14 access to utilities' records -- to the utility's
15 records. And reasonable access means that the company
16 shall provide -- shall fully provide responses to
17 audit requests for access to records within the time
18 frame established by the auditor. The rule only
19 provides a dispute resolution procedure in the event
20 that the auditor and company fail to agree on a
21 reasonable response time. That, however, is not what
22 is at issue, at least in the first place. What is at
23 issue here, in the first place, is BellSouth's flat
24 refusal to permit the audit.

25 Now, the only limitation that the access to

1 company records statute attaches to the Commission's
2 authority to audit the records of a telecommunications
3 company is that access shall be provided to records
4 reasonably necessary for the disposition of matters
5 within the Commission's jurisdiction. And there is,
6 of course, no contention that the present matter is
7 not within the Commission's jurisdiction -- that this
8 matter is not within the Commission's jurisdiction, or
9 that the access request is not reasonably necessary
10 for the disposition of the issues raised in the
11 present matter.

12 Now, the statute does not limit audits to
13 only undocketed matters, nor does it preclude them in
14 the midst of a litigation; neither does the statute
15 restrict audits to particular phases of proceedings.
16 The statute envisions that whenever a bona fide need
17 for an audit arises in the course of a proceeding,
18 whether it be a docketed matter or an undocketed
19 matter, that that audit should go forward.

20 It's Staff's intent that the audit would be
21 carried out in the normal fashion, according to rule
22 and standard operating procedure. Staff, together
23 with all other interested persons, would gain access
24 to the audit results only upon filing of the audit
25 report. In this instance Staff would, as it often

1 does, use the audit report to prepare cross
2 examination in order to introduce the audit findings
3 into the evidentiary record. In another instance, but
4 not in this one, Staff might sponsor the auditor as a
5 Staff witness for the very same purpose; that is, to
6 introduce the audit findings into the evidentiary
7 record.

8 What Staff seeks in this audit request as in
9 any audit request, should not be confused with the
10 kind of information Staff seeks through discovery
11 subject to the rules of civil procedure. This is not
12 backdoor discovery or discovery in sheep's clothing.
13 The auditors will not function as a mere conduit of
14 information to the Staff. The Staff is very troubled
15 by BellSouth's refusal to permit the audit on the
16 grounds that Staff is using the audit process
17 improperly to obtain discovery. And Staff sees the
18 company's refusal as a serious unwarranted challenge
19 to the Commission's authority to conduct audits and
20 one that should not go unanswered.

21 Staff is not in an adversarial position
22 vis-a-vis BellSouth in this proceeding or in this
23 particular situation. Rather, with the audit request,
24 Staff is simply discharging its responsibility as a
25 neutral -- as a neutral -- to assure that the

1 evidentiary record is fully developed and fully
2 reliable. There's no predisposition to seek
3 information unfavorable to BellSouth, or for that
4 matter, favorable to BellSouth. Whatever the effect
5 of the verifications that Staff seeks, the evidentiary
6 record will become more complete and more reliable and
7 the Commission's ultimate decision will be more
8 informed.

9 In the present case the Commission is
10 charged under federal law to establish rates for
11 unbundled network elements that are based on
12 forward-looking long run incremental costs. The
13 Commission's ability to discharge this responsibility
14 is greatly dependent upon the quality of the
15 evidentiary record. And in turn, the quality of the
16 evidentiary record in this case is greatly dependent
17 upon the findings of the requested audit.

18 Therefore, Staff respectfully requests the
19 prehearing to issue an order from the bench permitting
20 the requested audit to go forward immediately.

21 COMMISSIONER CLARK: Before I have BellSouth
22 respond, is there any -- is there going to be any
23 argument from you, Mr. Self, or you, Mr. Hatch?

24 MR. SELF: I wasn't planning on making any
25 argument, Commissioner.

1 MR. HATCH: No, ma'am.

2 COMMISSIONER CLARK: Okay. Ms. White.

3 MS. WHITE: Thank you. Let me first start
4 off by saying that at no time has BellSouth refused to
5 provide information to Staff. BellSouth has informed
6 Staff on several occasions that the specific
7 information they are seeking in this audit request
8 will be provided to the extent BellSouth can provide
9 it in connection with the depositions of BellSouth's
10 witnesses. So I want to make that perfectly clear.

11 COMMISSIONER CLARK: Hang on. Is it a
12 condition to your producing it that it will only be
13 produced as part of a deposition?

14 MS. WHITE: Well, not -- the deposition is
15 what is handy. The deposition of our witness who
16 would address the information that Staff is seeking
17 are set for next week. So it appears reasonable and
18 connected that that would be a good time to do it.

19 But what we have a problem with is that it
20 is not an audit. These dockets are a continuation of
21 the arbitration dockets. This particular phase of
22 these dockets has been going on for over three months,
23 almost four months. Hearings are set for January
24 24th -- or 26th -- I am losing my dates -- of this
25 month.

1 The Staff sent a letter advising BellSouth
2 of the audit on December 19th. But they did not send
3 it to BellSouth Telecommunications, they sent it to
4 BellSouth ALEC. It was not received by the
5 appropriate party until after the new year. The first
6 that BellSouth Telecommunications knew about it was
7 when we received a phone call on December 31st,
8 followed up by Ms. Welch's facts of January 2nd.

9 If you look at the audit request, it
10 specifically requests items that are backup to prior
11 discovery efforts in these dockets. The Staff has not
12 been shy in this phase in these dockets about sending
13 BellSouth discovery requests.

14 COMMISSIONER CLARK: Let me ask you sort of
15 a fundamental question as to your position. Is it
16 your position that when we have an ongoing docket such
17 as this, that there is no ability for the Staff to
18 conduct an audit on the same issues, on the same -- it
19 seems to me it could be done through an audit or it
20 could be done through discovery. And my question to
21 you is are you saying that it's never appropriate to
22 do it through an audit?

23 MS. WHITE: I'm not saying it's never
24 appropriate. I'm saying it's not appropriate in this
25 instance.

1 COMMISSIONER CLARK: And why is that?

2 MS. WHITE: That's because this is not a
3 true audit. Staff is gathering facts for litigation,
4 they're seeking these documents in furtherance of
5 prior discovery efforts and that should be subject to
6 the rule of discovery. It's not an audit. All they
7 are looking for is further information concerning the
8 facts of this particular hearing, this particular
9 case. That's discovery. They are not looking to see
10 whether BellSouth is overearning or BellSouth has been
11 guilty of not billing correctly. They are looking at
12 the specific issue that's at the heart of this docket.

13 COMMISSIONER CLARK: Let me focus on that.
14 Is it your position then when it is a specific issue
15 that's at a heart of a docket, that you cannot conduct
16 an audit -- that we cannot conduct a audit?

17 MS. WHITE: In this instance, yes, that's
18 correct. That's my position.

19 COMMISSIONER CLARK: What would make this
20 different than any other? I mean, it seems to me you
21 have -- your basis for argument is that because it
22 lies at the heart of the matter, the costing, it is
23 inappropriate for an audit. If that's the principle,
24 why isn't it applicable to all other cases then? I
25 mean why have you said --

1 MS. WHITE: Part of what I'm arguing is that
2 this isn't a true audit. They're not -- I mean, this
3 didn't start out as an audit. This is the
4 nonrecurring cost which is the issue.

5 COMMISSIONER CLARK: I understand that but I
6 want you to answer the question, if it is never
7 appropriate to audit during a case when it goes to the
8 heart of the issue.

9 MS. WHITE: I'm not saying it's never
10 appropriate. I'm saying it's not appropriate in this
11 case.

12 COMMISSIONER CLARK: And it is not
13 appropriate why?

14 MS. WHITE: For several reasons. One
15 because these are arbitration dockets. The Commission
16 has authority -- the Staff has authority to do
17 management and financial audits. This, I believe,
18 doesn't fall into either of those categories.

19 COMMISSIONER CLARK: All right. It's an
20 arbitration docket and it is not a management or a
21 financial audit.

22 MS. WHITE: Right.

23 The second reason is that the documents they
24 are seeking goes specifically or relies on prior
25 discovery efforts by the Staff. It's a follow-up to

1 previous discovery in these dockets by the Staff.

2 COMMISSIONER CLARK: And why is it
3 inappropriate to do an audit based on that kind of
4 discovery.

5 MS. WHITE: What are they auditing? You
6 know, that's part of the problem. There's no clear --
7 there's no clear understanding or knowledge of exactly
8 what the audit is. If the case is that they need
9 additional help from the Audit Division of the
10 Commission Staff, that may be fine, but what is
11 actually being audited here? I just don't think it is
12 a true audit. I see no indication it's a true audit.

13 COMMISSIONER CLARK: Okay.

14 MS. WHITE: The bottom line is that this is
15 a discovery effort. And that the statute, 183.1, is
16 not appropriate to a discovery effort. Discovery must
17 be conducted under the rules of civil procedure. We
18 don't have any problem with discovery. Staff has
19 already issued seven sets of interrogatories and five
20 sets for request for production of documents and
21 BellSouth has complied to the best of its ability with
22 those. So we are now -- I think it's important to
23 state again, we're not refusing to answer Staff's
24 questions. We just don't think an audit is the
25 appropriate manner.

1 COMMISSIONER CLARK: Okay. Let me ask you
2 this: So what's the difference if you produce it with
3 respect to a discovery request or you do it with
4 respect to the audit, what's going to be different
5 with respect to your answers?

6 MS. WHITE: I don't think anything is going
7 to be different with respect to the answers. I think
8 the problem is the precedent that it sets. You're
9 saying instead of doing discovery in dockets where
10 discovery has been going on and we're less than two
11 weeks from hearing, you can just all of a sudden open
12 an audit up. I don't think that was the intent and
13 the purpose.

14 COMMISSIONER CLARK: So is it the timing of
15 audit that you think is --

16 MS. WHITE: That's a part of it. That's a
17 big part of it.

18 COMMISSIONER CLARK: So if they had asked
19 these same questions at the beginning and indicated
20 that they were going to conduct an audit, would you
21 not have objected?

22 MS. WHITE: If they had at the beginning of
23 this matter said, "We need to conduct an audit and
24 here's what we need to conduct it on," that may be a
25 different story. I can't say 100% it would have been.

1 But at least we would have known what was going on,
2 what they needed, what the purpose of the audit was.

3 To come in at the eleventh hour and say
4 "We're going to do an audit --" I mean, the letter
5 went out, faxed to us on January 2nd, asking for all
6 of these things and it wasn't a small amount of
7 information -- by, I believe, the 6th of January.
8 Plus, as I said, we were kind of just blown away by it
9 in the first place because we didn't have any
10 knowledge of it until we received that.

11 COMMISSIONER CLARK: And that was probably
12 due to the fact that the December 19th letter --

13 MS. WHITE: Was sent to the incorrect
14 person.

15 COMMISSIONER CLARK: Let me ask Staff a
16 minute. What happened there?

17 MR. PELLEGRINI: I'm not certain,
18 Commissioner Clark. I think that was an innocent
19 misdirection.

20 COMMISSIONER CLARK: Why don't you find out
21 and we'll let Ms. White continue, maybe you can check
22 with Ms. Vandiver.

23 MR. PELLEGRINI: I have, and Ms. Vandiver
24 and I have discussed this and that's simply --

25 COMMISSIONER CLARK: Who should it have been

1 sent to and who was it sent to?

2 MS. WHITE: It was sent to a woman by the
3 name of Pat Cowart at BellSouth BSE, Incorporated,
4 which is the BellSouth ALEC in Florida. It should
5 have been sent to Ms. Sims here in Tallahassee.

6 COMMISSIONER CLARK: Okay. So what did
7 Ms. Cowart do when she got it?

8 MS. WHITE: Well, I can't answer that.
9 Apparently -- what did she do, Ms. Sims, do you know
10 the answer to that question?

11 WITNESS SIMS: Commissioner, she
12 basically -- she received it on December 22nd -- it
13 was dated December 19th, she received it on December
14 22nd. She did not call me about it until January the
15 5th and that's when they faxed it to us.

16 COMMISSIONER CLARK: Okay. Probably the
17 holidays got in the way.

18 MR. PELLEGRINI: I think I could add this,
19 Commissioner Clark. I've indicated from the very
20 beginning that if the time frame we specified was
21 onerous, we were flexible within some limits. And, in
22 fact, there was a procedure provided in the rules for
23 working out disputes of that kind.

24 COMMISSIONER CLARK: Ms. White, I sense this
25 is really a reaction to the limited amount of time you

1 have been given. It seems to me that what you're
2 saying is -- my concern was the reason you wanted it
3 characterized as discovery is you were going to argue
4 it wasn't reasonably related, it didn't meet the
5 discovery requirement. Not designed --

6 MR. PELLEGRINI: -- to admissible evidence.

7 COMMISSIONER CLARK: Whatever. I don't
8 sense that's your point.

9 MS. WHITE: No. No. I think my point is --
10 part of it is the length of time. I mean in a normal
11 audit you get 14 days unless there's some other
12 problem. Discovery you get 15 days. In this
13 particular docket it started out as the normal time
14 but it was compacted to accommodate the Staff, as a
15 matter of fact.

16 I guess the problem I really have, I think
17 it goes much deeper. It's a fundamental problem of
18 when it is appropriate to do an audit and what is the
19 subject going to be of the audit more than the actual
20 what they are asking for. But what they are asking
21 for to me shows you that it's not a true audit.
22 Because, for example, one of the -- or several of the
23 requests specifically say backup -- provide backup for
24 this spreadsheet that was attached to the rebuttal
25 testimony of so and so.

1 So I mean it's -- you know, that's a
2 discovery question. I mean, that's what you see in
3 an interrogatory request.

4 COMMISSIONER CLARK: I understand that. But
5 to me it's also an audit question. It is very similar
6 to what we do in other cases. I understand there are
7 primarily rate cases, but when you -- you know, when
8 you get information in, that sort of tells you the
9 parameters of what you want to audit, and it should
10 always be related to the proceeding in some way.

11 MS. WHITE: And I understand that. But I
12 honestly don't believe this is a true audit.

13 COMMISSIONER CLARK: Let's see how we can
14 resolve this. We could probably get down to -- and I
15 could make a decision and say to you I think it is an
16 audit. You've got to produce it. And we could spend
17 a lot of time arguing about it, and then we could
18 appeal it and see who was right. But it seems to me
19 that you've acknowledged that there's a need for the
20 information from the Staff.

21 MS. WHITE: I've acknowledged that the Staff
22 is interested in the information and it's legitimately
23 relevant.

24 COMMISSIONER CLARK: And to give it to them
25 at the time the depositions are being taken is of

1 little value, in the sense of being prepared to use
2 that time efficiently. Is there some way we could
3 just work this out that the information gets to Staff
4 appropriately?

5 Let me ask Staff, is there anything
6 beyond -- do you intend to ask more in your audit than
7 what you already have?

8 MR. PELLEGRINI: No. We have a very, very
9 clear vision of what we -- are seeking in the audit.
10 And at this point the value of this information will
11 be in the formulation of cross examination at hearing.
12 I mean, the opportunity to use this information at
13 depositions is rapidly past.

14 COMMISSIONER CLARK: As I understand, it
15 goes to costs, forward-looking costs that we, as --
16 speaking as a Commissioner, we need to be confident
17 that we're coming up with the right amount, and to the
18 extent we don't have information we're not going to be
19 confident and that's not something that's either good
20 for you all or good for any party.

21 MS. WHITE: BellSouth -- if they can be
22 withdrawn as being a quote "audit" or "audit request"
23 BellSouth would be happy to work with the Staff on
24 getting information to them as soon as possible. If
25 the depositions of the people that would be able to

1 speak to this information, they are set for next week,
2 so if Staff wanted to put those off or reserve the
3 right maybe to follow up with a phone deposition on
4 this particular information, we could work with that.
5 I think there's only one request in here that we would
6 probably have a problem with, and that's No. 2, which
7 is arrange for the auditors to travel with the
8 technicians doing the type of work performed on the
9 above schedules.

10 There are several reasons why that could be
11 a problem. One is you would have to find a tech who
12 is doing that specific work at the time, try to work
13 all that out. And the other problem to that would be
14 that the numbers in the cost study are average
15 numbers, so watching a tech do it isn't really going
16 to tell the Staff anything.

17 COMMISSIONER CLARK: You're arguing the
18 value of it, not the right to have the information.

19 MS. WHITE: No. I'm just saying that's
20 going to cause a problem, especially with the time
21 limits that we're looking at, two weeks before a
22 hearing.

23 So I'm just kind of saying I'll be happy to
24 work with Staff. That's one to me that looks like it
25 could be a problem; as long as everybody is aware of

1 that, that's fine.

2 MR. PELLEGRINI: All I can say is that
3 Staff, for its part, is willing to work with the
4 Company, but I don't think it's an acceptable solution
5 to withdraw the audit. We continue to believe the
6 audit request is valid and not to be sustained.

7 COMMISSIONER CLARK: Let me ask you one
8 thing: Ms. White, would you distinguish for me why
9 you believe this is not a financial audit?

10 MS. WHITE: Because a financial audit --
11 traditionally what a financial audit has been in the
12 Commission is looking at overearnings -- looking at
13 earnings, rather, not overearnings -- but earnings.
14 First of all, BellSouth's price-regulated now so the
15 issue of earnings is not relevant to BellSouth.

16 COMMISSIONER CLARK: If that's your
17 argument, then what you're saying is that we never
18 have a right to do a financial audit.

19 MS. WHITE: No. I'm saying there may be
20 different kinds of financial audits. The most common
21 and traditional kind has been earnings.

22 COMMISSIONER CLARK: I agree with that.

23 MS. WHITE: It's definitely not an earnings
24 audit here.

25 COMMISSIONER CLARK: But it seems to me we

1 have routinely done audit when we're concerned about
2 cost allocations and costing of a particular service.
3 And while I don't have at my fingertips instances
4 where it has been that kind of limited audit, it
5 appears to me it does fall within the notion of a
6 financial audit.

7 MS. WHITE: I agree. Another type of
8 financial audit is to look and to make sure that
9 there's no cross-subsidization, or to look and make
10 sure affiliate transactions and cost allocations
11 between affiliates are correct. That's not the
12 situation here. Neither one of those are.

13 This is not a cross-subsidization case.
14 It's not a case where the Commission is concerned
15 about transactions between affiliates and allocations
16 of costs between affiliates. It's strictly a case
17 about what is the cost, nonrecurring and recurring, of
18 specific elements.

19 COMMISSIONER CLARK: Well, I agree with
20 that. And to the extent you look at those costs and
21 you can verify that the costs you've included are
22 correct then there's no cross-subsidization. You've
23 answered that question.

24 MS. WHITE: But what I'm saying is that
25 Staff can do that. I mean, we can give this

1 information, Staff can look at their information and
2 have that.

3 You know, I never really heard a good
4 explanation for why the auditors are required; why
5 that particular process is important to this
6 proceeding.

7 As I said, if it comes down to it, what
8 we're really talking about here -- which I've heard is
9 that maybe it's a resource problem on the Staff's
10 part -- I have no problem with them using the
11 resources of the auditors but it's not an audit.

12 COMMISSIONER CLARK: Well, let me put it
13 this way: I'm not prepared at this time to say that
14 it is not an audit or that it's an inappropriate
15 audit.

16 And it seems to me that you have agreed that
17 the information is relevant. What I'd like to do is
18 go ahead and take a recess until about 11:30 and let
19 you all talk to Staff and see what you can work out.

20 I guess it is -- while I understand the
21 point is important to you all in terms of what
22 describes an audit, it certainly seems to me that, at
23 least in this case, you don't dispute that the
24 information is relevant and ought to be produced in
25 some fashion.

1 Given that, it seems the fundamental issue
2 of getting the information is not in dispute. And so
3 on that basis I'd like to see you all work it out.
4 And I'll give you until 11:30 to see if you can do
5 that, and we'll come back in and see what we have left
6 to do.

7 (Recess taken from 11:00 a.m. to 11:45 a.m.)

8 COMMISSIONER CLARK: Let's call the
9 prehearing back to order. Ms. White and
10 Mr. Pellegrini, have we reached an accord on how we
11 can get this information?

12 MR. PELLEGRINI: I think we have,
13 Commissioner Clark. But I would like first to say I
14 need to, as strongly as I possibly can, reassert our
15 belief what we have requested here is a valid audit,
16 not subject to any of the limitations that Ms. White
17 alluded to in her argument. We feel very strongly
18 about this.

19 Having said that, I think we've reached an
20 agreement in which we can proceed. And I think I
21 would defer to Ms. White at this point.

22 MS. WHITE: Yes. And I will again reiterate
23 my strong feeling that this is nothing more than a
24 last ditch discovery effort very, very late in the
25 game.

1 Without waiving any objections to the nature
2 of the audit and the audit itself, BellSouth will make
3 every effort to comply with the request.

4 Again, I just want to make this known just
5 so nobody goes away without any conceptions --

6 COMMISSIONER CLARK: Without any or with?

7 MS. WHITE: With any.

8 The riding in the truck, there are certain
9 elements the Staff wants to view a technician doing so
10 they can look at installation times.

11 We will make every effort -- I have no idea
12 what is scheduled in the next two weeks before the
13 hearing as far as work to be done. If some of these
14 things are scheduled to be done by technician in Miami
15 I believe where the auditors are, we will try to
16 accommodate that. If it is not scheduled, then
17 there's not much we can do about that. But I don't
18 want anybody to be --

19 COMMISSIONER CLARK: You will make a
20 good-faith effort.

21 MS. WHITE: We will make a very good faith
22 effort.

23 MR. PELLEGRINI: We agree. And to the
24 extent these travels are carried out in the normal
25 course of business, we will audit them. And again we

1 believe that BellSouth will make a good-faith effort
2 to keep us informed on that basis.

3 MS. WHITE: And I think that's it.

4 COMMISSIONER CLARK: Okay.

5 I want to say I appreciate the arguments on
6 both sides. I thoroughly understand your viewpoints
7 and I appreciate the fact that you've worked it out
8 and we will adjourn this prehearing. Thank you very
9 much.

10 (Thereupon, the hearing concluded at
11 11:45 a.m.)

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