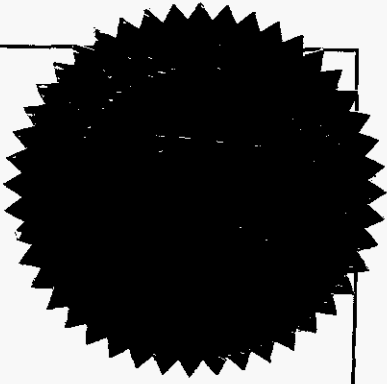


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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION



In the Matter of : DOCKET NO. 970808-TL
: Petition of BellSouth :
Telecommunications, Inc. to :
remove interLATA access :
subsidy received by :
St. Joseph Telephone & :
Telegraph Company. :

Petition by GTC, Inc. d/b/a : DOCKET NO. 980498-TL
GT Com to terminate :
interLATA access subsidy and :
convert to payment of access :
charge revenue directly to :
GTC, Inc. d/b/a GT Com. :

PROCEEDINGS: PREHEARING CONFERENCE
BEFORE: COMMISSIONER J. TERRY DEASON
Prehearing Officer
DATE: Monday, May 4, 1998
TIME: Commenced at 1:30 p.m.
Concluded at 2:10 p.m.
PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: MICHELLE SUBIA, R.P.R.
Notary Public in and for
the State of Florida at
Large

ACCURATE STENOGRAPHY REPORTERS, INC.
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Tallahassee, Florida 32301
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APPEARANCES:

NANCY B. WHITE, c/o/ Nancy H. Sims, 150 South
Monroe Street, Suite 400, Tallahassee, Florida,
appearing on behalf of BellSouth Telecommunications, Inc.

DAVID B. ERWIN, 127 Riversink Road,
Crawfordville, Florida 32327, appearing on behalf of GTC,
Inc.

BETH KEATING, Florida Public Service Commission,
Division of Legal Services, 2540 Shumard Oak Boulevard,
Tallahassee, Florida, 32399-0870, appearing on behalf of
the Commission Staff.

TRACY HATCH, 101 North Monroe Street, Suite 700,
Tallahassee, Florida 32301, appearing on behalf of AT&T
Communications of the Southern States.

P R O C E E D I N G S

(Hearing convened at 1:30 p.m.)

COMMISSIONER DEASON: I call the prehearing conference to order. Could I have the notice read please.

MS. KEATING: "By notice issued April 21st, 1998, this time and place has been set for a prehearing in Docket Number 970808-TL by memo of the Chairman. Docket Number 980498 has been consolidated in this proceeding.

COMMISSIONER DEASON: I'll take appearances.

MR. ERWIN: My name is David B. Erwin. My address is 127 Riversink Road, Crawfordville, Florida, 32327. And I'm here on behalf of GTC, Inc.

MS. WHITE: Nancy White representing BellSouth Telecommunications.

MR. HATCH: Tracy Hatch, 101 North Monroe Street, Tallahassee, Florida, Suite 700 appearing on behalf of AT&T Communications of the Southern States, Inc.

MS. KEATING: I'm Beth Keating appearing for Commission Staff.

COMMISSIONER DEASON: Any preliminary matters?

1 MS. KEATING: Yes, Commissioner, there are a
2 number of preliminary matters. The first one that
3 I would suggest that we take up is AT&T's petition
4 to intervene.

5 COMMISSIONER DEASON: Yes.

6 MR. HATCH: Commissioner Deason, I had filed
7 that just prior to the prehearing conference. I
8 only found out about Docket 980498 as of last
9 Thursday.

10 And then at the same time checking into
11 that, I became aware that it was consolidated with
12 the 808 docket. And I went ahead and prepared
13 petition to intervene as well as a prehearing
14 statement. Both of those were filed just prior to
15 the prehearing conference.

16 COMMISSIONER DEASON: You discovered the
17 existence of the 90498 docket when?

18 MR. HATCH: Thursday.

19 COMMISSIONER DEASON: And you discovered
20 that it had been consolidated when?

21 MR. HATCH: When I was looking on the
22 Commission's Web Site Thursday afternoon, or
23 actually it might have been Friday. It was a memo
24 from the chairman to the clerk's office
25 consolidating the dockets.

1 COMMISSIONER DEASON: Let me ask Staff
2 Counsel, what is the effect of the memo from the
3 chairman's office? Is that in effect consolidated
4 or who has the say as to whether dockets are going
5 to be consolidated?

6 MS. KEATING: While the Chairman's Office
7 does allow dockets to be administratively
8 consolidated, normally an order also must come
9 from the Prehearing Officer. And no order has yet
10 been issued consolidating the dockets.

11 COMMISSIONER DEASON: Okay. Is there
12 opposition to the motion to intervene?

13 MR. ERWIN: I'm not going to object to the
14 intervention.

15 MS. WHITE: I won't object to the
16 intervention. But I notice that in his prehearing
17 statement, AT&T wants to file a witness. And
18 under the Commission's rules, the intervenor takes
19 the case as they find it and the time for filing
20 testimony has passed.

21 COMMISSIONER DEASON: Let me ask Staff,
22 these are two separate questions, are they not?

23 Mr. Hatch, you're not wanting to intervene
24 only if you can file testimony?

25 MR. HATCH: No, sir. I will participate in

1 the case if granted intervention regardless of
2 whether I'm allowed to file testimony.

3 COMMISSIONER DEASON: So these are separable
4 questions as to whether there is to be
5 intervention? It's another question as to whether
6 there's going to be testimony filed?

7 MS. KEATING: Yes, sir. That's my
8 understanding, yes.

9 COMMISSIONER DEASON: Well, realizing the
10 issues are separate and since there's no
11 opposition to AT&T's petition to intervene, that
12 petition is granted.

13 The next preliminary matter?

14 MS. KEATING: I have not seen the actual
15 request to file testimony of a witness, but it is
16 my understanding that that is what AT&T would like
17 to do in this proceeding. And as I understand it,
18 there is also some opposition from the parties in
19 this case.

20 COMMISSIONER DEASON: Okay. Is it now
21 appropriate to take up that question?

22 MS. KEATING: Yes, sir. I would suggest
23 that we go ahead and do that in preliminary
24 matters.

25 COMMISSIONER DEASON: Okay. Mr. Hatch.

1 MR. HATCH: Since we are doing that, it
2 would be my request that I be allowed to file
3 direct testimony on Friday of this week. I think
4 that's not unreasonable. It is still sufficiently
5 in advance of the hearing to allow parties to view
6 that testimony and conduct any necessary
7 discovery.

8 We would make my witness available for
9 deposition if necessary or any other discovery
10 that needed to be done on an expedited basis. I
11 would commit to doing that.

12 She is quite correct, Ms. White was, in
13 terms of the intervenors take the case as they
14 find it. I do not think under these circumstances
15 with the late notice and the still sufficient time
16 before the hearing that anybody would be unduly
17 prejudiced by getting testimony on Friday.

18 I do not anticipate that it would be long or
19 complicated or extensive. It would be very much
20 in line with the answers in the prehearing
21 statement.

22 COMMISSIONER DEASON: Ms. White.

23 MS. WHITE: Well, the bottom line is that
24 Rule 25-22.039 of the Florida Administrative Code
25 says among other things that intervenors take the

1 case as they find it.

2 The time for direct testimony has passed.
3 The time for rebuttal testimony has passed. We
4 are fast closing on the hearing date in this
5 matter which I believe is May 19th.

6 I just lost my train of thought. But
7 BellSouth filed its petition back in July of 1997.
8 The issues were disputed. There was an order on
9 the disputed issues saying exactly what the issues
10 would be that was issued on February 18, 1998.

11 And I believe that AT&T had plenty of time
12 to intervene in order to file testimony if that's
13 what they wanted to do.

14 I don't believe that since they waited till
15 the last minute that they should be allowed to
16 file direct testimony in this case, especially
17 since neither BellSouth nor GTC will have an
18 opportunity to file testimony rebutting that. I
19 especially don't believe that any discovery should
20 be allowed on the part of AT&T.

21 MR. HATCH: I did not intend or contemplate
22 doing any discovery of my own in view of the late
23 date.

24 With respect to the time in which AT&T has
25 intervened, it was not because of any dilatory

1 tactics on the part of AT&T.

2 AT&T filed to intervene as soon as it became
3 aware that there were issues in now both of these
4 dockets that could affect its substantial
5 interest. Up until last Thursday, it was unaware
6 that there were any other issues in this
7 proceeding that would affect its substantial
8 interest.

9 As to those issues, we have had no notice
10 that access charges in any way would be on the
11 table with respect to the elimination of the
12 subsidy.

13 And, frankly, I'll tell you how I became
14 aware of it. The commission issues a report of
15 new dockets open, and when I saw the new docket
16 that was created by Mr. Erwin's petition for
17 Docket 980498, the title caption of the docket
18 intrigued me because it makes reference to access
19 charges.

20 It was that point that caused me to
21 investigate further. Prior to that, I had no
22 inkling at all that there was going to be anything
23 that could affect AT&T's substantial interest on
24 this matter, so we have acted as fast as we
25 possibly could to get in here and participate and

1 protect our interests.

2 COMMISSIONER DEASON: Mr. Erwin, do you got
3 a dog in this fight?

4 MR. ERWIN: Not really. I do think that if
5 there's a consolidation here that probably I
6 wouldn't fully agree with Ms. White's argument.

7 But if there is no consolidation in this
8 case, then I agree fully with what she has
9 indicated that the time has clearly passed for any
10 kind of filing of the part of anybody else in this
11 docket. But since we're looking at consolidation,
12 I don't really have any problem.

13 COMMISSIONER DEASON: So your position is
14 that if there is to be consolidation then you
15 believe that AT&T should be granted leave to file
16 testimony?

17 MR. ERWIN: Correct. I think Mr. Hatch
18 makes a good point if there's consolidation. If
19 there's not, I think Ms. White makes the best
20 point.

21 COMMISSIONER DEASON: Ms. White, is your
22 position in any way contingent upon if there is
23 consolidation or if there is not consolidation?

24 MS. WHITE: No. My position stays the same
25 regardless. And the reason for that is I would

1 point to the Issue Number 6 that was approved by
2 the Prehearing Officer, an order issued on
3 February 18th, '98 which states that "The access
4 subsidy being paid to GTC is eliminated, should
5 BST be directed to cease collection of the access
6 subsidy funds. If the access subsidy being paid
7 to GTC is eliminated and collection of the access
8 subsidy funds is not terminated, what disposition
9 should be made of the funds?"

10 I would think that would give quite fair
11 notice that access charges or other rates could be
12 affected. So my position stays the same.

13 MR. HATCH: She is correct had I been given
14 notice of those issues. AT&T was not provided any
15 kind of notice either formally or informally by
16 anyone, either the Staff or the Commission with
17 respect to what those issues were going to be.

18 And, frankly, I don't think, although it is
19 generally a practice to try and keep track of
20 what's going on on an informal basis to try and
21 avoid these kinds of problems, I don't think it is
22 my obligation to look into every single docket and
23 go to every issue identification meeting in order
24 to protect my interests.

25 There has to be some sort of formal notice

1 and point of entry under these proceedings. And
2 there has been none to date.

3 COMMISSIONER DEASON: And is that due to the
4 consolidation of the docket?

5 MR. HATCH: Well, actually no. The 498
6 docket is what keyed me that there could be
7 something at issue. But the issues in the 808
8 docket remain the same to the extent that it
9 affects either the level or rates of access
10 charges that AT&T must pay, then it's an issue
11 that AT&T must address.

12 COMMISSIONER DEASON: Well, I'm concerned
13 whenever there is the assertion there's been a
14 lack of notice. And my concern is heightened by
15 the fact that there has been or perhaps will be a
16 consolidation of the dockets. And if that
17 complicates matters, I think that is one question.

18 If there's a question of you not being aware
19 of what the issues were regardless of a
20 consolidation, I guess I have to ask the question
21 what obligation is the commission under to advise
22 you that perhaps access charges is an issue and
23 what should be the procedure?

24 MR. HATCH: I would hope to get into these
25 hair splitting debates. But, frankly,

1 Commissioner Deason, historically this is all
2 handled mostly informally at the Staff level where
3 if a petition came up and it appeared there could
4 be a problem for folks that were not present in a
5 proceeding, then we went ahead and did that.

6 I am not at all throwing rocks at anybody in this
7 thing. I understand, been there, done that, and
8 these things happen.

9 But, frankly, the commission has an
10 obligation at some point to notify at the very
11 least the FAW the specific nature of the issues,
12 if not the specific issues themselves certainly
13 the subject matter. And I don't believe that that
14 has been done.

15 MR. ERWIN: Let me indicate that I don't
16 think any aspersions should be cast on the Staff.

17 MR. HATCH: Not at all.

18 MR. ERWIN: This is a very complicated
19 thing. I've been making an argument all along in
20 this docket that only recently seemed to have
21 found any sort of fertile ground and acceptance by
22 anyone.

23 And consequently, until that point, I really
24 don't think that anybody could have advised
25 Mr. Hatch about anything other than what Mr. Hatch

1 already knows from his vast experience in this
2 area which was the nature and origin of the
3 subsidy funds to begin with.

4 So there was something lurking out there
5 that was a possibility, but I'm not sure that
6 anybody had any obligation to notify him or
7 anybody else other than the parties in this
8 docket.

9 COMMISSIONER DEASON: And you think that is
10 regardless of whether there is or is not
11 consolidation?

12 Let me say this: My concern is that if
13 there is going to be consolidation and that puts
14 in doubt that there's been adequate notice of the
15 subject matter of this hearing and the issues,
16 then our question is whether there should be
17 consolidation or not because I think that it is a
18 very critical question.

19 It's critical that all parties be given
20 notice, and if they want to participate, fine and
21 if they don't, fine. And consolidating at this
22 last minute, if that puts in jeopardy adequate
23 notice being given, then that raises the question
24 of whether there should be a consolidation.

25 MR. ERWIN: Well, it looks to me as if

1 Mr. Hatch believes the issues are the same either
2 way.

3 MR. HATCH: Yes.

4 MR. ERWIN: And I guess what I'm saying is
5 that until I filed my petition and until some
6 things became more crystallized in this case we
7 really didn't know precisely what was involved in
8 the docket.

9 So I think that in order to get a complete
10 look at the entire questions that have been raised
11 that the consolidation is really necessary or is
12 desirable at least so you don't piecemeal this
13 thing as we go down through a fairly complicated
14 proceeding.

15 And I think that if it's consolidated or not
16 consolidated, those issues are pretty much going
17 to remain in this docket anyway and Mr. Hatch is
18 going to be in this docket either way and that in
19 order to get a complete picture probably
20 consolidation is the best thing. That's my
21 feeling.

22 MR. HATCH: I would agree with Mr. Erwin. I
23 think that the issues remain regardless of whether
24 there's consolidation or not.

25 COMMISSIONER DEASON: Ms. White, do you have

1 anything to add?

2 MS. WHITE: I don't think I disagree. I
3 don't have a strong feeling one way or the other
4 about consolidation or not consolidation. What
5 I'm interested in is keeping the hearing date that
6 we have.

7 And if AT&T is allowed in and is allowed to
8 file testimony, then BellSouth would seek an
9 opportunity to rebut that testimony with filed
10 testimony.

11 COMMISSIONER DEASON: Mr. Erwin, you've
12 indicated that the issues are going to remain the
13 same regardless of whether there is or is not
14 consolidation. What then is the purpose of you
15 filing the petition for the separate docket?

16 MR. ERWIN: Well, I think filing my petition
17 really sort of crystallized the issues and brought
18 more clarity to them, at least in my hopes of
19 them. And I think that apparently was the case
20 because it alerted Mr. Hatch to what was really
21 involved in the case. And he's come forward at
22 this point.

23 Even though the issues still remain there,
24 they really aren't as focussed and crystallized
25 without my petition and without consolidation as

1 they would be otherwise although the testimony
2 filed by Mr. Mailhot does raise questions that are
3 along the same lines as the issues I raised in my
4 petition.

5 MS. WHITE: And I would just add that GTC
6 could have filed direct testimony in the original
7 case that crystallized those issues on behalf of
8 GTC. They didn't. They chose to file a separate
9 petition for whatever it's worth.

10 MR. ERWIN: Well, I really in all fairness
11 think I started trying to crystallize these issues
12 early by objecting to the issues that were being
13 posed by the Staff early on. And I haven't ever
14 changed my attitude or position in this case.

15 And it's true that I haven't filed any
16 testimony. And it's true that I will probably not
17 respond to any testimony filed by Mr. Hatch. So I
18 don't care about the timing of that. I'm not
19 trying to delay the hearing. I want the hearing
20 to go ahead on May 20th myself.

21 I think we're just about to boil this down
22 to whether or not Mr. Hatch can file by a certain
23 date and Ms. White has ample time to respond to
24 it. And I hope that both of those could happen.

25 COMMISSIONER DEASON: Well, we're going to

1 try to accommodate these. But before we get to
2 the question of filing testimony or not, I still
3 have some concern about the consolidation and the
4 notice question.

5 What's going to happen if -- and this is
6 just a hypothetical -- if at the conclusion of
7 this prehearing conference we get a petition to
8 intervene by MCI and they say, oh, we just heard
9 about this because we heard AT&T was granted
10 intervention so maybe we need to get involved?
11 Where do we draw the line?

12 And if it's being presented, MCI or anyone
13 else, that, well, we really didn't have notice
14 under the previous docket title but when you
15 consolidated the new petition in with the existing
16 docket we knew then that there was going to be
17 subject matter that we had a substantial interest
18 in, therefore, we're seeking intervention.

19 MR. ERWIN: I think you draw the line today
20 because today is the prehearing conference. If
21 you come to the prehearing conference like
22 Mr. Hatch has done, you're in pretty good shape.
23 But if you don't come, the rules indicate that
24 you've pretty much waived any right to argue about
25 anything.

1 COMMISSIONER DEASON: But that's assuming
2 that everybody has notice and they knew what the
3 subject matter was going to be. And conceivably
4 someone could want to intervene the day of the
5 hearing and have the whole hearing postponed
6 because they didn't have notice of what the
7 subject matter of the hearing was to be.

8 MR. ERWIN: Well, if we're correct that the
9 subject matter was there all along lurking in the
10 original docket, then that could still happen to
11 you so I'm not sure you gained anything.

12 I don't have a problem with the notice thing
13 since Mr. Hatch seems to be most interested in
14 this. I don't know how many, but I know at least
15 one IXC has even before Mr. Hatch became alerted
16 to this, obtained copies of my petition and
17 nothing's come of it. There was enough out there
18 for anybody who was interested to be here today if
19 they were.

20 COMMISSIONER DEASON: Well, what can we gain
21 by consolidating these dockets?

22 MR. ERWIN: You can get a focus on the
23 issues, complete issues. I think that you need to
24 have my petition in here to know what -- the
25 commission needs to have the petition to know all

1 of its choices and options in this case and that
2 you don't want to look at this in a piecemeal
3 basis.

4 For example, if you denied BellSouth's
5 petition, then you really haven't done anything
6 other than prolong the case, even though you felt
7 that was the right thing to do, you've just
8 prolonged it till you disposed of my petition
9 which is going to be out there anyway. And I
10 think you could dispose of all of them at one time
11 and shorten the time period.

12 COMMISSIONER DEASON: Ms. Keating.

13 MS. KEATING: Could I jump in here? I
14 really think that there's a potential that you
15 could risk more than you gain if you consolidate
16 this case with the 980498.

17 And the reason is that the only notice
18 problem that I've been able to see is in the
19 consolidation of 980498. I don't see any notice
20 problem in the original docket, the 970808.

21 And if you do go ahead and consolidate the
22 two dockets, then whether or not AT&T's concerns
23 are remedied, it still does leave it open for any
24 other company or party that might decide to
25 intervene or try to intervene at some later date.

1 They could still raise the same notice argument.

2 And I think that as far as Mr. Erwin's
3 concerns about crystallizing the issues, I think
4 that Mr. Mailhot's testimony in the original
5 document really get to the same issues that Mr.
6 Erwin has also raised in his petition.

7 And if necessary, Mr. Erwin could further
8 amend his prehearing statements here today if he
9 wanted further crystallization beyond what
10 Mr. Mailhot has provided. But I really do have a
11 concern that you risk more than you gain if you
12 consolidate.

13 COMMISSIONER DEASON: The risk being the
14 adequacy of the notice?

15 MS. KEATING: Yes, sir. And like I said, I
16 only think that applies to the consolidation of
17 the second docket in with the original docket.

18 I don't think you have a notice problem with
19 the original docket because whether or not the
20 issue has been out there as far as raising or
21 lowering access charges, the issue of access
22 charges and the subsidy and its application has
23 always been there, and there was always a
24 potential in light of the circumstances of this
25 case that something new could be presented. So I

1 do not see the notice problem in that case, it's
2 only with the second one.

3 COMMISSIONER DEASON: Does anyone have
4 anything to add on the question of notice adequacy
5 with the consolidation of the second docket?

6 (No response.)

7 COMMISSIONER DEASON: Okay. It seems to me
8 that the original question we were discussing was
9 the issue of whether AT&T was to be allowed to
10 file testimony.

11 And, Mr. Hatch, it's your position that you
12 be allowed that regardless of whether there is or
13 is not consolidation?

14 MR. HATCH: That is correct, in either
15 docket. If it helps you, Commissioner Deason, I
16 don't expect you will see a petition to intervene
17 from MCI. I consulted with them to see whether
18 they knew what was going on and they did not.

19 COMMISSIONER DEASON: They did not know and
20 they are still not going to intervene?

21 MS. KEATING: Commissioner, if I could just
22 jump in to respond to that. Whether or not you
23 may or may not see a petition from somebody else,
24 the notice problem is still out there.

25 COMMISSIONER DEASON: I understand that.

1 And that is a concern because there's other
2 parties out there other than MCI.

3 MR. HATCH: Absolutely, I agree.

4 COMMISSIONER DEASON: And what bothers me is
5 the notice of the prehearing conference was for
6 one docket.

7 MS. KEATING: That's correct.

8 COMMISSIONER DEASON: And in fact, to be
9 quite honest, when I was reviewing and preparing
10 for today's prehearing conference, I was surprised
11 when I read the very first page of the draft
12 prehearing order and noticed that all of the
13 sudden we had two dockets. I was not aware of
14 that myself until this weekend.

15 It appears to me that perhaps there is some
16 concern with the lack of notice, and I think
17 that's a very serious concern. And I think that
18 what the commission needs to do is weigh the risk
19 of having inadequate notice with what is to be
20 added or to be gained in the hearing by hearing
21 both of these dockets at one time.

22 And what it appears to me is that the issues
23 that are contained within the prehearing order
24 address the entire subject matter and that even
25 the subject matter of the second docket can be

1 adequately addressed within the issues as framed.

2 Now, perhaps they have to crystallize that
3 to some extent. I don't think the consolidation
4 adds anything to the proceeding.

5 So I'm going to exercise some prerogative
6 here as Prehearing Officer and decide that we are
7 not going to consolidate for purposes of this.
8 And that removes in my opinion any question as to
9 the adequacy or inadequacy of the notice.

10 And, Mr. Erwin, you are correct that there
11 has been a petition filed, it is there. And at
12 some point, the commission is going to have to
13 address it.

14 We're going to go forward with docket
15 970808. And if in conducting that docket in a
16 thorough manner if everything that's contained
17 within your petition gets resolved, either you
18 can withdraw that or the commission would just
19 deem the petition moot. But that's something
20 that we will address at some subsequent time.

21 But for purposes of this docket, we are not
22 consolidating. It is strictly going to proceed
23 with the original docket as it is framed.

24 And, Mr. Hatch, you have been allowed to
25 intervene in this docket. I don't want to put

1 form over substance or substance over form. It
2 seems to me that the issues are being raised in
3 the original docket by you and your client and
4 that you should be allowed the opportunity to
5 address that.

6 I'm going to allow the opportunity to file
7 testimony. Now, that decision has been made. The
8 question now is the timing.

9 And whatever that timing is, it has to be so
10 that there is adequate time for the parties to
11 respond to that testimony all within the time
12 period where we can go to hearing on the 20th of
13 this month. So it's going to be a very short time
14 period.

15 And I'm willing to discuss that now with the
16 parties as to what that schedule should be.
17 Obviously what we want to do here is to give
18 adequate due process to all involved and to have
19 an adequate record so that the commission can make
20 an informed decision.

21 So having made that decision, now the
22 question is the timing of the testimony. Your
23 suggest is Friday?

24 MR. HATCH: Yes.

25 COMMISSIONER DEASON: Okay. I want to hear

1 a response to that suggestion, Ms. White.

2 MS. WHITE: Friday is okay. And I would
3 assume that BellSouth would be allowed maybe till
4 the next Friday the 15th to file rebuttal to that?

5 COMMISSIONER DEASON: Okay. Friday is the
6 8th. And you're suggesting that if that is the
7 due date for AT&T's testimony that your rebuttal
8 would be due one week which would be the 15th?

9 MS. WHITE: Yes.

10 COMMISSIONER DEASON: Mr. Erwin.

11 MR. ERWIN: That's acceptable to me.

12 COMMISSIONER DEASON: Staff.

13 MS. KEATING: We have no objection to that
14 time frame.

15 COMMISSIONER DEASON: Mr. Hatch, I think
16 it's incumbent upon you to provide that testimony
17 to the parties in an expeditious manner.

18 MR. HATCH: We'll do so. I'll provide it
19 as soon as I possibly can. I'll fax it and hand
20 deliver it or however they would like.

21 COMMISSIONER DEASON: And for the benefit of
22 Staff and my fellow Commissioners and based upon
23 your assertion, I do not anticipate that there is
24 going to be extremely long, complicated in-depth
25 testimony that has to be reviewed just a few days

1 before hearing?

2 MR. HATCH: Even if I wanted to, there isn't
3 enough time.

4 COMMISSIONER DEASON: And, likewise, I would
5 not expect the rebuttal to be of a long,
6 complicated nature as well. Obviously we want to
7 address the issues, but we are laboring under a
8 very tight time constraint.

9 Anything else concerning the filing of
10 testimony and rebuttal?

11 (No response.)

12 COMMISSIONER DEASON: Likewise, the rebuttal
13 should be provided to Mr. Hatch in an expeditious
14 manner. And I'll leave it up to the parties to
15 make that accommodation, one with another.

16 Any other preliminary matters?

17 MS. KEATING: There is one other thing. We
18 would like to amend our prehearing statements on
19 certain issues. Obviously Mr. Hatch has just
20 filed his prehearing statement. If we can take
21 this up as we go through the issues or we could
22 just point out --

23 COMMISSIONER DEASON: Why don't when we go
24 through the issue point out where there are
25 changes or corrections. And obviously we know

1 AT&T's positions are all going to be additions.
2 But we'll go through that issue by issue at the
3 appropriate time.

4 MS. KEATING: If I could just point out that
5 Staff's amended position is already included in
6 this.

7 COMMISSIONER DEASON: That's been provided
8 to the parties?

9 MS. KEATING: Yes, sir.

10 COMMISSIONER DEASON: Any other preliminary
11 matters?

12 MS. KEATING: That's all that Staff's aware
13 of.

14 COMMISSIONER DEASON: Okay. Do the parties
15 have any preliminary matters?

16 MR. HATCH: None further that I'm aware of.

17 COMMISSIONER DEASON: All right. Then we
18 will proceed through the draft prehearing order.
19 Obviously the first change that has to be done is
20 that this is just going to be one docket.

21 Section I is Case Background. And obviously
22 if any changes have to be made, to be consistent
23 with the decision that we are not going to
24 consolidate. Staff, you would need to make those
25 changes. I don't know if that's discussed in the

1 case background or not.

2 Section II, Confidential Information seems
3 to be fairly straightforward and consistent with
4 commission practice.

5 Post-Hearing Procedures and Prefiled
6 Testimony and Exhibits.

7 Section IV, Order of Witnesses.

8 Mr. Hatch, do you know who your witness will
9 be?

10 MR. HATCH: At this point, it's scheduled to
11 be Mike Gudell. I am looking through the issues
12 that it is unlikely that there will be any
13 exhibits. We may have a request for official
14 recognition of some of the commission's access
15 orders.

16 COMMISSIONER DEASON: Do you suggest that he
17 go between Mr. Lohman and Mr. Mailhot?

18 MR. HATCH: That would be fine with me.

19 COMMISSIONER DEASON: Any objection?

20 MS. KEATING: No objection.

21 MS. WHITE: No.

22 MR. ERWIN: No.

23 COMMISSIONER DEASON: Mr. Erwin, is it your
24 intent to file rebuttal testimony or do you have
25 to review the testimony?

1 MR. ERWIN: I suppose I'll need to review
2 the testimony. In all likelihood, I will not. I
3 have kind of an idea what Mr. Hatch is going to
4 say and I probably will not file rebuttal
5 testimony. But I'll need to see exactly what he
6 says.

7 COMMISSIONER DEASON: Ms. White, will
8 Mr. Lohman be filing additional rebuttal?

9 MS. WHITE: Yes, in response to the AT&T
10 testimony.

11 COMMISSIONER DEASON: Any other changes to
12 the order of witnesses?

13 (No response.)

14 COMMISSIONER DEASON: Section V addresses
15 basic positions. And obviously AT&T's basic
16 position is going to have to be incorporated.

17 Any other changes to the basic positions?

18 MR. ERWIN: Yeah. I would like to make a
19 change to mine, but I don't have it phrased yet.
20 I phrased it for consolidation. And now that
21 we're not consolidating, I need to be a little
22 more specific than I was before.

23 I wonder if I could have just a little while
24 to do that. I don't know when I'm going to do it
25 because I'm leaving town. I think I could write

1 it out in longhand and give it to somebody before
2 this thing is over.

3 COMMISSIONER DEASON: Why don't we do this,
4 why don't you proceed. You put everyone on notice
5 that you're going to be modifying that. Provide
6 that to parties as quickly as possible.

7 If for some reason there's some objection to
8 your language, Staff will bring that to me at some
9 later point. I do not anticipate it would be
10 objected to.

11 MR. ERWIN: I'm not trying to change the
12 issues but just my position on those issues. I
13 think there are four issues that I would like to
14 address.

15 COMMISSIONER DEASON: Very well. You'll be
16 allowed to amend that with the understanding that
17 that be -- is it your intent to communicate that
18 to Staff and the parties before close of business
19 today?

20 MR. ERWIN: Yes.

21 COMMISSIONER DEASON: Very well.

22 MR. HATCH: Commissioner Deason, did you
23 want me to read my positions into the record or
24 would it suffice that everybody has my prehearing
25 statement?

1 COMMISSIONER DEASON: There's no need to
2 read it into the record. We have your prehearing
3 statement. And Staff will incorporate what is
4 here into the prehearing order. Only if you would
5 want to make changes to what you've prepared do we
6 need to --

7 MR. HATCH: It's barely dry. I'm not going
8 to change it just yet.

9 COMMISSIONER DEASON: Very well. We'll
10 proceed then to Issue 1, changes to positions for
11 Issue 1.

12 I assume that BellSouth's position
13 concerning the June 10th date is sometime before
14 1998?

15 MS. WHITE: Yes, you're absolutely correct.
16 I think it's '85, but I'll have to check. I'll
17 look while we're doing this.

18 COMMISSIONER DEASON: Very well. That needs
19 to be corrected.

20 Issue 1b.

21 (No response.)

22 COMMISSIONER DEASON: Issue 2.

23 MS. KEATING: I would just point out that
24 Staff's position on Issue 2 has changed from its
25 prehearing statement.

1 COMMISSIONER DEASON: Very well.

2 MS. WHITE: And I with the help of Mr. Hatch
3 -- it's 1985 that should be in Issue 1 instead of
4 '98.

5 COMMISSIONER DEASON: Issue 3.

6 (No response.)

7 COMMISSIONER DEASON: Issue 4?

8 (No response.)

9 COMMISSIONER DEASON: Issue 5.

10 (No response.)

11 COMMISSIONER DEASON: Issue 6.

12 MS. KEATING: And once again, I would like
13 to point out that Staff's position on Issue 6 has
14 changed from its prehearing statement.

15 COMMISSIONER DEASON: Issue 7.

16 (No response.)

17 COMMISSIONER DEASON: Issue 8.

18 (No response.)

19 COMMISSIONER DEASON: Issue 9.

20 (No response.)

21 COMMISSIONER DEASON: We'll proceed then to
22 the exhibit list. Mr. Lohman's exhibits are shown
23 there.

24 Mr. Hatch, if your witness is to have
25 exhibits, please -- well, that raises an

1 interesting point. This prehearing order is going
2 to be issued when?

3 MS. KEATING: As soon as possible.

4 COMMISSIONER DEASON: Before the filing of
5 testimony?

6 MS. KEATING: It should be. We should have
7 it together with within the next day or so.

8 COMMISSIONER DEASON: My only concern is
9 that Commissioners be totally informed of the
10 status of this document and of the witnesses and
11 the fact that there is going to be rebuttal
12 testimony.

13 I don't want to unnecessarily delay the
14 issuance of the prehearing order. I'll leave that
15 at the discretion of Staff to make sure that the
16 prehearing order is adequately descriptive so that
17 all commissioners are fully informed of the full
18 range of witnesses and how this case is going to
19 proceed.

20 MS. KEATING: Yes, sir. We'll make sure
21 that is included.

22 COMMISSIONER DEASON: Section VIII, there
23 are no proposed stipulations.

24 Section IX, Pending Motions, I understand
25 that there is a motion, and that's to be addressed

1 at the upcoming agenda conference.

2 Is that correct?

3 MS. KEATING: Yes, sir. Staff is preparing
4 a recommendation to present at the Commission's
5 agenda conference.

6 COMMISSIONER DEASON: Okay. Any other
7 pending motions? We've already dealt with the
8 motion to intervene.

9 MR. HATCH: That's correct.

10 COMMISSIONER DEASON: And rulings need to be
11 changed to show that there is no consolidation.

12 MS. KEATING: Yes, sir.

13 COMMISSIONER DEASON: Is there anything else
14 to come before the Prehearing Officer?

15 (No response.)

16 COMMISSIONER DEASON: Mr. Hatch, you've got
17 a lot of work to do.

18 MR. HATCH: Yes, sir.

19 COMMISSIONER DEASON: Hearing nothing, this
20 prehearing conference is adjourned. Thank you you
21 all.

22 (Proceedings concluded at 2:10 p.m.)

23

24

25

CERTIFICATE OF REPORTER

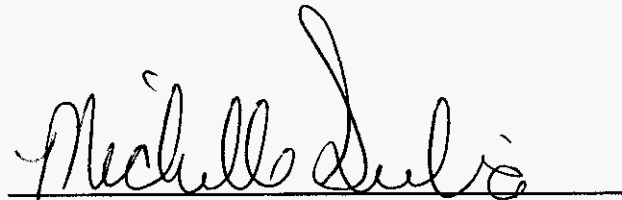
STATE OF FLORIDA:

COUNTY OF LEON:

I, MICHELLE SUBIA, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 36 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 14TH DAY OF MAY, 1998.



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