

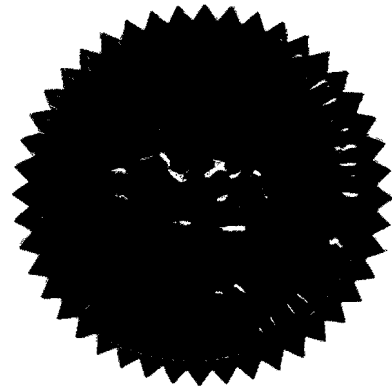
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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000121-TP

In the Matter of:

INVESTIGATION INTO THE  
ESTABLISHMENT OF OPERATIONS  
SUPPORT SYSTEMS PERMANENT  
PERFORMANCE MEASURES FOR  
INCUMBENT LOCAL EXCHANGE  
TELECOMMUNICATIONS COMPANIES.



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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER MICHAEL A. PALECKI  
Prehearing Officer

DATE: Friday, April 13, 2001

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

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

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

FLORIDA PUBLIC SERVICE COMMISSION DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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2 MARSHA E. RULE and WILLIAM PRESCOTT, 101 North  
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4 appearing on behalf of AT&T Communications of the Southern  
5 States, Inc.

6 DONNA McNULTY, 325 John Knox Road, The Atrium,  
7 Suite 105, Tallahassee, Florida 32303-4131, appearing on behalf  
8 of Worldcom, Inc.

9 DULANEY O'ROARK, III, Six Concourse Parkway, Suite  
10 3200, Atlanta, Georgia 30328, appearing on behalf of MCI  
11 Worldcom.

12 VICKI GORDON KAUFMAN, McWhirter, Reeves Law Firm,  
13 117 South Gadsden Street, Tallahassee, Florida 32301, appearing  
14 on behalf of Covad Communications and Mpower.

15 CATHERINE BOONE, 10 Glenlake Parkway, Suite 650,  
16 Atlanta, Georgia 30328-3495, appearing on behalf of Covad  
17 Communications.

18 JOHN KERKORIAN, 5607 Glenridge Drive, Suite 300,  
19 Atlanta, Georgia 30342-4996, appearing on behalf of Mpower.

20 JOSEPH McGLOTHLIN, McWhirter, Reeves Law Firm, 117  
21 South Gadsden Street, Tallahassee, Florida 32301, appearing on  
22 behalf of Z-Tel Communications.

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1 APPEARANCES CONTINUED:

2 PHILLIP CARVER, NANCY WHITE, and DOUGLAS LACKEY,  
3 c/o Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee,  
4 Florida 32301, appearing on behalf of BellSouth  
5 Telecommunications, Inc.

6 SUZANNE SUMMERLIN, 1311-B Paul Russell Road, Suite  
7 201, Tallahassee, Florida 32301, appearing on behalf of IDS  
8 Telecom, LLC.

9 MICHAEL GROSS, 246 East 6th Avenue, Suite 100,  
10 Tallahassee, Florida 32303, appearing on behalf of Florida Cable  
11 Telecommunications Association, Inc. (FCTA).

12 KAREN CAMECHIS, Post Office Box 10095, Tallahassee,  
13 Florida 32302-2095, appearing on behalf of Time Warner Telecom of  
14 Florida, L.P.

15 NORMAN H. HORTON, JR. and RENEE TERRY, Messer,  
16 Caparello & Self, Post Office Box 1876, Tallahassee, Florida  
17 32302-1876, appearing on behalf of e.spire Communications, Inc.

18 JASON FUDGE and BETH KEATING, FPSC Division of Legal  
19 Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
20 32399-0850, appearing on behalf of the Commission Staff.

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

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2 COMMISSIONER PALECKI: Call the prehearing conference  
3 to order. Will the Staff attorney please read the notice.

4 MR. FUDGE: Pursuant to a notice, this time and place  
5 has been set for a prehearing in docket number 000121-TP,  
6 investigation into the establishment of operations support  
7 permanent performance measures for incumbent local exchange  
8 telecommunications companies.

9 COMMISSIONER PALECKI: And we'll take appearances,  
10 please, starting on your left, my right.

11 MS. RULE: That would be me. Marcia Rule with AT&T.  
12 And I'm also entering an appearance for William Prescott, also of  
13 AT&T.

14 MS. McNULTY: Donna McNulty appearing on behalf of  
15 Worldcom, Inc. And I'm also entering an appearance for Dulaney  
16 O'Roark, also with Worldcom, Inc.

17 MS. KAUFMAN: Vicki Gordon Kaufman of the McWhirter,  
18 Reeves law firm. I'm here on behalf of Covad Communications  
19 Company and Mpower and would like to enter an appearance for  
20 Catherine F. Boone on behalf of Covad and John Kerkorian on  
21 behalf of Mpower.

22 MR. McGLOTHLIN: Joe McGlothlin for Z-Tel  
23 Communications, Inc.

24 MR. CARVER: Phillip Carver representing BellSouth.  
25 And at the time of the hearing, BellSouth will also be

1 represented by Nancy White and Douglas Lackey, so I would also  
2 like to enter appearances on their behalf.

3 MS. SUMMERLIN: Suzanne Summerlin on behalf of IDS.

4 MR. GROSS: Michael Gross on behalf of FCTA, and also  
5 entering an appearance on behalf of Karen Camechis for Time  
6 Warner Telecom. Thanks.

7 MR. HORTON: Norman H. Horton, Jr. on behalf of e.spire  
8 Communications. I'd also like to enter an appearance for Renee  
9 Terry with e.spire.

10 MR. FUDGE: Jason Fudge and Beth Keating on behalf of  
11 the Commission Staff.

12 COMMISSIONER PALECKI: Thank you.

13 Do we have any preliminary matters at this time?

14 MR. FUDGE: Yes, Commissioner. E.spire had filed a  
15 motion to accept late-filed prehearing statements. I believe,  
16 Mr. Horton can address this motion. Staff noticed that the time  
17 for filing responses to the motion expires on April 16th;  
18 however, the prehearing statements were included in the draft of  
19 the prehearing order.

20 MR. HORTON: Commissioner, e.spire is part of the ALEC  
21 coalition and they filed a prehearing statement that listed  
22 e.spire as one of the parties to that. The reason for submitting  
23 the separate statement was simply to list the witness. They were  
24 already identified in the prehearing statement that the coalition  
25 filed, so everything was already set out there. I think, the

1 requirements of the Commission rules were satisfied with that  
2 joint filing, but we submitted the separate filing just as a  
3 listing.

4 COMMISSIONER PALECKI: Are there any objections to  
5 e.spire's motion? Hearing no objections, the motion is granted.

6 MR. HORTON: Thank you.

7 MR. FUDGE: On April 11th, Staff filed a motion to  
8 extend discovery cut-off dates so that depositions scheduled  
9 after the current cut-off date could be conducted. Time for  
10 filing responses to this motion have not expired, but Staff  
11 believes that the parties do not object to the extension.

12 COMMISSIONER PALECKI: Do the parties have any  
13 objections to the Staff's motion? Hearing no objections, Staff's  
14 motion to extend discovery cut-off is granted.

15 Further motions?

16 MR. FUDGE: Yes, Commissioner. KMC Telecom has asked  
17 to be excused from the prehearing and Rhythms Links has asked to  
18 be excused from the prehearing and hearing.

19 COMMISSIONER PALECKI: Are there any objections to  
20 either of those motions? Hearing no objections, both motions on  
21 behalf of KMC Telecom, as well as Rhythms Links, are granted.

22 MR. FUDGE: The last motion is a motion to accept  
23 supplemental direct testimony and withdrawal of direct testimony  
24 by IDS. I believe, Suzanne Summerlin is here to address that  
25 motion.

1 MS. SUMMERLIN: Commissioner, IDS filed a motion to  
2 accept supplemental testimony a couple of days ago. I don't know  
3 if this is the appropriate time to put in argument. I don't know  
4 whether there are any objections to this at this point. I would  
5 assume BellSouth would object, but I'm not sure.

6 But in terms of the motion, the gist of it is that IDS  
7 got involved in this procedure very recently, and we were not  
8 prepared on March 1st, which was the initial filing date, to file  
9 complete testimony, so we filed the supplemental testimony to  
10 supplement the two little pages that we filed on March 1st, the  
11 same day that we filed our petition to intervene.

12 IDS first became aware of this docket in the last  
13 couple months, and we had had some discussions with Staff and the  
14 Commissioners, and were encouraged to participate in this  
15 proceeding. So, within two weeks of knowing about the  
16 proceeding, we filed the petition to intervene.

17 The supplemental testimony is just an offer of  
18 information to help supplement the record in this proceeding.  
19 IDS is just simply trying to add its practical experience and its  
20 ideas about the issues in the case to the Commission for its  
21 consideration in this proceeding. I think, that's basically, the  
22 summary of that motion.

23 COMMISSIONER PALECKI: Are there any objections to  
24 IDS's motion?

25 MR. CARVER: I may have an objection, I'm not sure.

1 I'm at somewhat of a disadvantage, because I have not seen the  
2 motion and I have not seen the supplemental testimony that they  
3 want to file. I take it from Ms. Summerlin's comments that the  
4 testimony is somewhat adverse to BellSouth since she anticipated  
5 we might object. Since I haven't seen it, again, I don't really  
6 know what it's comprised of, but in a vacuum I'll say this: I'm  
7 a little bit concerned that if it's filed at this late date that  
8 we won't have the opportunity to rebut.

9           There's really very little time between now and the  
10 hearing, and it would be difficult to build it into the schedule.  
11 And even if it could be built into the schedule, it still gives  
12 us very little time, particularly, considering the fact that next  
13 week will be filled almost completely with depositions and then  
14 we go to hearing the following week. So, having not seen the  
15 testimony, I hesitate to object, but I am concerned with this  
16 late filing and the possibility that it will disadvantage us.

17           COMMISSIONER PALECKI: Could we ask that IDS provide  
18 the attorney for BellSouth with both the testimony and the  
19 motion?

20           MS. SUMMERLIN: Mm-hmm.

21           COMMISSIONER PALECKI: Can you do that today at this  
22 prehearing conference?

23           MS. SUMMERLIN: For him to review right now?

24           COMMISSIONER PALECKI: Not for him to review now, but  
25 I want to make sure that they have it in their hands today and



1 they're not waiting to receive it in the mail.

2 MS. SUMMERLIN: Yeah, I can give them a copy. We sent  
3 them a copy the same time we did everyone else, and my  
4 understanding is a number of other parties have it, but I'll be  
5 happy to give him a copy.

6 COMMISSIONER PALECKI: I just want to make sure that  
7 they have it.

8 MS. SUMMERLIN: Sure, absolutely.

9 COMMISSIONER PALECKI: And, I believe, Staff, you have  
10 a recommendation as far as a time for responding of the parties?

11 MR. FUDGE: Yes, Commissioner. The normal time to  
12 respond is seven days, plus five days for mailing, which would  
13 make the responses due April 23rd. However, given the concerns  
14 that Mr. Carver may ask for expedited responses, if he wants to  
15 file any objections to that motion, may we have it.

16 COMMISSIONER PALECKI: Can we -- let's see, what is the  
17 date of the hearing in this docket?

18 MR. FUDGE: April 25th through the 27th.

19 COMMISSIONER PALECKI: And the normal time would be  
20 seven days, plus five days for mailing.

21 MR. FUDGE: Yes, sir.

22 COMMISSIONER PALECKI: Can we dispense with the five  
23 days for mailing? I know that you want to respond, but it's a  
24 very brief motion, and I'm certain you could respond without  
25 having to use those five days.

1 MR. CARVER: Yes, sir, certainly. If she can give me  
2 the testimony and the motion today, I can file a response next  
3 Friday, which would be the seven days.

4 MS. SUMMERLIN: Yeah. Commissioner, I would like to  
5 offer one other point. Our witness will certainly be prepared to  
6 be deposed this next week, if that would be of help to BellSouth,  
7 in terms of trying to give them an opportunity to get some  
8 discovery on this witness. I know they haven't had that up until  
9 now, so...

10 COMMISSIONER PALECKI: And if you could communicate  
11 with BellSouth after this prehearing conference and just let them  
12 know what days your witness would be available, that might help  
13 to expedite things.

14 MS. SUMMERLIN: Be glad to do that.

15 MR. CARVER: The only difficulty with that is at this  
16 point we have depositions all day Monday, Tuesday is the Agenda  
17 Conference, we have depositions all day Wednesday, we have  
18 depositions all day Thursday. So, with the possible exception of  
19 Friday, next week is pretty much booked already with the  
20 depositions of those people who filed their testimony timely.

21 COMMISSIONER PALECKI: Well, our Agenda Conference is  
22 only five items this coming Tuesday. I know the telecom item  
23 will probably be quite lengthy, but I still would guess that  
24 we'll be done with that Agenda Conference by lunchtime, so  
25 perhaps Tuesday afternoon might be available.

1 But in any event, we will ask for that expedited  
2 response to the motion, and if we could -- what would the date  
3 be, then, next Friday?

4 MR. FUDGE: Well, IDS filed their motion on the 11th,  
5 so seven days from then would be the 18th, so that would be, I  
6 think, next Wednesday.

7 COMMISSIONER PALECKI: Well, BellSouth has not had a  
8 chance to read the motion, but would you be able to provide a  
9 response by next Wednesday?

10 MR. CARVER: I could certainly try. I mean, again, the  
11 difficulty is we're going to be in depositions, you know, next  
12 week, but if I can get it today, I'll do my best to file  
13 something by Wednesday.

14 COMMISSIONER PALECKI: All right. Well, with that  
15 understanding, we'll make Friday the due date, but with the  
16 understanding that BellSouth will make every attempt to have a  
17 response in by Wednesday.

18 Any further preliminary matters?

19 MR. FUDGE: No, Commissioner.

20 MS. KAUFMAN: Commissioner Palecki, I do have one  
21 more preliminary matter that I should have brought up during the  
22 request for parties to be excused, but Scott Sapperstein, he  
23 represents Intermedia, could not be here today and has asked me  
24 to request that Intermedia be excused from attendance at the  
25 prehearing conference.

1           COMMISSIONER PALECKI: Does anyone object to  
2 Intermedia not participating today? Hearing no objection, we  
3 will grant Intermedia an excuse from participating in the  
4 prehearing conference today.

5           MS. KAUFMAN: Thank you.

6           MS. RULE: And one further matter from AT&T. We do not  
7 have a motion at this time, but we've received objections to  
8 discovery from BellSouth. We anticipate that when we get  
9 discovery from BellSouth next week that there will be items not  
10 answered. And at that time, we may make a motion to compel. We  
11 don't have one yet. We want to wait and see what they actually  
12 produce, but I just wanted to bring this up at this time.

13           COMMISSIONER PALECKI: Thank you.

14           We just encourage any motions be filed as quickly as  
15 possible. We would like to be able to actually rule on as many  
16 of these motions as possible prior to the hearing.

17           And also, we'd like the parties to have an opportunity  
18 -- if we are going to bring them up immediately before the  
19 hearing, we'd like to give all parties an opportunity to prepare.  
20 So, as long as we can be assured that all parties will get any  
21 motions regarding discovery to us as soon as possible, we would  
22 appreciate that.

23           MR. McGLOTHLIN: Commissioner, if this is the  
24 appropriate time to take it up, Z-Tel requests that the  
25 prehearing order provide for opening statements. It's our view

1 that this case covers a lot of ground, and we think that it lends  
2 itself to use of an opening statement to acquaint the  
3 Commissioners with what they're about to hear.

4 COMMISSIONER PALECKI: I agree. The hearing will cover  
5 a lot of ground and, I think, opening statements would be  
6 appropriate. Let's discuss the time for each party. Because we  
7 have many parties, we would like to keep the opening statements  
8 brief. What do you believe would be a reasonable time for  
9 opening statements?

10 MR. McGLOTHLIN: I've given a little thought to that.  
11 My suggestion, for purpose of discussion, would be BellSouth 20  
12 minutes and 20 minutes for those ALECs who are also in the case.

13 COMMISSIONER PALECKI: Is that for each ALEC or for the  
14 ALECs together?

15 MR. McGLOTHLIN: Oh, no, no. That's combined.

16 COMMISSIONER PALECKI: How do the rest of the ALECs  
17 feel about that time period? BellSouth?

18 MR. CARVER: That's fine. I doubt if we'll use our  
19 entire 20 minutes, but I think that's a fair way to divide the  
20 time up.

21 COMMISSIONER PALECKI: All right. Staff, could you see  
22 to it that the prehearing order reflects a 20-minute time period  
23 for BellSouth and 20 minutes for all of the ALECs together.

24 MR. FUDGE: Yes, Commissioner.

25 COMMISSIONER PALECKI: Okay. Does everyone have a

1 copy of the prehearing order? At this time, let's walk through  
2 the draft prehearing order section by section together. In  
3 Sections 1 through 5, are there any changes or corrections that  
4 anyone has?

5 MS. McNULTY: Commissioner Palecki, this is Donna  
6 McNulty with Worldcom. I would like to request that we have an  
7 extension for the page limit. This is a rather complex case with  
8 a number of issues, and currently the draft prehearing order  
9 allows for 40 pages for the post-hearing brief. I would like to  
10 request 80 pages based on briefs that were filed in Georgia on  
11 the same topic.

12 COMMISSIONER PALECKI: Do any of the other parties  
13 have an opinion on that matter?

14 MS. RULE: This is Marcia Rule with AT&T. I agree. I  
15 think, it would be very difficult to stuff all of the argument on  
16 the issues into 40 pages without the typeface being tiny.

17 COMMISSIONER PALECKI: Well, we don't want that.

18 MS. McNULTY: And the other thing I would like to add  
19 is that we anticipate and hope that the ALEC coalition will file  
20 one brief so it would be, you know, more beneficial for Staff.

21 MS. RULE: We're not asking to file ten 80-page briefs.

22 MS. McNULTY: Right.

23 COMMISSIONER PALECKI: Staff, do you have an opinion  
24 on the issue of pages for the brief?

25 MR. FUDGE: Yes, we would appreciate just one brief

1 from the ALEC coalition, but the page limits are fine with Staff.

2 COMMISSIONER PALECKI: You have no problem with  
3 80-page briefs?

4 MR. FUDGE: No, sir.

5 MS. McNULTY: Thank you.

6 COMMISSIONER PALECKI: Well, Hearing no objection from  
7 any of the parties, we will go ahead and allow the briefs to be  
8 80 pages. And we don't necessarily have a commitment from the  
9 ALECs that they will together file one brief, but it would  
10 certainly make things easier for everybody, especially our Staff,  
11 if we had a single brief rather than a brief from each of the  
12 individual ALECs.

13 Okay. Let's go to Section 6, Order of Witnesses. Are  
14 the witnesses listed in the correct order in which they will  
15 appear? Yes, Ms. McNulty.

16 MS. McNULTY: I have two items regarding the order of  
17 witnesses. Worldcom, respectfully, requests that Karen Kinard be  
18 taken out of order. She has a conflict. She is testifying in  
19 the Pennsylvania 271, which happens to be scheduled at the exact  
20 same time. We request that she be heard on Wednesday, and a  
21 suggestion would be after Paul Stallcup.

22 COMMISSIONER PALECKI: Are there any objections to  
23 Ms. Kinard being heard after Paul Stallcup? That would put her  
24 as the second witness in the hearing. And hearing no objections,  
25 we will then take Ms. Kinard out of order and immediately after

1 Staff's witness Paul Stallcup.

2 MS. McNULTY: Thank you, Commissioner.

3 I now have a second request. The ALEC coalition was on  
4 a conference call, and we were trying to figure out what would be  
5 the most appropriate order of witnesses for the ALEC witnesses.  
6 And we thought it would be useful to have the operational  
7 witnesses testify first. So, I would like to make -- you know,  
8 when it comes time to hear the ALEC witnesses. So, I'd like to  
9 make a suggested change for the order of witnesses.

10 COMMISSIONER PALECKI: All right.

11 MS. McNULTY: First -- and I think, it would just be  
12 easier to read the whole list. Start off with Paul Stallcup,  
13 then, have Karen Kinard, then all the BellSouth witnesses. And  
14 then, start off with Tom Allen, Jim Falvey, Michael Iacino, John  
15 Rubino, Cheryl Bursh, Dr. Bell, and Dr. Ford.

16 COMMISSIONER PALECKI: Can you provide that list to  
17 Staff as well as to the court reporter --

18 MS. McNULTY: Yes, I could.

19 COMMISSIONER PALECKI: -- to make sure that we have all  
20 of the witnesses in the correct order. Does BellSouth have any  
21 objection to that change in order of the witnesses?

22 MR. CARVER: I have one concern. In terms of the ALEC  
23 witnesses being reordered, that's fine, I don't have any  
24 objection to that, but I notice that the way the prehearing order  
25 is set up now, I guess, all of the witnesses who have direct and



1 rebuttal go first, and then the witnesses who only filed rebuttal  
2 are at the end. And as that happens to work out, we close the  
3 case with three BellSouth witnesses.

4           And I guess, what they're suggesting is that all of our  
5 witnesses would go at one time. And normally, I wouldn't have a  
6 problem with that, but there were two items that I wanted to  
7 raise, and one of them had to do with the fact that three of our  
8 witnesses are testifying in other states at the same time as this  
9 hearing, and they are probably not going to be available at the  
10 beginning of the week. Let me just tell you a little bit about  
11 that.

12           Dr. Taylor, who now, I believe, is currently set to be  
13 the last witness is testifying on the west coast, I believe, in  
14 Oregon. And we anticipate that he would arrive here Thursday  
15 morning and would be available to go on late Thursday afternoon  
16 or Friday. With the current order of witnesses, that would work  
17 fine, because he'd be the last witness in the case. I'm just a  
18 little concerned that if we moved him up too much, we might reach  
19 him in the order before he was here.

20           The other thing is that there are two BellSouth  
21 witnesses, Mr. Pate and Ms. Cox, who are testifying in Louisiana.  
22 And although that hearing is set to go all week, my hope is that  
23 they'll finish Tuesday and that they'll be here Wednesday morning  
24 or perhaps a little bit later. So, we have Mr. Stallcup and  
25 then, Ms. Kinard and then Mr. Coon. I don't think I'll need any

1 special accommodation for them, because I imagine they'll be here  
2 by the time we get through those three, but I just wanted to  
3 mention that they are traveling here, so they might be a little  
4 bit late.

5           So, I guess, I've kind of interjected one of my points  
6 into my response. But the point is, as I say, if we have  
7 Dr. Taylor earlier, we might have a problem with that, but  
8 otherwise, I don't have an objection to their proposal.

9           COMMISSIONER PALECKI: Do the ALECs have any  
10 objection to Dr. Taylor remaining the last witness, and other  
11 than that we will go ahead and use the ALECs' suggested order.

12           MS. McNULTY: That is fine with me.

13           MS. RULE: And, I think, as part of that, we were  
14 anticipating the usual practice of having witnesses put on their  
15 direct and rebuttal at the same time, even though the schedule  
16 doesn't exactly reflect that. And you know, under that, of  
17 course, the BellSouth witnesses who didn't file direct would be  
18 going last anyhow. Does that work out?

19           MR. CARVER: Yeah. Actually, that was the other point  
20 I was going to raise, that if we combined direct and rebuttal, it  
21 might move things along a little bit more quickly.

22           COMMISSIONER PALECKI: Well, why don't we do this,  
23 we'll combine direct and rebuttal, and would you like to -- when  
24 you say combine direct and rebuttal with the exception of  
25 Dr. Taylor, would you like to put your other two rebuttal

1 witnesses, Latham and Pate immediately after your direct? I'm  
2 asking you, is that what you're suggesting?

3 MR. CARVER: I don't have strong feelings about this  
4 one way or the other. I guess, my preference would be to have  
5 Latham, Pate and Taylor at the end. And again, with Mr. Pate,  
6 since he's going to be in Louisiana, that would kind of make  
7 sense, although, I don't anticipate as much of a problem with  
8 him. So, I guess, yes, that would be my preference would be to  
9 have the three of those at the end.

10 MR. McGLOTHLIN: But do they -- well, they don't have  
11 direct testimony, do they?

12 MR. CARVER: Right, they have rebuttal only.

13 COMMISSIONER PALECKI: Having heard from the parties,  
14 my ruling will be that we will use the order of witnesses as  
15 suggested by the ALECs, that we will hear direct and rebuttal  
16 from the witnesses when those witnesses have filed both direct  
17 and rebuttal, that the order of witnesses will be after Mr.  
18 Stallcup we will have the first witness for Worldcom, and what is  
19 that witness's name?

20 MS. McNULTY: Karen Kinard.

21 COMMISSIONER PALECKI: Karen Kinard. We will then hear  
22 the BellSouth witnesses on direct. We will then hear the ALEC  
23 witnesses, and we will receive a list of the order as previously  
24 stated by Ms. McNulty, and then we will hear from the rebuttal  
25 witnesses who did not file direct.

1 Do we have anything further on Order of Witnesses? All  
2 right. Let's take up Section 7 and 8.

3 MS. KAUFMAN: Commissioner Palecki, this is not related  
4 to the order, but I can fill in for you the issues that Mr. Allen  
5 is going to be testifying. His spot right now is blank on Page  
6 8. He's going to go in to testify as to 1-A, 1-B, 2-B, 9 and 13.

7 COMMISSIONER PALECKI: Thank you.

8 Should we also -- we haven't ruled on Ms. Summerlin's  
9 motion yet, but should we at least put the issues that he will be  
10 presenting testimony to in the event that motion is granted?

11 MS. SUMMERLIN: Commissioner, the version of this that  
12 I'm looking at doesn't have Mr. Kramer listed in the order of  
13 witnesses.

14 COMMISSIONER PALECKI: We will not necessarily list him  
15 at this time, but at least we would want the information  
16 available so that if that motion is granted we will be able to  
17 insert that information into the final prehearing order.

18 MS. SUMMERLIN: On the prehearing statement, we  
19 reflected that the positions that he was taking were on all of  
20 the issues, generally. It's a very general position, so...

21 COMMISSIONER PALECKI: All right. Okay, if we can  
22 then, move to the Positions in Section 7 of the draft prehearing  
23 order. Are there any corrections to any of the issues? I don't  
24 think I need to take this issue by issue, unless -- is there  
25 anyone that would like to take it issue by issue. Okay, let's

1 just ask the parties, individually, are there any changes to your  
2 positions? Or let me ask you as a group.

3 MS. RULE: I'd like to make a change --

4 COMMISSIONER PALECKI: Yes, AT&T.

5 MS. RULE -- on behalf of the ALEC position on Page 12.

6 It came to our attention as we were looking at this, although  
7 Staff correctly reflected our prehearing position, that we had  
8 neglected to say what we thought of BellSouth's performance  
9 assessment plan.

10 And the sentences we would like to add or sentence we'd  
11 like to add is "BellSouth's proposed performance assessment plan  
12 is insufficient to meet ALEC needs and does not adequately reveal  
13 discriminatory behavior," period. And I'll read that again.

14 "BellSouth's proposed performance assessment plan is insufficient  
15 to meet ALEC needs and does not adequately reveal discriminatory  
16 behavior." And that would go in at the very beginning of our  
17 statement of basic position.

18 COMMISSIONER PALECKI: Any other corrections or  
19 changes for any of the other parties?

20 MR. CARVER: I just had a question. So, this addition  
21 would be before the words, "improved OSS functionality," at the  
22 very beginning?

23 MS. RULE: Yes.

24 MR. CARVER: Okay, thank you.

25 One other thing I wanted to raise, I believe, it's

1 Issue 22 on Page 46. I don't believe the draft captured all of  
2 BellSouth's position. You see the second line, it says,  
3 "penalize BellSouth for an ALEC's..." and then, it stops. That  
4 is toward the bottom of Page 46.

5 It should read -- well, I'll just read the entire  
6 sentence. "Market penetration adjustment would unfairly penalize  
7 BellSouth for an ALEC's -- "and where it says, "bu," that word is  
8 "business decisions not to include Florida in the ALEC's initial  
9 entry-level strategy."

10 COMMISSIONER PALECKI: Thank you.

11 MR. CARVER: Thank you.

12 COMMISSIONER PALECKI: Staff, do you wish to have  
13 those two changes in writing from the parties or do you have that  
14 adequately?

15 MR. FUDGE: I have it adequately, Commissioner.

16 COMMISSIONER PALECKI: Any further changes on any of  
17 the positions?

18 MS. KAUFMAN: Commissioner Palecki, this is just a typo  
19 on Issue 12-A. I think, the word is supposed to be "compliant"  
20 and not "complaint."

21 COMMISSIONER PALECKI: What page is that?

22 MS. KAUFMAN: Well, I have a different draft. It's  
23 Page 34 on the draft that came out yesterday.

24 COMMISSIONER PALECKI: Page 36 on my draft. Could  
25 you state that change again?

1 MS. KAUFMAN: I think, in the third line, the word  
2 "complaint" I mean, even though we might say their performance  
3 has engendered a lot of complaints, I think, the word is supposed  
4 to be "compliant," if I'm not mistaken.

5 COMMISSIONER PALECKI: I think, you're correct. We  
6 will make that change to Issue 12-A. Any further changes or  
7 corrections?

8 MS. SUMMERLIN: Commissioner Palecki, IDS needs to  
9 make just a little change to the basic position that I show on  
10 Page 13. The middle sentence in the position there says that  
11 "IDS has no specific positions on each of the issues identified  
12 in this proceeding beyond the following." That particular  
13 statement needs to just be deleted. The rest of it would just  
14 stay the way it is. And IDS would like to revise the position  
15 that it's taken on all of the issues in the case and say that  
16 "IDS adopts the position of the ALEC coalition on each of the  
17 issues."

18 COMMISSIONER PALECKI: And where would you like that  
19 sentence to be placed?

20 MS. SUMMERLIN: That sentence I read just needs to be  
21 deleted.

22 COMMISSIONER PALECKI: No, the sentence where you  
23 adopt all of the positions of the ALEC coalition.

24 MS. SUMMERLIN: Oh, just in the position of IDS on each  
25 issue where we -- currently, it shows IDS as stated in its basic

1 position on each issue.

2 COMMISSIONER PALECKI: Okay. So, that's not part of  
3 the basic position, but that's on each of the individual issues.

4 MS. SUMMERLIN: That's right, yes, just for each of the  
5 individual issues we want the statement that IDS adopts the  
6 position of the ALEC coalition.

7 COMMISSIONER PALECKI: Any other changes or  
8 corrections on positions to the issues?

9 I think, we can move on to Section 9, Exhibits. Any  
10 corrections or changes insofar as the exhibits are concerned?

11 Section 10, Stipulations. Are there any stipulations  
12 at this time? Are there any stipulations anticipated at the time  
13 the prehearing order will be signed?

14 MR. MCGLOTHLIN: If we could go back to the exhibit for  
15 a second. The exhibit list should reflect seven exhibits by  
16 Dr. Ford. I think, only six are listed. He had the rebuttal  
17 exhibit.

18 COMMISSIONER PALECKI: I think that is reflected on  
19 Page 60, at least in my draft. We've had some changes as far as  
20 the draft prehearings.

21 MR. MCGLOTHLIN: I beg your pardon, it is reflected  
22 there.

23 COMMISSIONER PALECKI: Okay. We've already taken care  
24 of Pending Motions, I believe, Section 11.

25 Are there any additions other than what we've



1 previously discussed under Pending Motions?

2 MS. SUMMERLIN: I don't see IDS's pending motion to  
3 accept the supplemental testimony on my draft.

4 COMMISSIONER PALECKI: Yes, if we could go ahead and  
5 include that under Pending Motions.

6 Any Pending Confidentiality Matters?

7 MR. FUDGE: There is the one that BellSouth filed a  
8 notice that they would seek confidentiality, but they have not  
9 yet filed the motion.

10 MR. CARVER: Yes. We produced some documents, I  
11 believe, earlier in the week and just did file a notice of intent  
12 with it. One of the documents contains proprietary information,  
13 so we had planned to follow that request for confidentiality  
14 within the time frame and the rule.

15 COMMISSIONER PALECKI: All right. Is there anything  
16 else that we need to discuss?

17 Before we adjourn, let's talk about the time period for  
18 the hearing. We have three days set aside. Is it anticipated  
19 that the full three days will be required for this hearing? I  
20 guess, the other question that goes along with that, are there  
21 any witnesses that will not be cross examined that could -- we  
22 could avoid having them be required to attend the hearing? So,  
23 if we could take those two at the same time.

24 MR. CARVER: On the first point, in terms of the time  
25 frame, my guess is it's probably going to take the entire three

1 days. And I base that on the fact that we had a similar  
2 performance measurement case in Georgia last year toward the end  
3 of the summer, and that one was split up. But if you add the  
4 time for the case all together, I think, it took, I believe,  
5 about four days or a little bit longer. I think, three days  
6 would be adequate, but my guess is that they'll be three fairly  
7 full days.

8           On the other part of your question about stipulating in  
9 witnesses, there aren't any witnesses that I can say right now  
10 that BellSouth definitely will not cross, but by next week, I  
11 think, there are some that we probably will have reached that  
12 conclusion about. So, what I would suggest is that since the  
13 parties are going to be in depositions next week, perhaps we can  
14 talk amongst ourselves then and see if we can come up with a list  
15 of any that there may be.

16           COMMISSIONER PALECKI: And what about the ALECs, are  
17 there any BellSouth witnesses that the ALECs have no desire to  
18 cross examine? And it's quite possible, even if the parties  
19 don't wish to cross examine the witnesses, that the Commissioners  
20 and the Staff may have cross examination, but if you could  
21 provide us with that information, we would appreciate it.

22           MR. CARVER: Yes, sir.

23           COMMISSIONER PALECKI: Is there anything further? With  
24 nothing further, the prehearing conference is adjourned.

25           (Prehearing Conference concluded at 2:10 p.m.)

1 STATE OF FLORIDA )

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON )

4

5 I, KORETTA E. STANFORD, RPR, Official Commission Reporter,  
6 do hereby certify that a Prehearing Conference was held in docket  
7 000121-TP before Prehearing Officer Michael A. Palecki at the  
8 time and place herein stated.

9

10 It is further certified that I stenographically reported the  
11 said proceedings; that the same has been transcribed under my  
12 direct supervision and that this transcript, consisting of 26  
13 pages, constitutes a true transcription of my notes of said  
14 proceedings.

15

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

20

DATED this 17th day of April, 2001.

21

22

  
KORETTA E. STANFORD, RPR  
Official Commission Reporter  
(850) 413-6734

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