

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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 In the Matter of : DOCKET NO. 980696-TP
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 Determination of the cost of :
 basic local telecommunications :
 service, pursuant to :
 Section 354.025, :
 Florida Statutes. :



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER E. LEON JACOBS, JR.
Prehearing Officer

DATE: Monday, September 28, 1998

TIME: Commenced at 1:30 p.m.
Concluded at 2:20 p.m.

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

REPORTED BY: H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter

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1 **APPEARANCES:**

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4 Street, Tallahassee, Florida 32301, appearing on
5 behalf of **Florida Cable Telecommunications**
6 **Association.**

7 **TRACY HATCH**, 101 North Monroe Street, Suite
8 700, Tallahassee, Florida 32301-1549, appearing on
9 behalf of **AT&T Communications of the Southern States,**
10 **Inc.**

11 **PHILLIP CARVER**, c/o Nancy Sims, 150 South
12 Monroe Street, Suite 400, Tallahassee, Florida 32301,
13 appearing on behalf of **BellSouth Telecommunications,**
14 **Inc.**

15 **JEFFRY WAHLEN**, Ausley & McMullen, Post
16 Office Box 391, Tallahassee, Florida 32302, appearing
17 on behalf of **ALLTEL, Northeast Florida Telephone**
18 **Company, Incorporated, and Vista-United**
19 **Telecommunications.**

20 **CHARLES J. BECK**, Deputy Public Counsel,
21 Office of Public Counsel, 111 West Madison Street,
22 Room 812, Tallahassee, Florida 32399-1400, appearing
23 on behalf of the **Citizens of the State of Florida.**

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1 **APPEARANCES CONTINUED:**

2 **CHARLES REHWINKEL**, P. O. Box 2214,
3 Tallahassee, Florida, appearing on behalf of
4 **Sprint-Florida Incorporated.**

5 **NORMAN H. HORTON, JR.**, Messer, Caparello &
6 Self 215 South Monroe Street, Post Office Box 1876,
7 Tallahassee, Florida 32302, appearing on behalf of
8 **American Communications Services, Inc. - Jacksonville,**
9 **d/b/a e.spire Communications, Inc.**

10 **JOSEPH A. MCGLOTHLIN**, McWhirter, Reeves,
11 McGlothlin, Davidson, Rief and Bakas, 117 South
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13 on behalf of **Florida Competitive Carriers Association.**

14 **DAVID B. ERWIN**, 127 Riversink Road,
15 Crawfordville, Florida 32327, appearing on behalf of
16 **Frontier Communications of the South, Inc.; GTC, Inc.;**
17 **ITS Telecommunications Systems, Inc.;** and
18 **TDS Telecom - Quincy Telephone Company.**

19 **KIMBERLY CASWELL**, One Tampa City Center,
20 Post Office Box 110, FLTC0007, Tampa, Florida
21 33601-0110, appearing on behalf of **GTE Florida**
22 **Incorporated.**

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1 **APPEARANCES CONTINUED:**

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.**

6 **MICHAEL A. GROSS**, Assistant Attorney
7 General, Office of the Attorney General, PL-01 The
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9 behalf of the **Office of the Attorney General.**

10 **BARBARA AUGER**, Pennington, Moore, Wilkinson,
11 Bell & Dunbar, P.A., Post Office Box 10095,
12 Tallahassee, Florida 32302-2095, appearing on behalf
13 of **Time-Warner Axs of Florida, L.P.**

14 **FLOYD R. SELF**, Messer, Caparello & Self 215
15 South Monroe Street, Suite 701, Post Office Box 1876,
16 Tallahassee, Florida 32302-1876, appearing on behalf
17 of **WorldCom, Inc.**

18 **WILLIAM COX**, Florida Public Service
19 Commission, Division of Legal Services, 2540 Shumard
20 Oak Boulevard, Tallahassee, Florida 32399-0870,
21 appearing on behalf of the **Commission Staff.**

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P R O C E E D I N G S

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

COMMISSIONER JACOBS: We shall come to order. Counsel, read the notice.

MR. COX: Pursuant to notice, this time and place have been set for a prehearing conference in Docket No. 980696-TP, determination of the cost of basic local telecommunications service, pursuant to Section 364.025, Florida Statutes.

COMMISSIONER JACOBS: We'll take appearances.

MR. WAHLEN: I can start. I'm Jeff Wahlen of the Ausley & McMullen Law Firm, appearing on behalf of ALLTEL, Inc., Vista United Telecommunications, and Northeast Florida Telephone Company.

MR. ERWIN: I'm David B. Erwin, 127 Riversink Road, Crawfordville, Florida, appearing on behalf of Frontier Communications of the South, Inc., GTC, Inc., ITS Telecommunications Systems, Inc., and TDS Telecom-Quincy Telephone Company.

MR. CARVER: Phillip Carver on behalf of BellSouth.

MS. CASWELL: Kim Caswell for GTE.

MR. SELF: Floyd Self of the Messer, Caparello & Self Law Firm, appearing on behalf of

1 WorldCom, Inc.

2 **COMMISSIONER JACOBS:** No MCI-WorldCom yet?

3 **MR. SELF:** This is the -- never mind.

4 (Laughter)

5 **COMMISSIONER JACOBS:** I'm sorry.

6 **MR. HATCH:** Tracy Hatch appearing on behalf
7 of AT&T Communications of the Southern States, Inc.

8 **MR. MCGLOTHLIN:** Joe McGlothlin, Florida
9 Competitive Carriers association.

10 **MR. NELSON:** Richard Nelson and Mickey Henry
11 on behalf of MCI Telecommunications Corporation, a
12 wholly owned subsidiary of MCI-WorldCom. (Laughter)

13 **MS. GALLAGHER:** Laurie Gallagher on behalf
14 of the Florida Cable Telecommunications Association.

15 **MS. AUGER:** Barbara Auger on behalf of
16 Time-Warner.

17 **MR. REHWINKEL:** Charles J. Rehwinkel and
18 John P. Fons on behalf of Sprint-Florida,
19 Incorporated.

20 **MR. BECK:** Charlie Beck, Office of the
21 Public Counsel on behalf of the citizens of Florida.

22 **MR. HORTON:** Norman A. Horton, Jr. of the
23 Messer, Caparello & Self Law Firm on behalf of e.spire
24 Communications.

25 **COMMISSIONER JACOBS:** Full cast of

1 characters. I mean, gentlemen. I'm sorry. Ladies
2 and gentlemen.

3 **MR. GROSS:** Michael Gross, Office of the
4 Attorney General.

5 **MR. COX:** Will Cox on behalf of the Florida
6 Public Service Commission Staff.

7 **COMMISSIONER JACOBS:** Are there any
8 preliminary matters?

9 **MR. COX:** Staff has two preliminary matters
10 that I'd like to mention, and I don't know if the
11 parties have any others. After that, I would suggest
12 that we proceed through the draft prehearing order.

13 The first is Staff has handed out a copy of
14 its proposed exhibit list and these exhibits are not
15 contained in the exhibit list, and these exhibits are
16 not contained in the exhibit list within the draft
17 prehearing order.

18 Staff does not have a witness in this
19 proceeding and would seek, prior to the hearing, a
20 stipulation from the parties on these exhibits. They
21 are various discovery responses that have been filed
22 by the parties in this proceeding, and Staff would
23 just ask the parties to look this over, and perhaps by
24 a week from this Wednesday, if you could get back with
25 us and let us know if you have any specific objections

1 to any of these proposed exhibits.

2 MR. WAHLEN: Does Staff intend to include
3 deposition transcripts in these composite exhibits, or
4 are you going to do that separately?

5 MR. COX: We do intend to include the
6 transcripts, so there may be some additions to this
7 list, but this is our preliminary list as of today at
8 the prehearing. And we would notify everyone of that
9 as that came about. And that was just a general
10 announcement.

11 The other topic I have is a preliminary
12 matter that I thought we should take up at the start
13 was the issue of these introductory opening
14 presentations that we'll start the hearing with on
15 each of the two models.

16 I know we've discussed this on several
17 status conference calls and, to my knowledge, had
18 never arrived at a firm decision, at least agreement
19 between the Staff and parties, on how we would do
20 that; and at this point I was wanting to hear back
21 from the parties on what they thought about the
22 opening presentations.

23 Basically -- and I'll describe what Staff
24 envisions, and then I'll allow the parties to offer
25 their comments, and hopefully we can arrive at

1 something here that everyone can agree with.

2 Basically Staff was looking for an overview
3 of each of the two models, the BCPM and the HAI
4 models, discussing the key modules specifically -- of
5 those models specifically in terms of how they handle
6 customer location, how they utilize plant to serve the
7 customers and the specific modeling techniques.

8 We envision basically one hour per side on
9 the presentation, with questions and cross to follow.
10 We would hope that if the parties would agree to it,
11 that we could limit the cross at that time to just the
12 Commission Staff and the Commissioners, and any cross
13 related to those presentations would be addressed when
14 that witness came up to testify in his or her normal
15 order in the hearing.

16 And it would not be a time of any argument;
17 it would just be cut and dried, nuts and bolts, and
18 not necessarily advocating why one model is better
19 than the other, but just to give the Commissioners
20 somewhat of a big picture on each of the models to
21 start the hearing.

22 Do any of the parties have any comments?

23 **MR. CARVER:** Phil Carver on behalf of
24 BellSouth. Just a couple of comments.

25 We agree that the best way to go about it

1 would be not to do cross-examination after the
2 presentation; that is, not cross-examination by the
3 parties. Certainly if Commission or Staff has
4 questions, that would be fine, but our concern is that
5 if the parties cross-examine, then we could
6 essentially be there all day having cross on short
7 presentations, and I don't think that would be very
8 efficient.

9 The other thing that I wanted to raise is,
10 an hour is kind of an in-between amount of time. It's
11 maybe a little bit too long to give, you know, a high
12 level overview, but too short to get into a lot of
13 detail.

14 So if what the Commission desires is an
15 overview and one that would not be advocating one
16 model as opposed to the other, perhaps 30 minutes for
17 each side would be more appropriate; but, otherwise,
18 we agree with Staff's proposal.

19 **COMMISSIONER JACOBS:** Does that sound fair
20 to -- who will be the proponent of the other side?

21 **MR. HATCH:** MCI/AT&T will be the other side,
22 essentially. We agree with the Staff's proposal.
23 However, the way we were constructing our presentation
24 it looked like it would be somewhere in the
25 neighborhood of an hour to an hour and a half. I'm

1 not sure that 30 minutes would do it sufficient
2 justice and perhaps provoke more questions than answer
3 them.

4 **COMMISSIONER JACOBS:** 45 minutes; is that
5 better?

6 **MR. HATCH:** Yes, 45 minutes is better.
7 Whatever you tell us to do, that's exactly what we'll
8 do, of course. But that's the way we were thinking
9 about how we would be able to structure.

10 **COMMISSIONER JACOBS:** My first thought when
11 I heard an hour, I thought it was a bit long as well,
12 but I would -- in this instance I want to err on the
13 side of too much time rather than too little. And I
14 don't have the wisdom of -- my thought is, most of the
15 other Commissioners have probably been through most of
16 this detail once, if not twice, and I'd be the one --
17 maybe that's why I got this prehearing. I'd be the
18 one who is going to need the time to understand more
19 than anything else.

20 I'm leaning towards not too long of a time,
21 and I'll say an hour, but if we can cut it short of an
22 hour, it would be great.

23 **MR. HATCH:** We will not feel compelled to
24 use the entire hour.

25 **COMMISSIONER JACOBS:** Okay.

1 **MR. COX:** The next question I had along
2 those lines was, have the parties concluded which
3 witnesses they were going to bring forward to do those
4 presentations?

5 **COMMISSIONER JACOBS:** Before we move from
6 that, I assume there would be one presenter for the
7 BCPM and one for the Hatfield. Or do you anticipate
8 having several?

9 **MR. CARVER:** For BCPM I anticipate we'll
10 have one, but I'm not sure we've determined yet which
11 one it will be.

12 **COMMISSIONER JACOBS:** I don't think it
13 matters, but I was just interested.

14 **MR. HATCH:** At this point we anticipate
15 having one plus somebody to shuffle the slides or
16 whatever it is we end up needing to use, but not a
17 presenter per se.

18 **MR. COX:** Okay. We'll reflect this in the
19 prehearing order.

20 **MR. HATCH:** Ours would be Don Wood, if that
21 makes a difference.

22 **MR. REHWINKEL:** Okay. Yeah. That's what I
23 wanted to make sure; it was a witness that would be
24 subject to cross-examination.

25 **COMMISSIONER JACOBS:** Exactly. That was the

1 thought I had.

2 **MR. COX:** I believe those are all the
3 preliminary matters Staff had. I don't know if the
4 parties have any that they want to discuss before we
5 go through the draft order.

6 **COMMISSIONER JACOBS:** Any from the parties?
7 (No response.) That's a good start. If we can move
8 in that same fashion, great.

9 We'll go section by section through the
10 draft prehearing order, and we can start with
11 Section 1.

12 **MR. COX:** I believe there are some
13 corrections to the appearances that the parties have
14 made me aware of, if they want to do that at this
15 time.

16 **COMMISSIONER JACOBS:** That would be good.

17 **MR. WAHLEN:** Jeff Wahlen. Mr. Fons'
18 appearance ought to be with Mr. Rehwinkel when the
19 final appearance comes out. He's representing Sprint
20 in this case, and I am not. So if that change could
21 be made, I would appreciate it.

22 **MR. ERWIN:** This is Dave Erwin. On the
23 first page under the appearances, there is a listing
24 of Frontier Communications International. This ought
25 to be Frontier Communications of the South, Inc.

1 **COMMISSIONER JACOBS:** And not International.

2 **MR. ERWIN:** Right.

3 **COMMISSIONER JACOBS:** Any other corrections?

4 (No response.) Okay.

5 Subsection 1. I assume no -- that's

6 standard. Subsection 2? (No response.)

7 Subsection 3? (No response.) And 4?

8 **MR. CARVER:** One issue on 4 I wanted to

9 raise. The limitation on the brief is 40 pages.

10 Given the complexity of the issues here, that may be a

11 little bit short. I'd like to propose 50 pages as an

12 alternative.

13 **COMMISSIONER JACOBS:** Have we waived it

14 before?

15 **MR. COX:** Yes, and Staff wouldn't have any

16 objections to that, if the parties are agreeable to

17 that.

18 **COMMISSIONER JACOBS:** Any concerns? (No
19 response.) The more reading, the better. Okay; 50.

20 Subsection 5?

21 **MS. CASWELL:** Commissioner, I do have a
22 couple of points. With regard to our Witnesses Murphy
23 and Tardiff who will be critiquing the Hatfield model,
24 we'd like them to testify as a panel if possible. I
25 think that's something the Commission has done before,

1 particularly in the arbitrations.

2 And it would work out better here because
3 one is more of an economic critique, one is more of an
4 engineering critique, but in practice we really can't
5 neatly separate the two. And I think we'll be having
6 questions directed to one or the other that should go
7 to the other witness, and it would just go more
8 smoothly if we had them up as a panel.

9 **COMMISSIONER JACOBS:** You said that was
10 Murphy and --

11 **MS. CASWELL:** Murphy and Tardiff. The
12 numbers -- well, there's no numbers here, but they're
13 on the second page in the middle, Page 7. And then I
14 have another question with regard to those witnesses.

15 **COMMISSIONER JACOBS:** They were going to be
16 next in line anyway. Any concerns from the parties?
17 (No response.) Staff?

18 **MR. COX:** No.

19 **MS. CASWELL:** And one more point. Because
20 of commitments in hearings in other states, those
21 witnesses would be available for the first time on
22 October 14th, which is Wednesday.

23 It may not be a problem here, because it
24 looks like we have about two days worth of witnesses
25 before they come up, but if we could perhaps either

1 today move them farther down on the list, or just make
2 the Commission aware at this point that those
3 witnesses may need to be moved later and see if the
4 parties have any objections, I'd appreciate that.

5 **COMMISSIONER JACOBS:** It may be worthwhile
6 addressing this as a general issue now. First of all,
7 as to the organization of the witnesses in general, I
8 assume everybody is in agreement to breaking them out
9 into subject matter fashion, and I think that's
10 probably the way we're going about it, but as always
11 is the case, things don't work out, and someone may in
12 an unforeseen circumstance have to come or go at an
13 earlier time.

14 If a party would have to testify at a time
15 other than when the rest of those witness in that
16 subject matter would have testified is my concern, how
17 would we work that out. Because I would not want for
18 us to get to the hearing and something like that come
19 up and we find ourselves in some kind of a procedural
20 quagmire.

21 Is it a particularly onerous thing if
22 somebody were to drop down and testify at a time out
23 of sequence and out of subject matter is my question?

24 **MS. CASWELL:** One thing I'd like to point
25 out is that they're both rebuttal witnesses, so as

1 long as they come after all the direct witnesses, I
2 don't think it will be a big problem even if they come
3 in another topic; but I don't think it would prejudice
4 anybody to have them come later.

5 **COMMISSIONER JACOBS:** Okay. I guess it
6 would be kind of on a case-by-case basis, but what I
7 would hope to do is if those -- if you can think
8 through that, and if there's some particular witness
9 that you would have a problem with, let us know so
10 we'll be at least sensitive to that. Otherwise, I'll
11 take it that if anyone changes out of subject or out
12 of sequence, we wouldn't have a major issue.

13 **MS. GALLAGHER:** Commissioner Jacobs, I'd
14 just like to mention that FCTA's witness Bill Barta
15 has a similar problem. He had a prior commitment to
16 testify in another state, and that testimony was
17 delayed. So he won't be available until the 14th
18 either, but he can testify anytime the 14th and
19 beyond.

20 **COMMISSIONER JACOBS:** Unless I hear some
21 particular objections, then I'll proceed that those
22 revisions would be okay.

23 **MR. NELSON:** Commissioner Jacobs, I've got
24 one, as well. Don Wood is available Monday, Tuesday
25 and Friday of that week. He has a prior commitment in

1 another hearing on Wednesday and Thursday. It doesn't
2 appear that that will be a problem for his direct
3 appearance. It may mean that his appearance on
4 rebuttal would need to wait until Friday. It just
5 depends on how things play out. He is in a panel for
6 rebuttal purposes.

7 **COMMISSIONER JACOBS:** Okay.

8 **MR. COX:** That is a question that Staff had.
9 Do you believe that he should appear twice in this
10 proceeding?

11 **MR. NELSON:** Given that the rebuttal
12 testimony is a panel and, frankly, my understanding is
13 that the bulk of the panel is Mr. Pitkin, that
14 Mr. Wood's participation on the panel is necessary but
15 is not -- it is mostly Mr. Pitkin's rebuttal, it
16 seemed to us to make sense to keep those separate.

17 **MR. COX:** What I was thinking was, is if
18 that's the case, couldn't Mr. Pitkin just appear at
19 the hearing and then any questions related to
20 Mr. Wood's involvement in the panel testimony be
21 addressed when he's -- why would he have to appear
22 twice is what I'm getting at.

23 **MR. NELSON:** The concern is that the panel
24 testimony is truly rebuttal, and putting it on in
25 advance of the BellSouth and GTE testimony doesn't

1 make sense from an understanding point of view.

2 MR. COX: Okay.

3 MR. NELSON: So while ideally we'd like to
4 keep them together, in this case we don't see a
5 practical way to do that.

6 MR. CARVER: I'd like to speak to that
7 briefly, and then there are one or two other issues
8 about witnesses that I want to bring up.

9 In other states, there was one state in
10 which Mr. Wood and Pitkin filed this testimony
11 jointly. That was Tennessee. Mr. Pitkin took the
12 stand on rebuttal and defended it. Mr. Wood did not.

13 Essentially, the same analysis has been
14 filed in several other states in our region in
15 hearings that we had earlier in the year, and in each
16 of those instances it was filed by Mr. Pitkin, and
17 Mr. Pitkin was the only one on the stand.

18 Given that, I'm not really sure what it adds
19 to have Mr. Wood there as an additional member since,
20 again, what we've seen in other states is that it's
21 principally Mr. Pitkin's analysis. He's really the
22 one with the substantive knowledge to answer any
23 questions about it.

24 COMMISSIONER JACOBS: This is prefiled,
25 right? Mr. Wood is prefiled?

1 **MR. NELSON:** Correct. Mr. Wood has prefiled
2 direct testimony, and then he and Mr. Pitkin have
3 jointly prefiled rebuttal testimony.

4 **MR. CARVER:** And my comments don't go to
5 Mr. Wood's direct, only to the rebuttal; because,
6 again, our experience has been that that's essentially
7 Mr. Pitkin's analysis.

8 **COMMISSIONER JACOBS:** Having not reviewed
9 Mr. Wood's rebuttal, I'm not inclined to -- if the
10 party thinks that they want to offer the witness, we
11 can fight about whether or not to strike the testimony
12 at the hearing on if it's relevant or not. I'm not
13 inclined here to preempt that.

14 I would caution that the less controversy,
15 the better, and I'm sure these witnesses will provide
16 an ample share of that. But it just seems to me like
17 if they feel like the witness' testimony is relevant,
18 then I'm not going to preempt that, but you have full
19 leave and rights to challenge that at the hearing.

20 **MR. CARVER:** I would like to ask one
21 question about procedure, then. Will we be able to
22 direct questions to one member or the other of the
23 panel, or is each question in effect going to be a
24 jump ball that either one of them can answer?

25 **COMMISSIONER JACOBS:** I would hope not. I

1 would hope we could have some identification up front
2 as to who's handling what balls.

3 **MR. NELSON:** And, Commissioner Jacobs, I
4 believe there are a couple of other panels. And MCI
5 feels exactly the same way; we'd like the ability to
6 direct questions to a particular member of the panel.

7 **COMMISSIONER JACOBS:** How will we know that?
8 Will there be some game plan that will be presented
9 when they come to testify in advance of that?

10 **MR. NELSON:** Commissioner Jacobs, I would
11 think that on our cross-examination we'd say, now, the
12 next line questions is directed to witness so-and-so
13 and expect that to be the person to answer.

14 **MR. CARVER:** If I may respond in regards to
15 our panel. One of the witnesses that we have listed
16 in rebuttal is Georgetown Consulting Group.

17 **COMMISSIONER JACOBS:** I had a question on
18 that.

19 **MR. CARVER:** They appear on Page 8.
20 Actually, that's three people, and they appear as a
21 panel for this reason. The principal of the firm and
22 the primary witness is a man named Jim Madden
23 (phonetic). He, however, has two other members of the
24 firm who have done substantial portions of the
25 analysis. One of them is engineer, another one is an

1 accountant; and they basically have technical support
2 in the analysis that's done.

3 What we have done in the past basically to
4 allow as wide a range of cross-examination as possible
5 is to put all three up there. Since Mr. Madden is, in
6 effect, the lead witness and the one who speaks for
7 the firm, he tries to handle questions to the extent
8 he can. But if a party wishes, for example, to ask a
9 specific engineering question, then the engineering
10 expert who did the analysis is there for that purpose.

11 So that's what we've done in other states is
12 we've had one person that's sort of the -- I guess you
13 could say the primary point of contact for testifying
14 purposes with other subject matter experts to fill in
15 with things that he can't answer.

16 Now, I mention that because Mr. Melson had
17 mentioned wanting to direct questions to particular
18 witnesses. And in general I have no objection with
19 that; I think that's appropriate. But if, for
20 example, a party asks the engineer on the Georgetown
21 panel exclusively nonengineering questions, then
22 that's not going to work out very well, because he's
23 there because of a particular type of expertise.

24 And I think this is a little bit different
25 than the Wood-Pitkin situation, because I think there

1 you have two people who are analysts, and I'm not
2 really sure what the division is between them.

3 In the case with Georgetown, I think the
4 lines are pretty clear as to who can answer what.

5 **COMMISSIONER JACOBS:** That sounds like a
6 reasonable way to proceed.

7 **MR. NELSON:** Commissioner Jacobs, I think it
8 is. My only concern is that the rules be the same for
9 both of us.

10 If Mr. Carver intends to direct questions to
11 particular members of my panel, I think I should have
12 the right to direct questions to particular members of
13 his panel. Obviously if I'm foolish enough to start
14 directing a series of engineering questions to a
15 nonengineer, the Commission is going to get frustrated
16 with me pretty quickly; and, hopefully, I'll have the
17 good sense to not do that.

18 **MR. CARVER:** I would just ask one thing. I
19 can't really tell from looking at the rebuttal
20 testimony between Mr. Wood and Mr. Pitkin who did
21 what. Again, I've told you about the experience we've
22 had in other states. But, I mean, it would certainly
23 be helpful if we could have some indication as to how
24 they worked on this together.

25 **COMMISSIONER JACOBS:** Let's start with this:

1 Let's try and come up with some kind of -- the
2 offering party would give everyone else some idea of
3 what -- the range of expertise of the panel, and then
4 let's see if this will work.

5 I like the idea of having a principal person
6 or principal witness of the panel who can hand off a
7 question, but then having the party, the questioning
8 party, reserve the right to question a specific member
9 of the panel if it's clearly -- I mean, in the
10 instance where it's clear that that witness' scope
11 of -- within his scope of skills as indicated in the
12 review, the up-front review.

13 In other words, that will eliminate the
14 whole issue of going through the lead witness if you
15 know that the engineer is the one that should be
16 answering that question, that you know that because
17 that was told to you up front. Does that seem
18 workable?

19 MR. MELSON: Yes, sir.

20 MR. COX: Commissioner Jacobs, I would just
21 add that I think the parties could make it clear also
22 in their testimony summaries. When the panel gets up
23 to testify, they could make it clear that --
24 respective roles of the witnesses at that time. That
25 would help the Staff and the Commissioners.

1 **COMMISSIONER JACOBS:** Either that or in
2 advance of that would be fine.

3 **MR. CARVER:** My preference would be in
4 advance so that all the parties can prepare for
5 cross-examination.

6 **COMMISSIONER JACOBS:** Yes, that's what I'm
7 thinking. You'd probably want to do that.

8 **MR. MCGLOTHLIN:** Commissioner, while we're
9 talking about witness availability, I've got one. Our
10 Witness Joseph Gillan is available only the first two
11 days, the 12th and 13th. We're going to lose him
12 after that. He's the first one up after the
13 presentations, the overviews.

14 **COMMISSIONER JACOBS:** Okay. So that
15 shouldn't be a real problem.

16 **MR. MCGLOTHLIN:** Well, getting him on the
17 direct certainly would not, if it's necessary to have
18 him appear one time instead of two in order to have
19 him sponsor both testimonies on the first two days. I
20 think unlike some of the others, his testimony lends
21 itself to that, because it's narrow in scope. And so
22 we would --

23 **COMMISSIONER JACOBS:** So you would want to
24 have, as listed, direct and rebuttal on the first
25 appearance.

1 **MR. McGLOTHLIN:** Yes, sir.

2 **COMMISSIONER JACOBS:** Any objections? (No
3 response.) Okay. We'll follow that.

4 Now, any other availability problems? (No
5 response.)

6 Okay. Then within each subject matter, it's
7 my understanding that we'll proceed as listed on the
8 prehearing order.

9 **MR. WAHLEN:** I have an item on the witnesses
10 that we maybe can't resolve today, but wanted to just
11 throw it out for people to start thinking about.

12 The small LECs are all dealing with an
13 embedded cost study within their testimony, and the
14 methodology is being described by Dennis Curry. The
15 rest of the witnesses are simply explaining how that
16 methodology was applied to their company and what the
17 inputs were and various things like that.

18 There also seems to be a fair amount of
19 agreement about the small company issues in this case.
20 So what I'd like to do is throw out the possibility,
21 after all the small company witnesses are deposed next
22 Wednesday, of having the input witnesses, at least,
23 stipulated into the record, their testimony, without
24 cross-examination but with their deposition
25 transcripts. And if we did that, I think we could

1 kind of cut out a substantial amount of people getting
2 up and down and cut down the length of the hearing.

3 It may be too early to come to a conclusion
4 on that today, but I'd like people to think about that
5 as we approach the hearing.

6 **COMMISSIONER JACOBS:** So your proposal would
7 be that the cost model input witnesses, which would be
8 Caldwell, Norris, Tucek, Wells and Dickerson --.

9 **MR. WAHLEN:** No. I'm sorry. I'm on Page 8
10 with the small LEC proposal.

11 **COMMISSIONER JACOBS:** Oh. So only those
12 witnesses that speak to input for the small LEC
13 proposal.

14 **MR. WAHLEN:** Yes. I would have Goodnight,
15 Ellmer, Weaver, Brewer, Jung, Weaver, Huttenhower at
16 least stipulated in without cross-examination.

17 **MR. ERWIN:** I would like to concur on that,
18 too, on behalf of those small company witnesses that I
19 represent.

20 In fact, the only difference I might have
21 with Mr. Wahlen is that I would like for people to
22 really consider that today so that if it's necessary
23 for them to come down here for the hearing, that we
24 could get some arrangements made reasonably well in
25 advance of the time they had to fly.

1 **COMMISSIONER JACOBS:** Sounds like it would
2 be best to wait at least until depositions are done
3 before we get to those kind of decisions.

4 **MR. ERWIN:** Well, depositions aren't until
5 the 7th of October.

6 **COMMISSIONER JACOBS:** Is that right?

7 **MR. COX:** The timing is rough in this case,
8 but Staff isn't prepared to agree to a stipulation at
9 this time; at least to bless a stipulation.

10 **COMMISSIONER JACOBS:** I'll be available on a
11 short notice to deal with that, and we can try and do
12 it to the best convenience, given the large number of
13 parties. I would be willing to handle something like
14 that on a conference call. So let's see how that
15 works out. And regarding small LECs, the whole point
16 of it of which is to try and minimize the expense.

17 **MR. WAHLEN:** My sense is that our biggest
18 issue will be with Staff, and we'll just deal with
19 that.

20 **COMMISSIONER JACOBS:** Any other --

21 **MS. CASWELL:** With regard to stipulations,
22 some of the parties have discussed potentially
23 stipulating in the cost of capital and depreciation
24 witnesses. That would be six witnesses. It's on
25 Page 8.

1 I don't think anybody is prepared today to
2 give a definitive answer, but we'd likewise like to
3 have the parties think about that and have the Staff
4 think about that so we can deal with that as soon as
5 possible.

6 COMMISSIONER JACOBS: Six witnesses.

7 MS. CASWELL: Yes; depreciation --

8 COMMISSIONER JACOBS: Depreciation and

9 cost --

10 MS. CASWELL: And cost of capital.

11 COMMISSIONER JACOBS: Okay. Now, what I'd
12 like to do, unless there's anything else on the Order
13 of Witnesses, is just confirm on the idea of that a
14 witness testify both direct and rebuttal.

15 We've spoken about Mr. Gillan. I guess we
16 can start just at the top with cost models.

17 Mr. Gillan, looks like we'll do direct and rebuttal.

18 Mr. Barta, and Mr. Bowman, and is that Mr. Meade
19 Seaman?

20 MS. CASWELL: Yes.

21 COMMISSIONER JACOBS: On Page 7, Mr. Staihr,
22 direct and rebuttal. Now, it's interesting we're
23 going to have witnesses who are going to -- as we go
24 down through the subject areas, the rebuttal witnesses
25 who haven't done any direct will testify in this

1 order?

2 MR. COX: That's the logical order that
3 Staff thought made the most sense.

4 COMMISSIONER JACOBS: And then down to the
5 cost model, Ms. Caldwell will do direct and rebuttal.
6 Mr. Tucek and Mr. Dickerson. On Page 8, Mr. Majoros,
7 Mr. Cunningham, Mr. Sovereign, Mr. Hirschleifer,
8 Mr. Weide, Dr. Billingsley, Mr. Curry. That's it.

9 MR. HATCH: Commissioner Jacobs, I would
10 raise issue with respect to Cathy Petzinger, which is
11 one of AT&T's rebuttal witnesses. She's more of an
12 inputs person. She does switching and SCIS, so we
13 ought to drop her down in the order to the cost model
14 input section, probably down, based on this, with
15 either Art Lerma, either before or after Art Lerma and
16 either before or after the Georgetown crew.

17 COMMISSIONER JACOBS: So you want to modify
18 the order of witnesses to bring her down there?

19 MR. HATCH: Yes.

20 COMMISSIONER JACOBS: No objections?

21 MR. COX: We'll put her after Mr. Lerma?

22 COMMISSIONER JACOBS: Okay. Done.

23 Mr. Rehwinkel?

24 MR. REHWINKEL: Yes. Sprint filed an
25 amended prehearing statement to correct an oversight

1 on the issues that our witnesses are testifying to. I
2 can do that now or I can provide that to Mr. Cox,
3 whatever is more convenient.

4 **COMMISSIONER JACOBS:** If you don't think
5 that -- I don't think it would be problem. We can
6 just do it. You can file it with Mr. Cox.

7 **MR. REHWINKEL:** Okay.

8 **MR. CARVER:** One other thing I just wanted
9 to mention. In terms of the parties filing the
10 information about the panels that you indicated, could
11 we have a day by which that would be filed by
12 everyone?

13 **COMMISSIONER JACOBS:** Well, I think what we
14 said is that you could do it at hearing, but -- and I
15 would prefer, since the time is so short, maybe a week
16 before.

17 **MR. COX:** I was thinking maybe a week from
18 this Wednesday.

19 **COMMISSIONER JACOBS:** You can begin to file
20 it then, but if you don't file it then, I still want
21 to hold open the idea that you could reserve to do it
22 at hearing; but I think it would be good if you could
23 file it.

24 **MR. CARVER:** We would just request the
25 parties do that by the 7th so everyone can have the

1 time to decide how they're going to cross-examine.

2 **COMMISSIONER JACOBS:** I'll tell you what.
3 Let's move the ambiguity. Let's have it filed in a
4 week, on the 7th. That would cause less confusion.

5 If there's nothing else on the Order of
6 Witnesses, we'll going go to Section 7, Positions.
7 Any revisions? (No response.) Great. Sprint?

8 **MR. REHWINKEL:** Yes. Commissioner Jacobs,
9 on Page 15 in Sprint's position on the last full line
10 of that paragraph, we will be revising the number to
11 read "31.88" instead of "31.78".

12 **COMMISSIONER JACOBS:** Okay. Any other
13 revisions? (No response.)

14 Section 8, Issues and Positions. We'll
15 start with Issue 1. Any revisions to the parties'
16 positions? (No response.) Good.

17 Issue 2 -- I'm sorry.

18 **MR. WAHLEN:** Before we leave Issue 1, I may
19 not have read it very carefully, but it looks like
20 everybody agrees on that issue. Am I wrong?

21 **MR. COX:** I don't believe there's complete
22 agreement on that issue. Some people are siding with
23 the FCC definition.

24 **MR. WAHLEN:** Okay. I'm sorry.

25 **COMMISSIONER JACOBS:** Okay. Issue 2? (No

1 response.) No revisions.

2 Issue 3? (No response.) Issue 4? (No
3 response.) This is going very well.

4 Issue 5?

5 **MR. CARVER:** Commissioner Jacobs, just one
6 typo on Issue 5. Page 31 at the bottom where
7 BellSouth's position is stated, in the last line
8 there's the word P-R-I-N-T, and there should be an "S"
9 there. It should be "Sprint".

10 **COMMISSIONER JACOBS:** Good change.

11 **MR. ERWIN:** With regard to Issue No. 5, the
12 four small companies that I represent have indicated
13 they had no position with regard to Issue 5(a),
14 because it seemed to me to be clear with respect to
15 Issue 6(a) that we were taking a particular position.

16 If that's not clear from what we've done, we
17 could change 5(a) instead of saying we didn't have a
18 position to say "See the position on Issue 6(a)."
19 That might be the preferable thing.

20 **MR. COX:** That sounds like a good plan to
21 me. Let's go with "See the position on 6(a)." That
22 way it's clear that they are taking somewhat of a
23 position.

24 **MR. ERWIN:** So with respect to Frontier,
25 GTC, ITS and Quincy with regard to Issue 5(a), it

1 should now say their position is same as Issue 6(a),
2 or just "See Issue 6(a)."

3 **COMMISSIONER JACOBS:** Okay. Any other
4 changes? (No response.) Good. And that's for 5(a)
5 and (b).

6 Moving to Issue 6. Any revisions to 6(a),
7 (b) or (c)? (No response.)

8 Now, we have a substantial exhibit list.
9 Are there any -- and into Section 9, are there any
10 changes?

11 **MR. NELSON:** Commissioner Jacobs, on
12 Page 39, under Don J. Wood there are six exhibits
13 listed, but numbers only got attached to the first two
14 of them. If the remaining four could simply be
15 numbered DJW-3, 4, 5 and 6.

16 **COMMISSIONER JACOBS:** Yes, we'll note that
17 DJ -- that HAI, rather, model input portfolio will be
18 DJW-3, and model automation will be DJW-4; the cost
19 per wire will be DJW-5, and the CD ROM will be DJW-6.

20 **MR. NELSON:** Thank you.

21 **COMMISSIONER JACOBS:** Are there any other
22 changes or revisions?

23 **MS. GALLAGHER:** Commissioner Jacobs, on
24 Page 46, FCTA's Witness William Barta, under
25 Description, you can insert "resume".

1 **COMMISSIONER JACOBS:** That was on 40 --

2 **MS. GALLAGHER:** I have Page 46. It looks
3 like now it's 47, and it's been inserted in there, so
4 I'm okay. Sorry.

5 **COMMISSIONER JACOBS:** Now, what we have for
6 the others here that don't have descriptions is
7 that -- will we need to get some descriptions for
8 those, or --

9 **MR. COX:** That would be helpful, or if the
10 parties could just provide them to Staff, we can get
11 them plugged in, the descriptions of the various
12 exhibits.

13 **COMMISSIONER JACOBS:** When do you need that
14 by?

15 **MR. COX:** I would say by Wednesday, if
16 possible. It's the 30th.

17 **COMMISSIONER JACOBS:** Is that okay?
18 (Affirmative responses.) Good.

19 Well, that takes care of exhibits. There
20 are no stipulations at this time.

21 We've dealt with the motion -- well, the
22 motions we will deal with by order.

23 **MR. COX:** Based on the pleadings, that's
24 correct.

25 **COMMISSIONER JACOBS:** Based on the arguments

1 and pleadings.

2 **MR. BECK:** Commissioner, with regard to the
3 pending motions, I know we have one motion pending
4 against GTE, and others have pending motions to
5 compel.

6 It may not be possible to comply with
7 Section 3, which requires a seven-day notice to the
8 party if you plan to use any confidential information.
9 So I would like to request in the order, if you grant
10 it in full or in part, that it set forth a date for
11 production and then a subsequent date for the notice.
12 Because we may not -- depending on the date when the
13 order is and when they're produced, it may not be
14 possible to give a seven-day notice. If that were set
15 forth in the order, it might be at variance with the
16 order, but it would take care of it.

17 **MR. COX:** I'm sorry. So what are you
18 suggesting we do?

19 **MR. BECK:** Well, in the order, if you grant
20 any motions to compel in whole or in part, that you
21 set forth a date for the production of the documents.

22 **MR. COX:** Okay.

23 **MR. BECK:** And then a date after that for
24 providing a notice of using confidential information.

25 **MR. COX:** Okay.

1 **COMMISSIONER JACOBS:** And there was one
2 party who would like to file revised rebuttal in the
3 event the motion is granted as well.

4 **MR. CARVER:** Yes, sir. I would just suggest
5 that if the motion is granted, we're allowed to file
6 revised rebuttal. Then we could file the
7 confidentiality notice at the same time we file the
8 testimony.

9 **COMMISSIONER JACOBS:** Will you note that?

10 **MR. COX:** Yes, we'll note that.

11 **MR. NELSON:** Commissioner Jacobs, I've got a
12 question about the Staff's exhibit list. It lists a
13 number of parties' response to interrogatories.

14 And for the first time in this docket it
15 appears that some parties are not serving all of the
16 other parties with their interrogatory responses, and
17 so there are many of these interrogatory responses
18 that I don't have copies of.

19 I'd ask if the parties who have sort of
20 stopped serving interrogatories would catch up and
21 send us their responses to other folks'
22 interrogatories. That would help us evaluate whether
23 we have objections to any of these.

24 **COMMISSIONER JACOBS:** Okay. How do you know
25 if they didn't send it? The numbers that you have --

1 **MR. NELSON:** I don't have any interrogatory
2 answers from BellSouth to other parties'
3 interrogatories. So I haven't yet checked any of the
4 others, but I know I'm missing all of those.

5 **MR. REHWINKEL:** Yes. Commissioner, due to
6 the workload, I'm one of the guilty parties, and we
7 will endeavor to do that.

8 **COMMISSIONER JACOBS:** Okay. So we don't
9 have any controversy on that.

10 One question I had of Staff. You have a
11 witness that you will identify to offer these in with,
12 or are you just going to offer them --

13 **MR. COX:** Well, we were trying to get a
14 stipulation on them. If we can't get a stipulation,
15 if there are objections, we'll try to introduce them
16 through cross-examination. But the idea was to give
17 everyone a preliminary list now and try to reach a
18 stipulation before the onset of the hearing.

19 **MS. CASWELL:** Just one more thing. As you
20 probably know, GTE joined in BellSouth's motion to
21 compel against AT&T, and one of the things BellSouth
22 asked for in that motion was leave to file revised
23 rebuttal or supplementary rebuttal.

24 And it's my expectation that if the motion
25 is granted, since GTE joined in we'll be granted leave

1 to file that rebuttal as well. I just wanted to make
2 clear what our expectations were, and if there are any
3 objections, we could deal with them now.

4 COMMISSIONER JACOBS: I realize that, but I
5 think that would be reasonable if it's granted.

6 MR. COX: And that would apply to Sprint as
7 well?

8 MR. REHWINKEL: (Nodding head.)

9 COMMISSIONER JACOBS: Okay. Nothing else.
10 Man, this has been rather enjoyable. Can you promise
11 the same thing for the hearing? (Laughter)

12 If there are no other matters, this
13 prehearing is adjourned. Thank you.

14 (Thereupon, the hearing concluded at
15 2:20 p.m.)

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1 STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
2 COUNTY OF LEON)

3 I, H. RUTHE POTAMI, CSR, RPR, Official
4 Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 conference in Docket No. 980696-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 40 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 30th day of September, 1998.

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H. RUTHE POTAMI, CSR, RPR
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