

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 000828-TP

PETITION OF SPRINT COMMUNICATIONS :  
 COMPANY LIMITED PARTNERSHIP FOR :  
 ARBITRATION OF CERTAIN UNRESOLVED :  
 TERMS AND CONDITIONS OF A PROPOSED :  
 RENEWAL OF CURRENT INTERCONNECTION :  
 AGREEMENT WITH BELLSOUTH :  
 TELECOMMUNICATIONS, INC. :

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PROCEEDINGS:           **PREHEARING CONFERENCE**

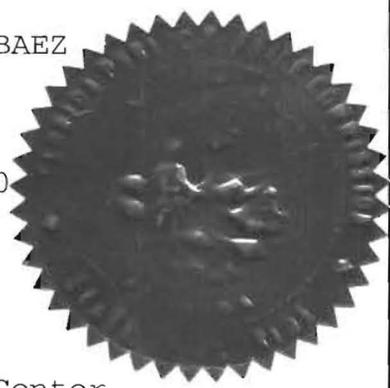
BEFORE:                COMMISSIONER BRAULIO L. BAEZ  
                           Prehearing Officer

DATE:                   Friday, December 15, 2000

TIME:                   Commenced at 10:30 a.m.  
                           Concluded at 10:45 a.m.

PLACE:                  Betty Easley Conference Center  
                           Room 152  
                           4075 Esplanade Way  
                           Tallahassee, Florida

REPORTED BY:           TRICIA DeMARTE  
                           Official FPSC Reporter



1 **APPEARANCES :**

2 JEFFRY WAHLEN, Ausley & McMullen, Post  
3 Office Box 391, Tallahassee, Florida 32302; and  
4 SUSAN S. MASTERTON, P. O. Box 2214, Tallahassee,  
5 Florida 32316; and WILLIAM R. ATKINSON, 3100  
6 Cumberland Circle, Atlanta, Georgia 30339, appearing  
7 on behalf of Sprint Communications Company Limited  
8 Partnership.

9 KIP EDENFIELD, c/o Nancy Sims, 150 South  
10 Monroe Street, Suite 400, Tallahassee, Florida 32301  
11 on behalf of BellSouth Telecommunications, Inc.,  
12 appearing telephonically.

13 TIM VACCARO and WAYNE KNIGHT, FPSC Legal  
14 Division, 2540 Shumard Oak Boulevard, Tallahassee,  
15 Florida 32399-0850, appearing on behalf of the  
16 Commission Staff.

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**P R O C E E D I N G S**1  
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COMMISSIONER BAEZ: Okay. Call the prehearing to order. Counsel, do the honors, please.

MR. VACCARO: Pursuant to notice, this time and place have been designated for a prehearing conference in Docket Number 000828-TP for the purpose set forth within the notice.

COMMISSIONER BAEZ: Let's take appearances.

MR. WAHLEN: Good morning, Commissioner. I'm Jeff Wahlen with the Ausley & McMullen Law Firm, P. O. Box 391, Tallahassee, Florida 32302, appearing with Susan S. Masterton, P. O. Box 2214, Tallahassee, Florida 32316, and William R.L. Atkinson on behalf of Sprint Communications Company Limited Partnership.

COMMISSIONER BAEZ: Okay. Mr. Edenfield, do you want to sign in?

MR. EDENFIELD: Yes, sir. Thank you very much. This is Kip Edenfield; I'm with BellSouth. My address is 675 West Peachtree Street, that's Atlanta, Georgia. And I would like to thank the Commission for allowing me to attend by phone this morning. Hopefully this won't have to happen again now that we've got all this election stuff behind us.

COMMISSIONER BAEZ: Your gratitude is noted.

MR. VACCARO: Tim Vaccaro and Wayne Knight on

1 behalf of Commission Staff.

2 COMMISSIONER BAEZ: All right. Let's start with  
3 any changes we want to make.

4 MR. VACCARO: Actually, Commissioner, I had a  
5 moment to confer with the parties, and it looks like they  
6 do have just a couple of preliminary things that they  
7 would like to raise.

8 COMMISSIONER BAEZ: Okay. Thank you.

9 MR. WAHLEN: Commissioner?

10 COMMISSIONER BAEZ: Yes.

11 MR. WAHLEN: Jeff Wahlen. On December 6th,  
12 Sprint filed a request to have Mr. Atkinson recognized as  
13 a qualified representative in this docket. I don't  
14 anticipate that there's any objection to that from  
15 BellSouth. The request included the required affidavit,  
16 and before we proceed much further, I would like to have  
17 the Commissioner grant that if possible.

18 COMMISSIONER BAEZ: Mr. Edenfield?

19 MR. EDENFIELD: I have absolutely no objection.

20 COMMISSIONER BAEZ: Staff?

21 MR. VACCARO: Actually, Mr. Commissioner, I  
22 believe that we do have an order going down --

23 COMMISSIONER BAEZ: Okay.

24 MR. VACCARO: -- taking care of that already.

25 COMMISSIONER BAEZ: Okay. Great. All right.

1 MR. WAHLEN: Thank you.

2 COMMISSIONER BAEZ: We will take care of it  
3 through the normal process then.

4 MR. WAHLEN: Okay. The second item is an issue  
5 that will kind of pervade the discussion of the prehearing  
6 order. We've had some preliminary discussions with the  
7 Staff and BellSouth regarding Issues 23 through 27 which  
8 relate to performance measures.

9 And I believe, and Mr. Edenfield will correct me  
10 if I'm wrong, but I believe that BellSouth and Sprint are  
11 prepared to agree in this case to defer resolution of  
12 those issues into Docket Number 000121-TP, which is the  
13 generic performance measure docket. So if that is the  
14 case, and we believe it is the case, there will be some  
15 changes to the prehearing order as we go through it to  
16 reflect that agreement.

17 COMMISSIONER BAEZ: Just so that -- I'm sorry.  
18 Yes, Mr. Edenfield.

19 MR. EDENFIELD: BellSouth concurs with  
20 Mr. Wahlen; that is, we spoke yesterday, at least I spoke  
21 with Ms. Masterton yesterday, and we are in agreement to  
22 move those issues if that is the Commission's desire.

23 COMMISSIONER BAEZ: Staff.

24 MR. VACCARO: Staff would be fine with that.

25 COMMISSIONER BAEZ: Okay. And just so that I'm

1 clear, mechanically speaking, are we withdrawing these  
2 issues from this docket, or are you making them subject  
3 to --

4 MR. WAHLEN: We were going to suggest that the  
5 prehearing order state that the parties agree to defer  
6 resolution of this issue to Docket Number 000121-TP for  
7 each of Issues 23 through 27; that way it will be clear  
8 what we're doing. It's probably a little stretch to say  
9 that they're resolved because we're really deferring them  
10 to another docket.

11 COMMISSIONER BAEZ: Okay. Since there's no  
12 objection from the parties, we'll make the due notations;  
13 right?

14 MR. VACCARO: Correct.

15 COMMISSIONER BAEZ: Anything else?

16 MR. WAHLEN: No. Thank you, Commissioner.

17 MR. EDENFIELD: On behalf of BellSouth, I don't  
18 know if the Commission would like to consider this or not.  
19 There is an Issue Number 10 that deals with reciprocal  
20 compensation for Internet traffic, and although in  
21 speaking to Ms. Masterton I know Sprint does not agree  
22 with this, but if the Commission is so inclined, we could  
23 also consider moving that issue to the generic ISP docket  
24 which is currently set for hearing in March.

25 COMMISSIONER BAEZ: Sprint, what are your

1 thoughts?

2 MR. WAHLEN: We are not inclined to do that in  
3 this case. All the testimony has been filed in this case.  
4 The issue has been in this case for a considerable time.  
5 The posture of the reciprocal compensation docket seems to  
6 be changing. There are new issues being added, people are  
7 filing motions to bifurcate and do all kinds of different  
8 things, and we would like to have Issue 10 stay in the  
9 docket as it is for now. Perhaps as that case develops we  
10 would change our mind, but for now, we'd like to leave the  
11 issue in.

12 COMMISSIONER BAEZ: Tim?

13 MR. VACCARO: Commissioner Baez, I believe that  
14 at this point it would be preferable to leave the issue  
15 in. It's, I believe, Sprint's issue, and we're asked to  
16 deal with the issues that have been raised in the petition  
17 and the response, and so I believe it should stay.

18 COMMISSIONER BAEZ: And just as a -- my question  
19 is this. We haven't moved -- we haven't established a  
20 practice of moving these particular issues out of similar  
21 dockets --

22 MR. EDENFIELD: Well, the only reason I brought  
23 it up was because I did get a request in another docket to  
24 move the reciprocal comp issue to that docket, and I  
25 didn't know if that had become the new practice.

1           COMMISSIONER BAEZ: I'm just not aware that it's  
2 been done yet.

3           MR. EDENFIELD: And it may not have been done.  
4 I know that we were presented with a request, and I didn't  
5 know if it was appropriate to start doing that or not. It  
6 really does not matter to me whether we resolve it here or  
7 in the generic docket. I just wanted to be consistent  
8 with whatever the Commission was wanting to do.

9           COMMISSIONER BAEZ: Well, then keeping with what  
10 I think is consistent right now, I think we're going to  
11 leave the issue in and take it up at hearing if necessary.  
12 And that's always subject to change at some later date.

13           MR. EDENFIELD: The only other issue, I think,  
14 BellSouth has, I think we filed a notice of intent as to  
15 some discovery responses, and I assume we'll take up the  
16 request for confidential classification at the hearing  
17 itself.

18           MR. VACCARO: That has been noted in the draft  
19 prehearing order as a pending confidentiality matter.

20           COMMISSIONER BAEZ: Right.

21           MR. VACCARO: At this point, BellSouth has filed  
22 a notice, so at some point, it would incumbent upon them  
23 to go ahead and file an actual request for confidential  
24 classification, but at this point, that information will  
25 be treated as confidential.

1           COMMISSIONER BAEZ: Yeah, we're not far enough  
2 in the process to make a call on that, Mr. Edenfield.

3           MR. EDENFIELD: Okay. That's great. I just  
4 wanted to bring it up that that was pending. And that's  
5 all I know of that's pending at the time.

6           COMMISSIONER BAEZ: Great. Let's move on to  
7 sections and make any changes necessary to the order.  
8 Should we go section by section and then issue by issue?

9           MR. VACCARO: Yes, sir.

10          COMMISSIONER BAEZ: All right. Section 1? No  
11 changes. Two? No changes. Okay. Let's -- 3, 4 and 5?

12          MR. WAHLEN: Sprint has no changes to the  
13 first five sections.

14          COMMISSIONER BAEZ: BellSouth?

15          MR. EDENFIELD: The only comment I would make is  
16 in issue, I'm sorry, Section 4 --

17          COMMISSIONER BAEZ: Yes.

18          MR. EDENFIELD: -- posthearing procedures. We  
19 have a 40 page limitation on the brief.

20          COMMISSIONER BAEZ: Yes.

21          MR. EDENFIELD: That may very well be  
22 sufficient, but with 19 issues, I did not know if we  
23 wanted to consider at this time maybe expanding the  
24 limitation on the brief or just wait until the hearing and  
25 discuss it.

1 MR. VACCARO: I would suggest waiting,  
2 Commission Baez. And if it turns out while parties are  
3 drafting the briefs that there's a need for additional  
4 pages, they could always file a motion and we could deal  
5 with that.

6 COMMISSIONER BAEZ: Yeah. And I guess all of  
7 our hopes are that as the process continues that number 19  
8 issue, you know, those 19 issues may be called down, so  
9 let's keep it as is.

10 MR. EDENFIELD: I have no other comments through  
11 Section 5.

12 COMMISSIONER BAEZ: Okay. Order of witnesses.  
13 Sprint?

14 MR. WAHLEN: Commissioner, the disposition of  
15 Issues 23 through 27, as we discussed earlier, allows  
16 Sprint to withdraw the testimony, direct and rebuttal, of  
17 James A. Lenihan. We will not need to have Mr. Lenihan  
18 testify in this proceeding.

19 COMMISSIONER BAEZ: Okay.

20 MR. WAHLEN: So we would like to have his name  
21 removed from both the direct and the rebuttal. Our second  
22 request would be for Witness Mark G. Felton to be moved  
23 after David T. Rearden and before Michael R. Hunsucker in  
24 the order of witnesses. And I guess our third request or  
25 suggestion would be to handle direct and rebuttal

1 together, as has become the practice.

2 COMMISSIONER BAEZ: Okay. Any objection to  
3 moving the witnesses order?

4 MR. EDENFIELD: I have no objection to any of  
5 the things that Mr. Wahlen laid out.

6 COMMISSIONER BAEZ: All right. Then let's note  
7 that in the order that rebuttal and direct will be taken  
8 together. And also note the change in witness order of  
9 Witness Felton and also the deletion of Witness Lenihan.

10 MR. EDENFIELD: And along those same lines,  
11 Dave Coon, who is BellSouth's, I guess, third witness --

12 COMMISSIONER BAEZ: Yes.

13 MR. EDENFIELD: -- has the same -- is in the  
14 same position. His issues, 24 and 25, have been removed,  
15 and we would ask that he be removed from this docket as  
16 well. We withdraw his testimony.

17 COMMISSIONER BAEZ: Show Witness Coon for  
18 BellSouth also removed.

19 MR. VACCARO: Also, Commissioner Baez, if I can  
20 bring something up very quickly? There had been some  
21 discussion earlier with the parties regarding the  
22 possibility of stipulating Staff Witness Fogleman's  
23 testimony, and I just wanted to ask the parties if there  
24 had been any resolution of that.

25 MR. WAHLEN: Sprint has no objection to having

1 that testimony introduced into the record in this case.

2 MR. EDENFIELD: Yeah, I have not had a chance to  
3 discuss this with Ms. White and Ms. Sims, so I'll have to  
4 let you know, Tim.

5 COMMISSIONER BAEZ: We'll hold that matter --

6 MR. VACCARO: Okay.

7 COMMISSIONER BAEZ: -- as pending. All right.

8 Is that it for the witnesses, everyone?

9 MR. WAHLEN: I had one question, I guess, for  
10 procedurally. If I am reading things correctly, it looks  
11 like some of Mr. Ruscilli's testimony may touch on the  
12 performance measure issues, and was just curious if  
13 BellSouth was intending to identify portions of his  
14 testimony that won't be admitted into the record, or how  
15 we propose to handle that.

16 MR. EDENFIELD: I think fortunately  
17 Mr. Ruscilli's testimony is broken out issue by issue. To  
18 the extent he has filed testimony on the issues that were  
19 removed, that will also be withdrawn from the docket with  
20 the Commission's permission, and that would go for any  
21 witness we have touching on those issues that have been  
22 deferred.

23 COMMISSIONER BAEZ: Now, Staff, is that -- we  
24 don't have to note those deletions now? That's just  
25 something that becomes corrections at hearing or --

1 MR. VACCARO: Yes, I believe that can just --  
2 when we get to hearing and they summarize their testimony,  
3 they can just indicate which portions of the testimony are  
4 being stricken.

5 MR. WAHLEN: Okay. That's fine.

6 COMMISSIONER BAEZ: All right. Moving on to  
7 basic positions, Section 7. Sprint?

8 MR. WAHLEN: We have no changes.

9 COMMISSIONER BAEZ: BellSouth?

10 MR. EDENFIELD: No changes.

11 MR. VACCARO: No changes from Staff.

12 COMMISSIONER BAEZ: Okay. Issue A.

13 MR. WAHLEN: Commissioner, we have just a few  
14 what you might call typographical changes in issue -- or  
15 in Section 8. We could go through those now, or with your  
16 permission, we could just give those to Mr. Vaccaro as  
17 soon as this is over. That way you don't have to spend  
18 your time going through those.

19 COMMISSIONER BAEZ: No problem. We'll just pass  
20 them along to Staff.

21 MR. WAHLEN: Okay. And that being said, we  
22 don't have any changes to discuss at this time in  
23 Section 8.

24 MR. EDENFIELD: BellSouth is in the same  
25 situation.

1 COMMISSIONER BAEZ: Great. Moving on then.

2 All right. Section 9.

3 MR. EDENFIELD: The only comment I would make in  
4 Section 9 is, I don't know if it's important for the  
5 prehearing order to reflect that there is confidentiality  
6 attached, or at least requested, in a document. I think  
7 Ms. Caldwell's DDC-1 is a subject of a notice of intent.

8 COMMISSIONER BAEZ: Well, I think that's taken  
9 care of at the end of the prehearing order as well. Is  
10 that what that's about, Staff?

11 MR. EDENFIELD: This is two different things, I  
12 think.

13 COMMISSIONER BAEZ: Are they?

14 MR. EDENFIELD: DDC-1 is the cost study that  
15 goes along with Issue 35. There may already be an RCC on  
16 it. I just didn't know if the prehearing order needed to  
17 reflect anything.

18 MR. VACCARO: I was under the impression that  
19 the notice of intent went to BellSouth's response to  
20 Staff's discovery request. If there is something  
21 additional that I did not catch that you filed, then I do  
22 apologize.

23 COMMISSIONER BAEZ: I think what Mr. Edenfield  
24 is saying is that Witness Caldwell's exhibit has a  
25 confidentiality request as well.

1 MR. EDENFIELD: I believe that it does. I need  
2 to go back and check.

3 MR. VACCARO: I'm not aware of that from going  
4 through the documents, but --

5 MR. EDENFIELD: And it could be that I'm  
6 mistaken, but it's a cost study, so I would have thought  
7 they had filed --

8 COMMISSIONER BAEZ: It doesn't -- I guess it  
9 doesn't change the nature of the confidentiality that it's  
10 not identified here, because we can certainly --

11 MR. VACCARO: No, I don't think that it does. I  
12 don't think it needs to be noted.

13 COMMISSIONER BAEZ: We'll just note that there  
14 may be some confidentiality, and you all can straighten  
15 out whether there is or there should be outside the --  
16 after the order is entered.

17 MR. EDENFIELD: That would be perfect.

18 COMMISSIONER BAEZ: All right. Skipping down to  
19 Section 12.

20 MR. EDENFIELD: Yeah, Section 12 is correct.

21 COMMISSIONER BAEZ: We're all right. Okay.  
22 Anything else, Staff?

23 MR. VACCARO: Nothing else, other than if Sprint  
24 would make sure that after the prehearing I get the  
25 wording that you suggested for the --



1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON )

4

5 I, TRICIA DeMARTE, Official FPSC Commission Reporter,  
6 do hereby certify that the Prehearing Conference in Docket  
7 No. 000828-TP was heard by the Florida Public Service  
8 Commission at the time and place herein stated.

9 It is further certified that I stenographically  
10 reported the said proceedings; that the same has been  
11 transcribed under my direct supervision; and that this  
12 transcript, consisting of 16 pages, constitutes a true  
13 transcription of my notes of said proceedings.

14 I FURTHER CERTIFY that I am not a relative, employee,  
15 attorney or counsel of any of the parties, nor am I a  
16 relative or employee of any of the parties' attorney or  
17 counsel connected with the action, nor am I financially  
18 interested in the action.

19 DATED this 18th day of December, 2000.

20

21

*Tricia DeMarte*

22

TRICIA DeMARTE

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FPSC Official Commission Reporter

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