

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO.981444-TP  
:  
NUMBER UTILIZATION STUDY: :  
INVESTIGATION INTO NUMBER :  
CONSERVATION MEASURES. :  
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PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 8

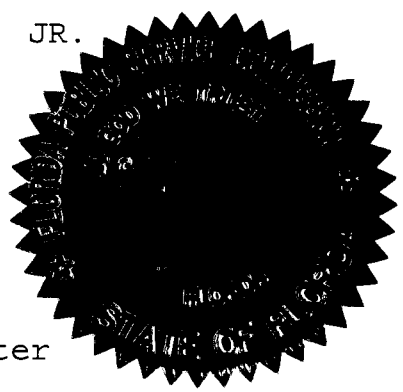
BEFORE: CHAIRMAN J. TERRY DEASON  
COMMISSIONER E. LEON JACOBS, JR.  
COMMISSIONER LILA A. JABER

DATE: Tuesday, August 1, 2000

TIME: Commenced at 9:30 a.m.  
Concluded at 10:23 a.m.

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

REPORTED BY: KORETTA E. STANFORD, RPR  
Official FPSC Reporter



1 PARTICIPATING:

2                   DIANA CALDWELL, FPSC Division of Legal.

3                   Services.

4                   WALTER D'HAESELEER and LEVENT ILERI, FPSC

5                   Division of Communications.

6                   FLOYD SELF, representing AT&T of the Southern

7                   States, and STAN GREER.

8                   PEGGY ARVANITAS, public citizen.

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

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2 CHAIRMAN DEASON: Staff, you may introduce this  
3 item.

4 MS. CALDWELL: Thank you.

5 Commissioners, Item number 8 is Staff's  
6 recommendation to deny, on its own motion, Peggy  
7 Arvanitas's protest of order number PSC 00-1046-PAA-TP and  
8 to deny her motion for reconsideration of the same order.  
9 That order is the Commission's approval of a numbering  
10 conservation plan. And, I believe, there are parties here  
11 to speak.

12 CHAIRMAN DEASON: Okay. Ms. Arvanitas.

13 MS. ARVANITAS: Yes. I'm sorry. The first  
14 thing I need to apologize for is not being an attorney.  
15 And the second thing --

16 CHAIRMAN DEASON: You don't have to apologize  
17 for that.

18 MS. ARVANITAS: The second thing I need to  
19 apologize for is not having a better relationship with the  
20 Legal Department of the Public Service Commission. The  
21 last time that I asked for specific nuance labeling of  
22 filing, I was told that I did a motion to intervene, and I  
23 can figure it out.

24 So, with that, let me start in by identifying  
25 Mrs. Diane Caldwell from the Legal Department of the

1 Public Service Commission, her recommendation per a  
2 denial.

3           Apparently, at the FCC level, we call it  
4 reconsideration. Apparently, I was not aware that you  
5 call things a protest. And even though I filed, according  
6 to the deadline, June 20th, there's been a motion by, I  
7 believe, almost 25 attorneys, in unison with AT&T Floyd  
8 Self and the Legal Department for the Public Service  
9 Commission, to deny me.

10           I had thought that the administrative procedures  
11 act that you could not dismiss the filing, because of  
12 misnaming, but I'll move on from there. I read Floyd Self  
13 made a motion that it should be denied, because I didn't  
14 file on June 19th. In the order that was filed, the date  
15 was June 20th. June 20th at 10:00 a.m., the Records and  
16 Reporting had already received my filing.

17           We had a meeting with a Neustar number pooling  
18 and the Amy Putnam, who is the Neustar administrator,  
19 was -- I was a call-in on that call. The parties that  
20 said they did not know for nine or 10 days that I did a  
21 filing, unfortunately, must have Alzheimer's, because  
22 Michael Goggin, BellSouth, argued with me for two or three  
23 minutes on a point, and then AT&T Floyd Self sat right  
24 next to Diane Caldwell and Levent Ileri.

25           I believe, you call that constructive notice

1 where if they're all present sitting in a meeting and I'm  
2 a conference call-in, and we have a magnificent argument  
3 about them excluding in violation of our Florida statutes,  
4 FCC 00-104 makes mention of including state revisions with  
5 the INC pooling guidelines. And, I believe, it's either  
6 Section -- Florida statutes 120.50 or 120.80. It says you  
7 must be inclusive in federal orders and laws in our state  
8 laws.

9           So, we had this big argument with BellSouth. I  
10 was a little shocked that nine or 10 days later, AT&T  
11 Floyd Self and BellSouth Michael Goggin read through  
12 filings and say that they didn't know for nine or 10 days,  
13 you know, which was comical constructive notice. If  
14 anything, I apologized for AT&T Floyd Self's name for not  
15 being on a certificate of service, but believe me, they  
16 are not sleeping on this docket, and they are aware every  
17 second what goes on, on the filing.

18           The thing that I'm most concerned about is last  
19 year, me being new, we argued out the voluntary  
20 stipulation. Voluntary stipulation is the rules for which  
21 number pooling are addressed. You have to have this  
22 specific structure of rules. The voluntary stipulation,  
23 even some of the commissioners, when Julia Johnson was  
24 there, perceived that they might need to go into  
25 rulemaking.

1           The only thing your order 99-1393 said is you  
2 must go into rulemaking on a timely manner, did not say  
3 when. According to AT&T Floyd Self, he is incorrect when  
4 he says that you reject rulemaking. It's illegal for you  
5 to reject it. Basically, it's in limbo, floating around  
6 somewhere.

7           Diane Caldwell, in her filings, both in her  
8 Staff recommendation and in her orders, keeps  
9 flip-flopping between you could not go into rulemaking,  
10 because you're waiting for FCC 99-249, which occurred two  
11 months after it occurred September 15th, 1999. And then,  
12 in this last order, she said the Commission was waiting  
13 for FCC 00-104, which basically has nothing to do -- the  
14 voluntary stipulation came out of the INC guidelines, the  
15 INC pooling guidelines, which were already in effect in  
16 1999. So, once again, I see in the Staff recommendation  
17 to deny me. Diane Caldwell now has flip-flopped back into  
18 she is waiting for FCC 99-249.

19           The thing that I'm most concerned about is that  
20 I have never in my life been in front of the Public  
21 Service Commission, but to come here and to be denied, you  
22 cannot exclude federal law in state orders.

23           You're right, there is no specific time period  
24 or date for rulemaking, but as they exist now with their  
25 INC pooling guidelines, you know, once the men start their

1 pooling, they do not have to continue pooling. This is in  
2 FCC 99-200, what they experience with California.

3 I just feel the motion to dismiss me is a little  
4 absurd, because I would think the Florida Public Service  
5 Commission would be for the public. If you do not tighten  
6 up the voluntary stipulation, the rules by which number of  
7 pooling sit on top of, you could very well initiate a  
8 pooling, have a first pool run, and you do not have enough  
9 numbers to pool, you will not have enough numbers to last  
10 for two years.

11 Six months of inventory, BellSouth, who owns 30%  
12 to 40% of the numbers, in some of these area codes, could  
13 very well say, I need all my numbers for six-month  
14 inventory. You have not defined what one-month inventory  
15 is.

16 I believe, this is not competitively neutral as  
17 per Section 251 of the 1996 Telecommunication Act. It  
18 impedes your competitors, your CLECs, which are smaller  
19 companies, and now are excluded from, you know, numbering  
20 resources.

21 Of course, I have a copy of the ex parte of the  
22 National Association Regulatory Utility Commissioners.  
23 This is what was referenced in the FCC order, March 31st,  
24 2000, 00-104. Why would they want to exclude it while it  
25 has utilization thresholds? So, these men from Neustar,

1 the companies would not be able to continue to get new  
2 numbering resources, if they have not used the numbering  
3 resources they already have.

4 A lot of the things I bring up are good for the  
5 state of Florida and the east coast. The last thing that  
6 I want to define is Diane Caldwell continues to mention,  
7 even though you did allow me in a motion to intervene to  
8 be on this docket, I'm on the west coast.

9 The voluntary stipulation is not for three area  
10 codes, it's for the whole state of Florida. We just  
11 happen to be initiating it and discussing it in regards to  
12 the three areas that are in jeopardy relief. The  
13 voluntary stipulation goes over the whole state of  
14 Florida. You now have Sarasota. We're getting ready to  
15 do cost recovery. Are you going to tell me when I come in  
16 the cost recovery that I cannot speak, because I do not  
17 live on the east coast of Florida? Cost recovery is for  
18 the whole state of Florida.

19 So, right now, if you were to tell me that the  
20 voluntary stipulation that the rules for number pooling  
21 and that the cost recovery for number pooling is only for  
22 area codes 954, 561, and 904, then, I guess, you can  
23 recuse me from any further participation with the Public  
24 Service Commission of Florida in this docket.

25 Unfortunately, we are now 60% of our numbering



1 resources assigned in 727 and 813 area codes, which are  
2 Tampa Bay area, Pinellas County, and Hillsborough County.  
3 And we have SBC Communications that, I believe, they have  
4 just come in Tampa and they are setting up. Most likely,  
5 they will be footprinting as per the 1996  
6 Telecommunications Act and asking for numbers.

7           And when this occurs, we will be in jeopardy  
8 relief, you know, 80% minimum of the numbers having been  
9 assigned, we will be in jeopardy relief in Tampa Bay. I  
10 do not think you want to do cost recovery per area code or  
11 rulemaking per area code or number pooling docket  
12 discussions per area code.

13           So, I believe, Diane Caldwell is incorrect when  
14 she states that I do not live in Fort Lauderdale;  
15 therefore, I should be excluded. She does not live in  
16 Fort Lauderdale either. You know, it's a poor argument.

17           And in closing, I'd just like to say that I have  
18 spent probably \$3,000 of my own money, and I have come  
19 here more than five times driving up to Tallahassee, which  
20 was seven hours one way. I have never been so humiliated  
21 by just the lack of understanding that you are not a  
22 telephone service Commission, you are the Public Service  
23 Commission. For Floyd Self and Michael Goggin, who said  
24 they didn't know I did a filing for nine or 10 days,  
25 they're not deaf, they don't have Alzheimer's, they're

1 liars. I cannot state that anymore strongly. It's very  
2 hostile, because what's at point here, we're making the  
3 rules. There are no rules. It's, like, a pile-up, like a  
4 former Senator Charlie Crist told me, it's like a pile-up  
5 and the ball's loose and the men are all diving on top of  
6 each other biting, scratching, kicking and grabbing. But  
7 the rules that you have, your Florida statutes and your  
8 federal orders that you have to be in compliance with, I  
9 would expect the state of Florida to understand what rules  
10 we are making and what rules exist that are enforceable.

11 Thank you.

12 CHAIRMAN DEASON: Mr. Self?

13 MR. SELF: Thank you, Commissioners. I'm Floyd  
14 Self, appearing on behalf of AT&T and MCI Worldcom and, I  
15 believe, several of the other carriers that I've been  
16 speaking for in the past when I've been before you on  
17 these issues.

18 I think, basically, there's four issues that I'd  
19 briefly like to address. First, with respect to the  
20 procedural morass and issues that Ms. Arvanitas has  
21 discussed, I think, part of the problem goes to the  
22 fundamental distinction between a petition for  
23 reconsideration or a motion for reconsideration and a  
24 protest. In the mail, I did not receive anything. And in  
25 talking with several of the other parties that have filed,

1 subsequent to my filing on July 3rd, they physically did  
2 not receive any of the notices that Ms. Arvanitas sent  
3 out.

4           The issue is when we checked the Commission's  
5 web site, and we also phoned the Commission's clerk's  
6 office and asked them if a protest had been filed, we were  
7 told that one had not been filed. And, indeed, the  
8 internet web site indicated -- did not indicate that  
9 anything had been filed for some period of time. So, I  
10 don't think that's really the issue and, I think, it's  
11 unfortunate that things got balled up the way they did.

12           The next point I'd like to make is the real  
13 issue that's before you this morning is whether or not  
14 pooling is going to begin in Florida in January of 2001.  
15 And, I mean, that's the bottom line of what you're trying  
16 to determine this morning.

17           The only two issues are whether or not a  
18 petition or motion for reconsideration has been filed and  
19 a protest. As you know, the law is very clear that you  
20 cannot file a reconsideration for a proposed agency  
21 action, and that's well stated in the Staff  
22 recommendation.

23           If Ms. Arvanitas's document is, indeed, legally  
24 a petition or motion for reconsideration, then you have no  
25 course but to reject it, and that's your Staff

1 recommendation and we, obviously, support that.

2           The second issue is if you believe that  
3 Ms. Arvanitas did not understand the process, and that's  
4 unfortunate, if that occurred; you don't have to be an  
5 attorney to participate. The administrative procedures  
6 act, the clear legislative intent was that lawyers,  
7 unfortunately, don't have to be the only participants in  
8 agency administrative proceedings, but that real  
9 individuals, like Ms. Arvanitas, are entitled and, indeed,  
10 welcomed to participate in those proceedings.

11           Unfortunately, there are a set of rules, the  
12 rules of procedure and your own rules, that make very  
13 clear what it is you must do in order to have a legally  
14 sustainable protest of a proposed agency action. If you  
15 review the document that Ms. Arvanitas has filed, it does  
16 not meet any of the requirements for a protest to a  
17 proposed agency action.

18           And on that basis, we believe, you also have no  
19 choice but to find, if you want to consider her comments  
20 and consider them a protest, you have no choice but to  
21 reject her filing as a legally-insufficient protest to the  
22 Commission's action.

23           If you're concerned, notwithstanding the  
24 potential denial of both of those points, the  
25 reconsideration and the protest, if you're concerned about

1 the substantive issues that she's raised, then, rightfully  
2 so, you should be.

3           The Commission has an ongoing proceeding with  
4 respect to number conservation issues. Any party is free  
5 to file at any time a request to initiate rulemaking. The  
6 Commission can initiate rulemaking on its own motion. I  
7 don't know, and I don't know whether I believe that  
8 rulemaking is appropriate on these issues at this time  
9 but, again, if the Commission wants to initiate that  
10 process or Ms. Arvanitas wants to file something or ask  
11 that you consider her current pleading a request to  
12 initiate rulemaking, there's a process, there's a  
13 procedure, there's a time and a place to do that, but this  
14 is not it.

15           Your decision today, if you decide to proceed  
16 with reconsideration or to deem this a protest, is going  
17 to mean that Florida will not start number pooling in  
18 January of 2001. And, therefore, we urge you to adopt the  
19 Staff recommendation.

20           Thank you.

21           MS. ARVANITAS: Excuse me. I don't know that  
22 the Commissioners received this, but you keep making  
23 mention that June 22nd, 2001, we will start number  
24 pooling. Was the -- Commissioners Deason, Jacobs, and  
25 Jaber, did you receive the motion for variance of number

1 pooling? BellSouth has said they need \$80 million for 10  
2 rate centers to be -- to update software problems. And  
3 so, they're asking for a variance for them not  
4 participating for the next two to four years in number  
5 pooling.

6           So, excuse me, Floyd, but I don't know if you've  
7 received this. Did you want me to pass you down a copy?  
8 And, apparently, I don't know, did the Commissioners get  
9 this, the 954 area code? BellSouth and Amy Putnam is  
10 getting the figures exactly, what percentage impact this  
11 would be. But in Fort Lauderdale, the 954 area code, the  
12 Coral Ridge and the Sunrise, they're asking to be excluded  
13 or a variance from having to participate in number pooling  
14 until February and March of 2002. Were you aware of that?  
15 And then, all the way to 2003 for the Jacksonville. So,  
16 please, do not have these men humor you and tell you that  
17 I am impeding you in any way, shape or form from moving  
18 forward with number pooling.

19           Your major participant has a switch problem and  
20 cannot participate in number pooling for two to three  
21 years. Floyd, were you not aware of that? That was the  
22 topic of conversation yesterday.

23           CHAIRMAN DEASON: I'll direct the question to  
24 Staff. Are you aware of the filing? And what is its  
25 current status?

1 MS. CALDWELL: We're aware of the filing. It  
2 came in yesterday. Staff has -- would bring a  
3 recommendation to the Commission at a later date  
4 recommending whether to approve or deny the request that  
5 they've asked.

6 CHAIRMAN DEASON: Okay. Any other comments?

7 MR. GREER: No, Commissioners. If you wanted me  
8 to address the filing, I could, but it sounds like we're  
9 going to address it later.

10 CHAIRMAN DEASON: Okay. Staff, do you have any  
11 concluding thoughts?

12 MS. CALDWELL: Yes. I simply wanted to say that  
13 the recommendation goes to the merits of Ms. Arvanitas's  
14 petition. We do address the rulemaking and the other  
15 issues that she raises, and we simply have to focus on the  
16 protests and the motion.

17 It was treated as such and address the standards  
18 that have to be met; that this Commission has to decide,  
19 if it's a motion for reconsideration, there's a standard  
20 that has to be met, that there is a mistake of law or fact  
21 on the protest. Staff believes that there was  
22 insufficient information and that the Commission, on its  
23 own motion, should go forward and -- I mean, should deny  
24 the protest and dismiss it.

25 CHAIRMAN DEASON: Questions, Commissioners?

1           COMMISSIONER JACOBS: Staff, if you would,  
2 briefly, walk me through what's been aptly described as  
3 the procedural morass here. If I understand correctly,  
4 the original PAA order -- first of all, if you could,  
5 briefly, cover what exactly it ordered in terms of the  
6 number -- implementation of the number pooling authority,  
7 the original PAA order.

8           MS. CALDWELL: There was -- in a different  
9 docket, the 98 or 990373, there was an order that was  
10 issued that granted or approved a stipulation that was a  
11 voluntary stipulation where the companies agreed that they  
12 would voluntarily implement number pooling or conservation  
13 measures.

14           That docket was closed. Within that order,  
15 there was a direction that Staff should implement  
16 rulemaking. This is a separate docket. And as part  
17 of -- Staff's brought a recommendation --

18           COMMISSIONER JACOBS: I thought we ordered  
19 number pooling.

20           MS. CALDWELL: Different docket.

21           COMMISSIONER JACOBS: Okay.

22           MS. CALDWELL: I'm getting there.

23           COMMISSIONER JACOBS: Okay.

24           MS. CALDWELL: This docket, Staff brought a  
25 recommendation to this Commission with a variety of number



1 pooling, number conservation measures.

2 In the alternatives, the industry brought in a  
3 stipulation. And it was through that the Commission  
4 granted the stipulation. That was protested, and we came  
5 back with a second or -- I'm sorry.

6 Initially, the Commission approved Staff's  
7 recommendation. That was protested. And during that  
8 process we had a stipulation that was agreed to. It was  
9 that stipulation came out as a PAA. And it is that order,  
10 the PAA order, that is now being protested.

11 COMMISSIONER JABER: So, we never closed the  
12 loop on the directive to initiate rulemaking.

13 MS. CALDWELL: That is correct. But as we  
14 pointed out in the recommendations prior to that, there  
15 was nothing -- there is nothing to prohibit us at a later  
16 date to initiate rulemaking. But it was Staff's belief,  
17 at the time, that there were immediate measures that  
18 needed to be taken in approving the stipulation on a  
19 requirement basis that needed to go ahead, because we  
20 recognize that rulemaking takes a long period of time, and  
21 we needed to move forward with something by order in these  
22 particular area codes in order to begin the number  
23 conservation and number pooling at that time. There is  
24 nothing that prohibits us from initiating rulemaking.

25 MS. ARVANITAS: May I say something?

1 CHAIRMAN DEASON: Right now, the Commissioner is  
2 asking questions.

3 MS. ARVANITAS: Okay.

4 COMMISSIONER JABER: Mr. Self, let me follow-up  
5 on something I thought I heard you say. You believe it's  
6 within our discretion to initiate rulemaking, that we  
7 could do that on our own motion, obviously.

8 MR. SELF: Sure.

9 COMMISSIONER JABER: I did not hear you say that  
10 if we initiated rulemaking it would delay the January 1st,  
11 2001 implementation.

12 MR. SELF: If you're going to initiate  
13 rulemaking prior to implementing number pooling, then,  
14 unquestionably, the rulemaking would delay the start date  
15 for the pooling.

16 COMMISSIONER JABER: Why?

17 MR. SELF: This is the first day of August. The  
18 pooling is supposed to start the 20th or 22nd of January.  
19 That's four or five months from now. The work that each  
20 of the carriers has to undertake prior to implementation  
21 of the pooling, some of those steps are under way right  
22 now.

23 And so, what you're talking about, basically, is  
24 stopping the process. As you well know, you certainly  
25 have the authority, under Florida law, to proceed on

1 certain matters that are not yet ripe or appropriate for  
2 rulemaking without rulemaking, such as you've done.

3 And you could, if you wanted to, to initiate  
4 rulemaking on a parallel track; and at the conclusion of  
5 that rulemaking process, whenever that occurred, November,  
6 July of next year, whenever it happened, then, obviously,  
7 those rules would take precedence over your order at that  
8 point, but you don't need the rulemaking in order to  
9 proceed with the number pooling, absolutely not.

10 COMMISSIONER JABER: Staff, I have two  
11 questions. What would the rulemaking before -- what is it  
12 we would consider as a proposed rule? And second, why  
13 can't rulemaking operate independently of the January 1st,  
14 2001 deadline?

15 MS. CALDWELL: Well, first of all, I would  
16 disagree that it would have an effect. It might be  
17 perceived to have an effect on the company's part, but I  
18 would think that they would be obligated to act under the  
19 order as it stands now, if it goes to final order.

20 So, I don't see how initiating rulemaking would  
21 affect going forward with the implementation. So, I  
22 disagree with Mr. Self on that. As far as what Staff  
23 would go to rulemaking on, it would be to initiate  
24 rulemaking on number conservation measures, adopting INC  
25 guidelines and number pooling. I think, those are the

1 issues that were in the stipulations that I think the  
2 Commission wanted to consider as far as rulemaking.

3 COMMISSIONER JABER: We could propose -- uh-oh,  
4 Walter's up there. We could propose a rule that codifies  
5 what we asked for in the petition at the FCC that codifies  
6 what's in the voluntary stipulation.

7 MS. CALDWELL: I think that Staff would look at  
8 codifying that and look at our own statutory authority and  
9 the requirements under 120. And, I think, that's an  
10 analysis that still needs to be made.

11 MR. D'HAESELEER: Commissioners, we discussed  
12 rulemaking on a Staff level several times. And my problem  
13 is that it's a dynamic process, the conservation issue.  
14 It's moving along. There are a lot of unknowns, and I  
15 don't think it's ripe at this time to promulgate rules.

16 We've done a lot of other things through orders  
17 and investigations and whatever and, hopefully, sometime  
18 in the first or second quarter next year, when we have a  
19 better handle on the subject matter, we would probably, on  
20 our own motion, initiate rulemaking.

21 COMMISSIONER JACOBS: Is there anything in any  
22 of our orders which binds the companies to begin pooling?

23 MR. D'HAESELEER: Yes. They have a stipulation  
24 that they all agree to, and I'm assuming -- well, we're  
25 doing some other things, like making sure that they're

1 complying with the stipulation. And that, again, is  
2 within the next month.

3 COMMISSIONER JACOBS: So, it's my understanding  
4 what we were going to do, and correct me if I'm wrong, but  
5 if I understand the discussion, there were going to be  
6 some voluntary conservation measures that were going to be  
7 done, and we were going to monitor that.

8 MR. D'HAESELEER: Right.

9 COMMISSIONER JACOBS: And if we discovered that  
10 monitoring -- I'm sorry, that those actions were not being  
11 effected, then we would come back and look at this again.

12 MR. D'HAESELEER: That's exactly right.

13 COMMISSIONER JACOBS: In the interim, this is  
14 not in the record, but I saw a question raised by Neustar,  
15 whether or not the 941, even with those revisions, whether  
16 or not 941 could be salvaged.

17 MR. D'HAESELEER: Yeah. That's what -- there's  
18 always unknowns that we're going to have to address. So,  
19 if you promulgate a rule, you'll probably have exceptions  
20 all the time but, you know, we are on top of this thing.  
21 We understand it's importance, and I think the industry  
22 does, too. And, you know, it was mentioned about we're  
23 going to have a petition that we're going to have to bring  
24 before you about modification of that agreement.

25 And, you know, I don't know right now what

1 position the Staff's going to take but, you know, there  
2 may be some legitimate constraints that nobody envisioned  
3 when we went through this process.

4 MS. ARVANITAS: I keep hearing -- because I want  
5 to be involved in this process as a citizen, a public  
6 citizen, I keep hearing long drawn out process.

7 I brought up two issues, okay. If we're going  
8 to go into rulemaking for voluntary stipulation, that's  
9 fine, but just remember, one of the things I brought up in  
10 my reconsideration that was not called a protest, you  
11 cannot take what's in an existing order, which is 99-1393,  
12 AT&T Floyd Self, with the help of Diane Caldwell, Legal  
13 Department, they did not identify, modifying -- you know,  
14 the voluntary stipulation says they must use  
15 uncontaminated thousand blocks, that's pure thousand  
16 blocks, and qualified contam-- 10% qualified contaminated.

17 Floyd Self did an exhibit, modified what was an  
18 existing order as the law, modified it without any  
19 protest, which is in violation of 120.8013-B, which I put  
20 in my reconsideration that the men thought should have  
21 been called a protest, slid it in like a ruffie in a  
22 drink, and modified it. It was not identified.

23 You cannot take what is in one order as a law,  
24 modify it real quick, and slide it through as an exhibit.  
25 They have already, in essence, gone into rulemaking and

1 modified what they need to modify from the voluntary  
2 stipulation.

3 CHAIRMAN DEASON: Have there been any -- there  
4 have been no modifications to the stipulation. The  
5 stipulation, if this order becomes final, is in full force  
6 and effect; is that correct? And if there's going to be  
7 any deviation, it's got to be done with a filing up front,  
8 and the Commission has to give that due consideration and  
9 may agree or disagree.

10 MR. D'HAESELEER: That's my understanding.

11 CHAIRMAN DEASON: Mr. Self, is that correct?

12 MR. SELF: Absolutely, sir. And I don't know  
13 what she's talking about.

14 MS. ARVANITAS: It's Exhibit Number 10, and I  
15 brought it up the last time. Exhibit Number 10, in your  
16 exhibit, you said you only wanted to use uncontaminated a  
17 thousand blocks, and then Neustar, not the Commission, the  
18 Neustar administrator, which is NANPA, the NANPA  
19 administrator is Neustar, and Neustar also does number  
20 pooling. Neustar will decide at a later date if they  
21 should throw in qualified contaminated.

22 I want to bring you back, because I brought 94  
23 pages of the transcript of your May 5th hearing. And poor  
24 Commissioner Jacobs asked, do we have enough numbers now,  
25 if we delayed implementation of number pooling for seven

1 months to wait for a new software that did not exist at  
2 the time that they're practicing on to make work. And  
3 poor Levent Ileri told you how many numbers you have now.

4           They can contaminate the thousand block numbers.  
5 You will not know until October when Neustar asks them to  
6 block off the numbers. And then, November 28th, this  
7 year, we will be horrified to learn that we do not have  
8 enough numbers for pooling.

9           So, if I cannot go into rulemaking, that's fine,  
10 but don't not let through Diane Caldwell, Legal Department  
11 of the Public Service Commission, AT&T decides to modify  
12 what was in an existing order, you do not identify it as a  
13 protest, you know, what the -- only three things the men  
14 identified in their protest that became this order,  
15 00-1046, was that Neustar wanted to be named as the  
16 pooling administrator, that they wanted to go from a 1.4  
17 to a 3.0 software and the implementation dates. Those are  
18 the only three things they protested. Everything else is  
19 deemed stipulated, correct?

20           Why then, we have something in an existing order  
21 and you allow them to modify it as an Exhibit Number 10  
22 and slid it in, and they only have to do uncontaminated  
23 numbers. Neustar decides later they want to do qualified  
24 contaminated. In essence, you went into rulemaking  
25 without the public.



1 MR. SELF: And that's not true.

2 CHAIRMAN DEASON: Commissioner Jaber wishes to  
3 make a motion.

4 COMMISSIONER JABER: Commissioner, I didn't mean  
5 to cut you off. Did you have questions? I'm just ready  
6 to make a motion.

7 COMMISSIONER JACOBS: I was going to make a  
8 motion, if you hadn't.

9 COMMISSIONER JABER: Ms. Arvanitas, let me be  
10 clear on something, because I was listening to every word  
11 you said, as we all do. We listen to every word. You are  
12 not being mistreated at this agency. I made a commitment  
13 to myself and to this Staff that I would not allow  
14 staff-bashing, if I served on a panel.

15 You have been introduced and acquainted with  
16 some of the top professional Staff. This agency does an  
17 outstanding job, and I think that Ms. Caldwell has handled  
18 herself really well in this case.

19 Saying that, I looked at your petition. Whether  
20 we call it a petition for reconsideration or a motion for  
21 reconsideration, it doesn't really matter. I looked at  
22 your arguments, and I listened to every word you said. I  
23 am ready to move Staff, but what I would like is for Staff  
24 to bring back a recommendation to acquaint me on the  
25 rulemaking order.

1           And the issue I would envision Staff exploring  
2 is whether the Commission, on its own motion, should  
3 initiate rulemaking. I'd like to revisit that, and  
4 perhaps that's for my sake, but let me make clear, if we  
5 go down that road, I don't think that it's going to delay  
6 implementation of the date.

7           And to Staff, the parties, and to Ms. Arvanitas,  
8 I am very interested in the motion for variance. I  
9 hope -- is it in the same docket, Diana?

10           MS. CALDWELL: Yes, it is.

11           COMMISSIONER JABER: So, we'll be looking at  
12 that, too. That's my motion.

13           CHAIRMAN DEASON: The motion is that we will  
14 review going to rulemaking, and Staff will be coming back  
15 with an assessment of that. Is that --

16           COMMISSIONER JABER: That's it.

17           COMMISSIONER JACOBS: I have a question on that.

18           MR. D'HAESELEER: Is it to Commissioner Jaber or  
19 the Commission that would come back?

20           CHAIRMAN DEASON: That's what I'm trying to  
21 clarify.

22           COMMISSIONER JACOBS: She asked for a  
23 recommendation.

24           CHAIRMAN DEASON: Right, a recommendation back  
25 to the full Commission.

1           COMMISSIONER JABER: Right. I don't write  
2 recommendations anymore, Walter. That would be you.

3           COMMISSIONER JACOBS: What about this petition  
4 that they have now?

5           MS. CALDWELL: That's outside the scope of what  
6 we're here today for. Staff will be bringing a  
7 recommendation very shortly back to the Commission to  
8 address it.

9           COMMISSIONER JACOBS: Can we get it on the next  
10 one?

11          MS. CALDWELL: We can certainly look to do that.

12          COMMISSIONER JACOBS: I'd like to get it on the  
13 next one.

14          MS. CALDWELL: I say that -- I mean, we would  
15 have to file a recommendation this Thursday. So, for the  
16 very next --

17          MR. D'HAESELEER: I don't think we can do it,  
18 because there's some technical answers that we're going to  
19 need.

20          COMMISSIONER JACOBS: If resolution of this  
21 petition is affecting the date of implementation of  
22 pooling, I want it back. If it's not, then I'm okay.

23          COMMISSIONER JABER: I don't understand,  
24 Commissioner. I think this would resolve -- my motion  
25 would be to move Staff, which is denying the motion for

1 reconsideration and dismissing the protest.

2 COMMISSIONER JACOBS: Right, but what I'm -- I'm  
3 talking about the motion from BellSouth -- the petition  
4 from BellSouth.

5 CHAIRMAN DEASON: He's talking about the motion  
6 for variance.

7 COMMISSIONER JABER: Oh, I see.

8 MR. GREER: Commissioner, can I clarify what the  
9 petition does itself, without having to address it so you  
10 have some comfort level?

11 COMMISSIONER JACOBS: Is that okay for him to  
12 talk about it now?

13 MS. ARVANITAS: Please, because I'm ready to  
14 talk about it.

15 COMMISSIONER JACOBS: Is it okay for him to  
16 address us on the petition now?

17 MR. D'HAESELEER: He can, but he knows more than  
18 I do, because I haven't read the petition yet.

19 COMMISSIONER JACOBS: I presume, it's  
20 prejudging, you know, before we get a recommendation.  
21 That's my only concern. I don't have a problem listening  
22 to you.

23 MR. GREER: I'm just clarifying what the  
24 petition does. I'm not making any arguments for or  
25 against.

1 COMMISSIONER JACOBS: It's okay?

2 CHAIRMAN DEASON: I'll make a decision. It's  
3 all right. Do it.

4 MR. GREER: Commissioner, there's some switches,  
5 the 1-A switches in some of our exchanges, and we have 19  
6 of them in Florida, that are not capable of doing pooling  
7 due to the fact that the software manufacturer's not  
8 making the upgrades.

9 For instance, in the Fort Lauderdale exchange,  
10 there's 11 switches within that exchange. There's two  
11 1-As. We will not be able to do pooling in the 1-As. We  
12 will do pooling in the remainder of the 9 switches.  
13 That's, essentially, what the petition does.

14 CHAIRMAN DEASON: Okay. Then, the question is  
15 when can we -- staff, when can staff evaluate that and  
16 file a recommendation? I believe, Commissioner Jacobs  
17 wants that as quickly as possible.

18 MS. CALDWELL: We have to wait for the  
19 responses. It was filed yesterday, so we have 10 days for  
20 the responses. Staff will, once the responses are in,  
21 more than likely bring it, not to the -- not file a  
22 recommendation on this Thursday, but two weeks. That  
23 should give us --

24 MS. ARVANITAS: Are they waiting -- apparently,  
25 are they waiting --

1 COMMISSIONER JACOBS: Excuse me.

2 MS. ARVANITAS: I mean, I would move forward  
3 to --

4 COMMISSIONER JACOBS: Excuse me, Ms. Arvanitas,  
5 let me --

6 MS. ARVANITAS: I would do a recommendation.

7 COMMISSIONER JACOBS: Excuse me, excuse me.

8 Thank you.

9 MR. D'HAESELEER: Commissioners, if it's clear  
10 from what they say and said and we can rely on it, that's  
11 one thing, but if we want to verify what they're saying,  
12 because it does, on the surface, sound like we do have  
13 some problems, we may want to get with the manufacturer or  
14 the replacement manufacturer and see how things can be  
15 expedited. So, you know, we will try to get it to you as  
16 quickly as we can, but I don't want to make any promises.  
17 We understand its importance.

18 CHAIRMAN DEASON: You're going to shoot for the  
19 August 29th agenda?

20 MR. D'HAESELEER: We'll try, but, you know, it's  
21 not a commitment on my part, because --

22 COMMISSIONER JACOBS: If you would -- I  
23 appreciate your concerns. If you would, if you see that  
24 there are going to be concerns about not getting there, I  
25 want to be involved in that process. If we have to bring

1 the manufacturer here for a meeting, that's fine with me.

2 MR. D'HAESELEER: We can do that.

3 COMMISSIONER JACOBS: Okay.

4 CHAIRMAN DEASON: Okay. We do have a motion.

5 Is there a second to the motion?

6 COMMISSIONER JACOBS: Second.

7 CHAIRMAN DEASON: Moved and seconded. All in  
8 favor, say aye.

9 CHAIRMAN DEASON: Aye.

10 COMMISSIONER JACOBS: Aye.

11 COMMISSIONER JABER: Aye.

12 CHAIRMAN DEASON: Show the motion is approved  
13 unanimously.

14 (Item 8 concluded at 10:23 a.m.)

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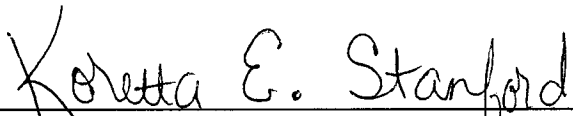
1 STATE OF FLORIDA)  
2 : CERTIFICATE OF REPORTER  
3 COUNTY OF LEON )

4 I, KORETTA E. STANFORD, RPR, Official  
5 Commission Reporter,

6 DO HEREBY CERTIFY that an Agenda Conference  
7 regarding Item Number 8, Motion for Reconsideration of  
8 Order Number PSC-00-1046-PAA-TP, docket number 981444-TP,  
9 was conducted by the Florida Public Service Commission at  
10 the time and place herein stated.

11 IT IS FURTHER CERTIFIED that I stenographically  
12 reported the said proceedings; that the same has been  
13 transcribed by me; and that this transcript, consisting  
14 of 31 pages, constitutes a true transcription of my  
15 notes of said proceedings.

16 DATED this 4th day of August, 2000.

17   
18 \_\_\_\_\_  
19 KORETTA E. STANFORD, RPR  
20 Official Commission Reporter  
21 FLORIDA PUBLIC SERVICE COMMISSION  
22 850) 413-6734