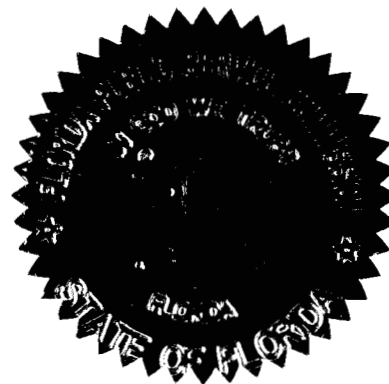


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 990373-TP
: :
Establishment of a :
statewide emergency :
area code relief plan. :



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER JULIA L. JOHNSON
Prehearing Officer

DATE: Wednesday, June 16, 1999

TIME: Commenced at 9:30 a.m.
Concluded at 11:55 a.m.

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

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

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1 **APPEARANCES:**

2 **FLOYD R. SELF**, Messer, Caparello & Self, 215
3 South Monroe Street, Post Office Box 1876,
4 Tallahassee, Florida 32302-1876, appearing on behalf
5 of **AT&T Communications of the Southern States, Inc.**
6 **and AT&T Wireless Service.**

7 **MICHAEL P. GOGGIN**, c/o Nancy H. Sims, 150
8 South Monroe Street, Suite 400, Tallahassee, Florida
9 32301, appearing on behalf of **BellSouth**
10 **Telecommunications, Inc.**

11 **D. BRUCE MAY**, Holland & Knight, 315 South
12 Calhoun Street, Suite 600, Tallahassee, Florida 32302,
13 appearing on behalf of **Florida Cellular Service, Inc.,**
14 **d/b/a BellSouth Mobility, Inc.**

15 **KIMBERLY CASWELL**, GTE Florida Incorporated,
16 Post Office Box 110, FLTC0007, Tampa, Florida
17 33601-0110, appearing on behalf of **GTE Service**
18 **Corporation.**

19 **JAMES D. BEASLEY**, Ausley and McMullen, 227
20 South Calhoun Street, Tallahassee, Florida 32302,
21 appearing on behalf of **Sprint Communications Company**
22 **Limited Partnership, Sprint-Florida Incorporated and**
23 **Sprint PCS.**

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25

1 **PETER DUNBAR**, Pennington Moore Wilkinson
2 Bell & Dunbar P.A., Box 10095, Tallahassee, Florida
3 32302, appearing on behalf of **Time Warner AxS of**
4 **Florida, L.P. d/b/a Time Warner Telecom.**

5 **PEGGY ARVANITAS**, RE/MAX First Class, 620
6 Bypass Drive, Clearwater, Florida 33764, appearing on
7 behalf of **herself.**

8 **MICHAEL A. GROSS**, 310 North Monroe Street,
9 Tallahassee, Florida, appearing on behalf of **Florida**
10 **Cable Telecommunications Association.**

11 **DONNA CANZANO McNULTY**, MCI WorldCom, Inc.,
12 325 John Knox Road, The Atrium, Suite 105,
13 Tallahassee, Florida 32303, appearing on behalf of **MCI**
14 **WorldCom, Inc.**

15 **KENNETH A. HOFFMAN**, Rutledge, Ecenia,
16 Underwood and Hoffman, P.O. Box 511, 215 South Monroe
17 Street, Suite 420, Tallahassee, Florida 32302-0551,
18 appearing on behalf of **Omnipoint Communications MB**
19 **Operations, LLC d/b/a Omnipoint Communications.**

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1 **APPEARANCES CONTINUED:**

2 **H. F. MANN**, Associate Public Counsel, Office
3 of Public Counsel, c/o The Florida Legislature, 111
4 West Madison Street, Room 812, Tallahassee, Florida
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6 **State of Florida.**

7 **DIANA W. CALDWELL**, FPSC Division of Legal
8 Services, 2540 Shumard Oak Boulevard, Tallahassee,
9 Florida 32399-0850, appearing on behalf of the
10 **Commission Staff.**

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P R O C E E D I N G S

(Hearing convened at 9:30 a.m.)

COMMISSIONER JOHNSON: We'll convene this prehearing conference. Counsel, would you go ahead and read the notice.

MS. CALDWELL: Notice was given that a prehearing conference will be held at this time and place.

COMMISSIONER JOHNSON: We'll take appearances.

MR. SELF: I'm Floyd Self of the Messer, Caparello & Self Law Firm, appearing on behalf of AT&T Communications of the Southern States and AT&T Wireless Services.

I would also like to enter an appearance for Tracy Hatch on behalf of the same clients.

MR. GOGGIN: I'm Michael Goggin. I'm here representing BellSouth Telecommunications.

MS. CASWELL: Kim Caswell with GTE Service Corporation.

MR. MAY: Bruce May with the law firm of Holland & Knight, appearing on behalf of BellSouth Mobility.

MS. McNULTY: Donna McNulty representing MCI WorldCom.

1 **MR. HOFFMAN:** Kenneth Hoffman appearing on
2 behalf of Omnipoint Communications.

3 **MR. BEASLEY:** I'm James D. Beasley with the
4 law firm of Ausley & McMullen, appearing on behalf of
5 Sprint Communication Company, Limited Partnership,
6 Sprint-Florida, Incorporated, Sprint PCS, collectively
7 referred to as Sprint. And I'd also like to enter an
8 appearance on behalf of Charles Rehwinkel.

9 **MR. MANN:** Rick Mann on behalf of the
10 citizens of the state of Florida.

11 **COMMISSIONER JOHNSON:** Staff?

12 **MS. CALDWELL:** Diana Caldwell for the
13 Florida Public Service Commission.

14 **COMMISSIONER JOHNSON:** I've been informed
15 that one of the participants was in a car accident
16 this morning and can make it but will be running late.
17 I just need to poll everyone with respect to their
18 schedules. It looks like we need to wait at least
19 until 11:00?

20 Any scheduling conflicts with, I guess,
21 reconvening at 11:00.

22 **MR. SELF:** No, ma'am.

23 **COMMISSIONER JOHNSON:** No? Seeing none
24 then, we're going to go into recess, and we'll
25 reconvene at 11:00.

1 (Recess.)

2 **COMMISSIONER JOHNSON:** We're going to
3 reconvene the prehearing conference and take
4 additional appearances for those that did not state
5 your name and who you represent earlier.

6 **MS. ARVANITAS:** Yes. I'm Peggy Arvanitas.
7 I'm a RE/MAX agent, RE/MAX First Class, 620 Bypass
8 Drive, Clearwater Florida, 33764. I'm representing
9 myself.

10 **MR. DUNBAR:** Peter Dunbar with the
11 Pennington Firm, Time Warner Telecom. I'll also like
12 to enter an appearance for Laura Gallagher for Time
13 Warner Telecom.

14 **MR. GROSS:** Michael Gross, FCTA.

15 **COMMISSIONER JOHNSON:** I think that would be
16 it, then, for appearances. Staff, are there any
17 preliminary matters before we start going through the
18 draft prehearing order?

19 **MS. CALDWELL:** Yes, Commissioner. The first
20 is to take up pending motions. There are some pending
21 intervention motions that the time for response has
22 not run, so I don't think we should take them up
23 today.

24 There is also a pending motion from
25 Omnipoint. That, too, the time for response has not

1 run, so we would address that at a later time.

2 The third pending motion is a motion by
3 Staff requesting an extension of time to file its
4 prehearing statement.

5 **COMMISSIONER JOHNSON:** I'll go ahead and
6 sustain the motion for extension of time to file
7 Staff's prehearing statement. Is there any objection
8 to the extension?

9 Seeing none -- and I'll grant that. Is
10 there a date that you've requested?

11 **MS. CALDWELL:** It would be as of June the
12 15th.

13 **COMMISSIONER JOHNSON:** Very well. Let the
14 record reflect that. Any other preliminary matters?

15 **MS. CALDWELL:** No, ma'am.

16 **COMMISSIONER JOHNSON:** We'll just go through
17 the draft as it's written, and then as we get to
18 issues that need to be discussed, debated, and decided
19 upon, I'll take those up in the proper course.

20 Pages 1 and 2, I believe those are fine.

21 Page 3, 4, 5 --

22 **MR. SELF:** Commissioner Johnson -- I'm
23 sorry; you're not to 6 yet. I apologize.

24 **COMMISSIONER JOHNSON:** A little premature.

25 Page 6, Order of Witnesses.

1 **MS. CALDWELL:** Commissioner, first of all,
2 Staff needs to make a correction and add Peggy
3 Arvanitas, proffered by Arvanitas, addressing all
4 issues; and we need to add her. Staff would put her
5 first on this list.

6 **COMMISSIONER JOHNSON:** Ms. Arvanitas, we
7 were on Page 6 of the prehearing order, and we did not
8 have you listed as a witness, so we were going to go
9 ahead and add you in.

10 **MS. ARVANITAS:** Thank you.

11 **COMMISSIONER JOHNSON:** We'll put you then as
12 the first witness to come forward.

13 **MS. ARVANITAS:** Okay. And it's
14 "Ar-van-ee-tas" (phonetic).

15 **COMMISSIONER JOHNSON:** Arvanitas. Thank
16 you.

17 **MS. ARVANITAS:** Thank you.

18 **COMMISSIONER JOHNSON:** Any other suggestions
19 or changes to the witnesses?

20 **MR. SELF:** Commissioner Johnson, I have
21 talked with several of the other carriers, and I think
22 what we would prefer to do is move Mr. Thomas Foley to
23 be the second witness overall, so he would precede
24 Richard Guepe.

25 **MR. BEASLEY:** That's acceptable to Sprint.

1 **COMMISSIONER JOHNSON:** Any objections to
2 making Mr. Foley second? (No response.)

3 Okay. Any other changes or suggestions?
4 Mr. May?

5 **MR. MAY:** Commissioner Johnson, for the
6 testimony of William H. Brown, that should be
7 proffered by BellSouth Mobility.

8 **COMMISSIONER JOHNSON:** William H. Brown is
9 proffered by BellSouth Mobility. That will be noted.

10 **MR. MAY:** Thank you.

11 **COMMISSIONER JOHNSON:** Any other changes on
12 the witness list? (No response.)

13 Seeing none, going then to Basic Positions,
14 which is Section 7; it starts on Page 6.

15 Ms. Arvanitas, we have your basic position
16 stated there on the bottom of Page 6. Any changes to
17 that?

18 **MS. ARVANITAS:** No.

19 **COMMISSIONER JOHNSON:** AT&T? BellSouth?
20 BellSouth Mobility? FCTA? (No response.) GTE?

21 **MS. CASWELL:** The only thing that I might
22 add is that we neglected to say that we supported the
23 voluntary settlement -- or stipulation that we had
24 signed. So I just wanted to make that clear.

25 **COMMISSIONER JOHNSON:** MCI?

1 **MS. McNULTY:** (Shaking head.)

2 **COMMISSIONER JOHNSON:** Network Plus?

3 **MS. CALDWELL:** Network Plus did not file any
4 prehearing statements, so I've called and I'm waiting
5 for them to contact me; but at this point we'll
6 probably just take them off after I talk to them.

7 **COMMISSIONER JOHNSON:** Okay. Omnipoint?

8 **MR. HOFFMAN:** No changes.

9 **COMMISSIONER JOHNSON:** Sprint? (No
10 response.) Time Warner? OPC?

11 **MR. MANN:** Commissioner, no changes. I do,
12 though, want to be sure I understand in your procedure
13 of order when you say -- when you refer to making a
14 finding that there is no problem in our position,
15 which is "No position at this time," is there
16 necessary such a finding that there is no problem with
17 that, that there's no prejudice to other parties or
18 confusion caused by that?

19 **COMMISSIONER JOHNSON:** Let me make sure I
20 understand. So it will be -- then once we finish
21 this, you would like to not take a position until
22 the --

23 **MR. MANN:** Finish this prehearing --

24 **COMMISSIONER JOHNSON:** Yeah. Finish --

25 **MR. MANN:** -- conference, correct --

1 **COMMISSIONER JOHNSON:** When this order is
2 final, you still --

3 **MR. MANN:** I won't change this. Mr. Beck,
4 who is in -- heading this up, is out of the state at a
5 conference currently, has been all week; and I would
6 rather him make that decision as to any change in that
7 position.

8 **COMMISSIONER JOHNSON:** Staff, are we going
9 to have time to allow them to -- I'm thinking we're
10 probably going to have time, because we're going to
11 have some other issues, and we're going to be
12 expecting people to file positions as to the issue or
13 issues that we're going to decide upon. So I'm
14 thinking you'll probably have time to update the
15 positions that you take on the issues.

16 But to a larger question, whether you can at
17 the time of the hearing, say that you have no
18 position -- and I think that's kind of -- maybe that's
19 where you're going?

20 **MR. MANN:** I just want to be sure I
21 understand this procedural order. I just have not
22 encountered this. I've been out of pocket pretty much
23 for the past year and not seen this particular wording
24 in a procedural order regarding finding by the
25 prehearing officer. And so I just want to be sure

1 that I don't allow that to slide by and that create
2 some problem with our position until such time as
3 Mr. Beck makes the change to that position.

4 **COMMISSIONER JOHNSON:** Okay. And what
5 section are you referring to?

6 **MR. MANN:** I'm looking at -- well, Page 4 of
7 seven of the procedural order. Of course I've gotten
8 this off the Internet, so I don't know if that's the
9 correct page number, but it's the Prehearing
10 Procedure, Waiver of Issues, the second paragraph.

11 It speaks to the fact that each party needs
12 to diligently endeavor in good faith to take a
13 position on every issue. And if no position at this
14 time is maintained -- then it says in the absence of a
15 finding by the prehearing officer that the party has
16 acted diligently and in good faith to take a position,
17 and that failure to take a position will not prejudice
18 other parties or confuse the proceeding, then the
19 matters -- shall have waived the entire issue.

20 **COMMISSIONER JOHNSON:** Ms. Caldwell?

21 **MS. CALDWELL:** Commissioners, first of all,
22 Mr. Beck did file a prehearing statement, and those
23 are the positions on the statement.

24 If Public Counsel at this time wants to take
25 some time to revise that, all I need to know is how

1 many days he thinks he needs to revise his position.

2 **COMMISSIONER JOHNSON:** Let me ask you a
3 question. And perhaps you know what our rules say in
4 this regard.

5 If they decided that their position would be
6 that they have no position, are they prohibited from
7 later after the proceeding taking a position as to the
8 facts and to the issues that were presented before the
9 Commission?

10 **MS. CALDWELL:** If you'll give me a moment,
11 please. (Pause.)

12 **COMMISSIONER JOHNSON:** And I was kind of
13 hearing you say particularly if we give you five days
14 and if you all at that time still don't have a
15 position when this order -- when this prehearing order
16 becomes final and you go through the proceeding, could
17 still -- could you later take a position. So I just
18 wanted to be sure --

19 **MR. MANN:** Would that create a problem? I
20 just want to be sure that there's no problem created.

21 **MS. CALDWELL:** Commissioner, based on the
22 prehearing order, it's really up to the prehearing
23 officer to allow them to take a position at a later
24 date. After due diligence and if none of the other
25 parties object, then they can take a different

1 position.

2 **COMMISSIONER JOHNSON:** And at what point
3 would we make that assessment, the due diligence
4 assessment, and then determine if any parties have any
5 objection?

6 **MS. CALDWELL:** I would say that it would go
7 up to the day of the hearing, so that they have up to
8 that point.

9 **COMMISSIONER JOHNSON:** Okay. Then what
10 we'll do is -- remind me if I forget -- but at the end
11 of the proceeding we'll talk about how much time you
12 think you'll need in order to formulate positions. If
13 when you get back with Mr. Beck and determination is
14 made that you have no formal positions, then if you
15 could let the prehearing officer know, and I guess
16 we'll determine if there are any objections from the
17 parties to you going forward with a statement that you
18 have no position at this time.

19 Any suggestions or comments from other
20 parties?

21 **MR. SELF:** I would think, Commissioner
22 Johnson, based upon the prior experience, that if the
23 final prehearing order says that Public Counsel has no
24 position at this time and they don't end up taking a
25 position until they file a posthearing brief, I don't

1 think we'd have a problem with that.

2 **COMMISSIONER JOHNSON:** Others, you don't
3 perceive an objection?

4 **MR. BEASLEY:** Commissioner, I would take
5 issue with that. I think a party really needs to
6 state a position.

7 We only have one issue that we're not
8 stating a position on at this time, but we would like
9 to have until this coming Monday to state a position
10 on it. But it helps to have everyone kind of pinned
11 down on what their position is so that if you have
12 uncontested issues, you would perhaps stipulate them
13 and not have witnesses coming in and have testimony.
14 But you don't know that if you don't have a party
15 stating what their position is up until the time of
16 hearing.

17 So I think it would be wise and prudent for
18 everybody involved to have the parties state their
19 position pretty soon, like by next Monday or Tuesday,
20 and that way we'll know which issues are really
21 contested and which aren't.

22 **COMMISSIONER JOHNSON:** I'll take that under
23 advisement.

24 And, Public Counsel, we have -- one of the
25 reasons why we changed -- it has been our policy to

1 get parties to up front and before the hearings have
2 those stated positions unless there's some
3 demonstrated reasons as to why that was not possible.

4 I'll weigh that in, and to the extent that
5 there are objections, I'll consider those, too, and
6 determine how we might go forward, but to put you on
7 notice that the safest thing to do would be to review
8 the information and the issues and to come up with
9 those positions if possible.

10 **MR. MANN:** I will point out, Commissioner,
11 that we are not sponsoring a witness in this
12 proceeding. I'm not really certain how that could
13 cause confusion at this time if we do not take a
14 position.

15 **COMMISSIONER JOHNSON:** Okay. I'll take that
16 into consideration.

17 Okay. Then going on to Section 8, Issues
18 and Positions. Issue 1, any changes to the way that
19 that issue is stated, or any changes or additions to
20 be added to the positions of the parties? (No
21 response.) No?

22 **MS. CALDWELL:** Commissioner Johnson, I think
23 Ms. Arvanitas did not take a position on this
24 particular issue and, I think, would like some time to
25 add her position specifically to address this first

1 issue and may need some time for the other issues as
2 well.

3 **COMMISSIONER JOHNSON:** Okay. I'm going to
4 allow some latitude, and at the end of the proceeding
5 I'll talk to the parties and see how much time you all
6 will need to make any corrections, or add additional
7 information. So we can kind up come up with three,
8 four, five days, whatever is needed, but I will allow
9 those to be updated and amended.

10 Any other changes or suggestions on Issue 1
11 as it's framed? (No response.)

12 There were additional issues identified by
13 the parties in different prehearing statements, and I
14 think we've delineated them all here, so let's try to
15 go through those one by one to make sure. If there
16 are objections, I'll entertain those and then make a
17 ruling as to whether the issue should be added or not.
18 If there are no objections, then we'll just add the
19 issue.

20 Issue 2? And if you could, because I don't
21 have the sponsors here --

22 **MR. GOGGIN:** We're willing to withdraw this
23 issue. We added it largely because the procedures
24 seemed to indicate that you should state fact issues
25 that you believe should be decided. If the Staff

1 believes that this is something that's really a subset
2 of Issue 1, I would attempt to withdraw this issue.

3 **COMMISSIONER JOHNSON:** Okay. Then we'll
4 show Issue 2 withdrawn by the party.

5 Issue 3?

6 **MR. GOGGIN:** This is also our issue. Mike
7 Goggin with BellSouth.

8 We added this issue because we believe it's
9 important for the Commission to address separately
10 from Issue 1 the question of whether the jurisdiction
11 exists for the Commission to order number
12 administration.

13 **COMMISSIONER JOHNSON:** Okay. Any statements
14 as to issue -- what's been stated here as Issue 3?

15 **MR. SELF:** AT&T would support the inclusion
16 of Issue 3.

17 **MS. CASWELL:** GTE would support it as well.

18 **COMMISSIONER JOHNSON:** All parties support
19 Issue 3?

20 **MR. HOFFMAN:** We don't have any objection.

21 **MS. CALDWELL:** It's Staff's position that
22 Issue 3, or the question of jurisdiction, could be
23 argued under the first issue.

24 **COMMISSIONER JOHNSON:** Okay. As the
25 prehearing officer, I believe that it is subsumed in

1 the first issue. However, it's always clearer for me
2 when we delineate issues out if it's going to be a
3 legal issue that should be briefed. So I think we'll
4 leave Issue 3 in as stated. And it will be renumbered
5 to Issue 2.

6 Issue 4 on Page 17; is this yours,
7 BellSouth.

8 **MR. MAY:** It's BellSouth Mobility's. With
9 the inclusion of Issue 3, this issue may be subsumed
10 within that particular issue. But I did to want bring
11 it to the prehearing officer's attention that, at
12 least for BellSouth Mobility and perhaps other
13 wireless companies, there is a separate and distinct
14 jurisdictional issue that goes to the Commission's
15 organic jurisdiction and authority to regulate CMRS
16 providers, which we believe are specifically excluded
17 from your jurisdiction. And with the understanding
18 that that issue can be argued and briefed under
19 Issue 3, we'll withdraw this issue.

20 **COMMISSIONER JOHNSON:** I agree with you that
21 it's an issue that needs to be debated and discussed.
22 I'm just looking at how these are both written,
23 whether it's better to subsume it in the other.

24 **MR. SELF:** Commissioner Johnson, the way
25 that this Issue 4 is worded with respect to BellSouth

1 Mobility, I think in view of Mr. May's comments that
2 if you believe it's not subsumed, then probably what
3 you want to do is strike BellSouth Mobility and
4 perhaps say "on CMRS providers."

5 **MR. MAY:** We would agree with that, that
6 approach, Commissioner Johnson.

7 **MR. SELF:** And AT&T Wireless certainly
8 agrees that there's a different jurisdictional issue
9 that also comes into play with respect to wireless
10 carriers for the reasons that Mr. May identified.

11 I don't know whether it's better to leave it
12 as a separate issue or just allow the parties to
13 address it also within the other legal issue.

14 **COMMISSIONER JOHNSON:** Let's bifurcate it
15 with the change that we talked about, CMRS as opposed
16 to BellSouth Mobility.

17 **MR. SELF:** Thank you.

18 **COMMISSIONER JOHNSON:** So that will be
19 Issue 3. And you all can continue to work with Staff
20 on the wording of these issues for me to sign off on
21 at a later date, and even the ordering of the issues.

22 Stated Issue 5?

23 **MR. MAY:** That, again, is BellSouth
24 Mobility's issue. It's an issue of law which we would
25 suggest that would simply only be briefed in

1 posthearing filings. We raised the issue after
2 looking at the recent -- the 1996 revisions to the
3 Florida Administrative Procedures Act; a requirement
4 that all code holders distribute telephone numbers
5 consecutively, we believe, falls squarely in the
6 definition of the rule in Section 120.52(15).

7 And if the Commission goes forward and
8 imposes a consecutive number requirement on all code
9 holders, it opens itself to potential challenges as an
10 unpromulgated and unadopted rule under
11 Section 120.54(1)(a), 120.56(4) and 120.57(e)(1). We
12 thought it would be important to address that issue at
13 the outset of this proceeding so that everyone is
14 aware of that potentiality.

15 **COMMISSIONER JOHNSON:** Okay. I'm going to
16 leave this one in also. One of the things that I will
17 request if we end up going to hearing is that the
18 parties begin with some opening statements, and
19 particularly with respect to some of those legal
20 issues just to tee those up. And to the extent that
21 we can accommodate and work through this with Staff,
22 it would be helpful for me even to have something in
23 writing if we go to hearing that I have an opportunity
24 to read before your oral argument so we can be
25 prepared as Commissioners to kind of address some of

1 these issues maybe then and there, if we go to that
2 next step.

3 And we'll talk about the dates and timing,
4 how much time we need for oral argument and if we need
5 some prefiled briefs, since you're raising all these
6 legal issues. That's going to be your punishment.

7 (Laughter)

8 Issue 6?

9 **MR. MAY:** This, again, is a BellSouth
10 Mobility issue which we are willing to withdraw. I
11 think it is subsumed within Issue 1, particularly the
12 second sentence of the second question as to Issue 1.

13 **COMMISSIONER JOHNSON:** I would agree. So
14 we'll show that Issue 6 withdrawn.

15 Were there any other issues that the parties
16 would like to bring to my attention this morning?

17 **MR. MAY:** Our client, BellSouth Mobility,
18 has not received any of the prefiled testimony from
19 Ms. Arvanitas, and if we could get copies of that,
20 that would be helpful.

21 **MS. ARVANITAS:** Yes. I was not given a
22 format for the -- I realize I did not do what they
23 call a certificate of service. So I had an old
24 certificate of service; and so I mailed according to
25 the certificate of service, but I did not know how to

1 certify the list of the names. So if you feel that
2 you were omitted, then give me your card before you
3 leave and then I'll mail you --.

4 **COMMISSIONER JOHNSON:** Okay. We'll make
5 sure that that's been taken care of. Any other
6 questions or comments as to the issues that have been
7 deleted or rephrased? And, again, I'm giving the
8 parties flexibility to reword those, if necessary, and
9 provide that to Staff.

10 What about the exhibit list; any changes
11 there? (No response.)

12 X; Proposed Stipulation? Understanding that
13 a proposed stipulation -- a joint stipulation was
14 filed and we've scheduled that to be heard at the
15 June 29th Agenda Conference, I guess there will be one
16 issue.

17 There are people that have moved to
18 intervene, and there are parties that I'm sure have
19 not yet signed off on the stipulation. And maybe,
20 Mr. Self, you can speak to that.

21 Are you going to be working with some of the
22 intervenors with the other parties in that respect and
23 expect to bring something forward on the 29th? Or
24 what should we expect on the 29th?

25 **MR. SELF:** We were attempting to obtain the

1 additional signatures of other parties. In fact, I
2 think I've already submitted one other filing with
3 some additional parties as well.

4 I think everyone that's at the table this
5 morning, with the exception of Ms. Arvanitas, has at
6 least indicated in writing to the Commission one way
7 or another their position with respect to the
8 stipulation and voluntary measures; and I think
9 everyone except Ms. Arvanitas has signed, except for
10 Omnipoint, which has filed a response in which they
11 did not object to it. And I guess the other exception
12 would be Public Counsel, of course.

13 **COMMISSIONER JOHNSON:** Okay. And it's my
14 understanding that at the Agenda Conference on
15 June 29th the parties will be able to participate?

16 **MS. CALDWELL:** Yes.

17 **MR. SELF:** We'll be here.

18 **COMMISSIONER JOHNSON:** Ms. Arvanitas, did
19 you understand the process that we're going to take --

20 **MS. ARVANITAS:** Yes. The separate -- the
21 voluntary stipulation, that they filed it separately,
22 and that that's what you'll be hearing. So we'll do a
23 full -- quarrel that we're doing now.

24 **COMMISSIONER JOHNSON:** Yes. All of the
25 Commissioners will be here. Parties will have an

1 opportunity to present the stipulation.

2 **MS. ARVANITAS:** Would there be any rebuttal?
3 Because I was told at some of the
4 telecommunications -- some of the teleconferencing
5 calls, I was told to shut up and just listen because I
6 was not industry. So we have this June 29th hearing;
7 then do I get to ask questions? Do I get to have a
8 rebuttal? Do I get to give my statement according to
9 their voluntary stipulation?

10 **COMMISSIONER JOHNSON:** Yes, ma'am.

11 **MS. ARVANITAS:** Thank you.

12 **COMMISSIONER JOHNSON:** You'll have the
13 opportunity to present your position in agreement or
14 in opposition and the reasons why. If you'd like to
15 prefile something in writing for the Commission, that
16 works -- that would --

17 **MS. ARVANITAS:** What would be the deadline?
18 And then when I do that filing for that June 29th
19 hearing, do I have to do a certificate of service to
20 everyone?

21 **MS. CALDWELL:** On that I think all you need
22 to do is file it and put it in the record as a
23 response -- just file it, put it in the record. It
24 might be helpful to serve the other parties, but you
25 need to get that into the record.

1 **MS. ARVANITAS:** Okay. So then the original
2 and 15 copies like we did --

3 **MS. CALDWELL:** Right.

4 **MR. SELF:** I think to the extent that it
5 would be a response, either it's for or in opposition,
6 that she would be obligated to serve it on the parties
7 since this is a docket matter and it's been filed in
8 the docket, and it's actually a motion to accept.

9 **COMMISSIONER JOHNSON:** But I guess
10 procedurally could show up that day with the document,
11 couldn't she?

12 **MR. SELF:** She could certainly show up that
13 day and say whatever she wanted to say, yes.

14 **COMMISSIONER JOHNSON:** So for the benefit of
15 the party and the Commissioners, if you have an
16 opportunity to codify your thoughts and get them
17 served upon everyone before the 29th, that would
18 probably be ideal.

19 **MS. ARVANITAS:** And give the attorneys the
20 opportunity to prepare for my rebuttal?

21 **COMMISSIONER JOHNSON:** And it would, it
22 would; and it would give the Commissioners an
23 opportunity to ask some questions. But you're not
24 required to do that, because at this particular
25 Agenda, we'll allow all of the parties to come up and

1 state their positions. And you could do that; you
2 don't have to have something in writing. That was
3 just a suggestion.

4 **MS. CALDWELL:** Commissioner, may I also
5 clarify something? That if she does file anything, it
6 will not be addressed in the Staff's recommendation
7 for the stipulation.

8 **MS. ARVANITAS:** Yes. I understand the
9 Staff, they're separate from my opinion. I understand
10 that. Thank you.

11 **MR. SELF:** I guess, Commissioner Johnson, to
12 sound like an attorney, to the extent that she was
13 responding to the motion, which she would be entitled
14 to do, you know, the Rules of Civil Procedure and the
15 Commission's rules and Model Rules of Administrative
16 Procedure provide time frames in which you're supposed
17 to file a response.

18 It may be arguable that if she does not
19 respond within that time, she may have waived her
20 right to respond.

21 **MS. ARVANITAS:** Well, we also had a -- and,
22 you know, me not being an attorney -- but we also had
23 a time period where you could make a statement, but
24 you bring up additional issues that you have no
25 problem being outside of the realm of the time period.

1 So then how would you deal with that? My time period
2 expired for the voluntary stipulation, but your time
3 period did not expire to for bringing up additional
4 issues? You can't have it both ways.

5 **COMMISSIONER JOHNSON:** Mr. Self, we're going
6 to grant the parties some latitude in that regard and
7 allow the parties to discuss these matters at the
8 Agenda Conference.

9 Anything else on the proposed stipulation?
10 No?

11 Pending motions: I've ruled upon B and, I
12 guess A would be tied to the stipulation.

13 **MS. CALDWELL:** That's correct.

14 **COMMISSIONER JOHNSON:** Is there anything
15 else that the parties or Staff would like to bring to
16 my attention today?

17 **MR. BEASLEY:** Just the time frame for
18 supplying our positions on the issues to Staff for
19 inclusion in the prehearing order.

20 **COMMISSIONER JOHNSON:** I think Ms. Caldwell
21 had some suggestions.

22 **MS. CALDWELL:** I was going to suggest
23 Thursday, but I don't think -- probably Monday.

24 **MR. BEASLEY:** Monday would be fine.

25 **COMMISSIONER JOHNSON:** Would Monday be a

1 sufficient amount of time? And understanding, Public
2 Counsel, you may have some unique circumstances. If
3 Monday does not work and you aren't ready to formulate
4 those positions by Monday, you're going to need to let
5 us know, or if your position is going to be "no
6 position," then you need to let us know that, too, so
7 I can determine the effect that that will have on your
8 case.

9 **MR. MANN:** All right.

10 **COMMISSIONER JOHNSON:** Anything else?

11 **MS. CALDWELL:** No, ma'am.

12 **MR. SELF:** Commissioner, you had indicated
13 that you wanted opening statements at the hearing.
14 Are these general opening statements or like an
15 opening summary legal argument? What did you have in
16 mind?

17 **COMMISSIONER JOHNSON:** What I'd prefer,
18 particularly for the legal issues, if those could be
19 teed up and discussed.

20 Mr. May, I don't know if you -- and I guess
21 AT&T -- how many cellular or mobile providers do we
22 have?

23 **MR. HOFFMAN:** Omnipoint, also.

24 **COMMISSIONER JOHNSON:** Oh, yeah. I'd like
25 to have you -- and I guess -- we have so many parties.

1 **MR. SELF:** You also have Sprint PCS.

2 **MS. CASWELL:** And GTE Wireless.

3 **COMMISSIONER JOHNSON:** I'm sure your legal
4 positions will all probably be the same. So,
5 hopefully, you can pick a spokesperson as to those
6 legal issues, and I'll give that person five minutes
7 to make a presentation. And if you all are working on
8 that over the next couple weeks and decide you need
9 eight minutes, just let us know and we can make sure
10 the record reflects that.

11 And as to the other legal issues, if there
12 are legal issues that you can find one person to speak
13 to the legal issues, let's try to do that. Again
14 we'll limit all those to five minutes, and hopefully
15 we'll have one representative for whatever the
16 positions might be to tee those up for the
17 Commissioners.

18 General opening statements, I'm not going to
19 require those, but if you wanted to make a general
20 opening statement, we'll allow those. Again, try to,
21 as much as possible for those that are similarly
22 situated, to get a spokesperson. Chairman Garcia is
23 not quite as patient as I am on these things, so we
24 might need to try and move the process along quickly.

25 And for our customer participant, if you

1 have any questions as to what we're looking for in an
2 opening statement, if you want to try to address the
3 legal issues, we can at least let you know how that's
4 done. So Staff can perhaps help you through that, but
5 you'll be allowed time to make your presentations
6 also.

7 **MS. ARVANITAS:** Okay. So that's for the
8 July 7 and 8th; that's not for the June 29th?

9 **COMMISSIONER JOHNSON:** Yes, ma'am; that's
10 right. For the July, we will begin the proceeding by
11 allowing those opening statements on the broader
12 issues and also on the legal issues.

13 **MS. ARVANITAS:** Thank you.

14 **COMMISSIONER JOHNSON:** Now, it's helpful for
15 me -- and let me have some dialogue with Staff -- if
16 we could have some prehearing filing as relates to at
17 least the legal issues. Do we have time in this
18 process to accommodate that? And maybe hearing from
19 the parties would be helpful, too.

20 Mr. May?

21 **MR. MAY:** With respect to the Commission's
22 jurisdiction over CMRS providers, I think the issue is
23 straightforward and it could be handled in a
24 paragraph.

25 **COMMISSIONER JOHNSON:** Okay. So you could

1 write something up, just so we have something to
2 direct us from the start, citing to the statutes.

3 **MR. MAY:** With respect to the rulemaking and
4 potential challenges as to an unpromulgated or
5 unadopted rule, that may require additional time, and
6 I'm not sure -- I would hesitate to commit the other
7 parties to be in a position to brief that.

8 **COMMISSIONER JOHNSON:** You know, I'm not
9 going to require the filing of the legal briefs, but
10 to the extent that parties would like to file, I think
11 it would be helpful for the Commissioners if you can
12 accommodate that and make those filings.

13 **MR. SELF:** I was going to suggest if you'd
14 let us get together, we may be able to work something
15 out, and if we can get something filed, we'll try and
16 do that, or maybe at least maybe an outline with the
17 relevant statutes or orders or something attached so
18 the Commission would have the relevant documents.

19 **COMMISSIONER JOHNSON:** That would be
20 helpful. Any other preliminary matters?

21 **MS. CALDWELL:** No, ma'am.

22 **COMMISSIONER JOHNSON:** Didn't leave anything
23 out? Ms. Caswell?

24 **MS. CASWELL:** I should probably change the
25 entity who I'm representing here. We should probably

1 call it GTE Service Corporation because to the extent
2 there are cellular issues here, I'm also representing
3 GTE Wireless.

4 **COMMISSIONER JOHNSON:** Okay. Let the record
5 reflect that change.

6 **MS. CASWELL:** If you put GTE Service
7 Corporation, that should be okay. That should cover
8 GTE Florida and GTE Wireless, and to the extent we
9 need to, also GTECC.

10 **COMMISSIONER JOHNSON:** Thank you very much.
11 Any final matters?

12 Seeing, none this prehearing is adjourned.

13 Thank you.

14 (Thereupon, the prehearing concluded
15 at 11:55 a.m.)

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

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

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 990373-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 by me; and that this transcript,
12 consisting of 34 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 23rd day of June, 1999.

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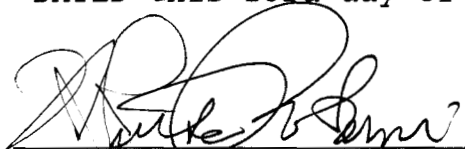
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