

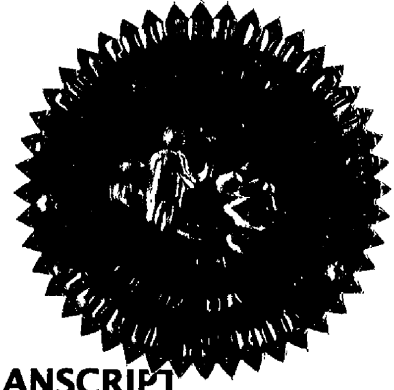
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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NO. 960786-TL**

**In the Matter of:**

**CONSIDERATION OF BELL SOUTH  
TELECOMMUNICATIONS, INC.'S  
ENTRY INTO INTERLATA SERVICES  
PURSUANT TO SECTION 271 OF THE  
FEDERAL TELECOMMUNICATIONS  
ACT OF 1966**



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AND DO NOT INCLUDE PREFILED TESTIMONY.**

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**PROCEEDINGS:    ISSUE ID CONFERENCE**

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**BEFORE:            COMMISSIONER J. TERRY DEASON  
                         Prehearing Officer**

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**DATE:                Tuesday, April 24, 2001**

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**TIME:                Commenced at 1:00 p.m.  
                         Concluded at 2:40 p.m.**

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

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

DOCUMENT NUMBER-DATE

05592 MAY-30

FPSC RECORDS REPORTING

1 **APPEARANCES:**

2 NANCY WHITE, LISA FOSHEE, and JOHN MARKS, c/o Nancy  
3 Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida,  
4 appearing on behalf of BellSouth Telecommunications, Inc.

5 MARCIA RULE, 101 North Monroe Street, Suite 700,  
6 Tallahassee, Florida 32301-1509, appearing on behalf of AT&T; and  
7 SHARON NORRIS and JAY BRADBURY, participating telephonically.

8 VICKI GORDON KAUFMAN, McWhirter Reeves Law Firm,  
9 117 South Gadsden Street, Tallahassee, Florida 32301, appearing  
10 on behalf of the Florida Competitive Carriers Association.

11 DONNA McNULTY and DULANEY O'ROARK, 325 John Knox  
12 Road, The Atrium, Suite 105, Tallahassee, Florida 32303-4131,  
13 appearing on behalf of Worldcom, Inc.

14 RICK MELSON, Hopping Law Firm, P.O. Box 6526,  
15 Tallahassee, Florida 32314, appearing on behalf of Worldcom,  
16 Inc., Intermedia, and Rhythms Links, Inc.

17 MATTHEW FEIL, 390 North Orange Avenue, Suite 2000,  
18 Orlando, Florida 32801, appearing on behalf of Florida Digital  
19 Network.

20 MICHAEL GROSS, 246 E. 6th Avenue, Suite 100, Tallahassee,  
21 Florida 32303, appearing on behalf of the Florida Cable  
22 Telecommunications Association.

23 NORMAN HORTON, JR., Messer, Caparello & Self, Post Office  
24 Box 1876, Tallahassee, Florida 32302-1876, appearing on behalf of  
25 e.spire Communications, Inc.

1 APPEARANCES CONTINUED:

2                   SUSAN MASTERTON, Post Office Box 2214, Tallahassee,  
3 Florida 32316-2214, appearing on behalf of Sprint.

4                   BETH KEATING, FELICIA BANKS, and MARY ANNE HELTON,  
5 FPSC Division of Legal Services, 2540 Shumard Oak Boulevard,  
6 Tallahassee, Florida 32399-0850, appearing on behalf of the  
7 Commission Staff.

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

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2 COMMISSIONER DEASON: We'll call this conference to  
3 order. Could I have the notice read, please?

4 MS. KEATING: By notice issued March 30th, 2001, this  
5 time and place have been set for an Issues Identification  
6 Conference in docket number 960786. The purpose is as set forth  
7 in the notice.

8 COMMISSIONER DEASON: Thank you. Take appearances.

9 MS. WHITE: Nancy White and Lisa Foshee for BellSouth  
10 Telecommunications Company. Also appearing for BellSouth, John  
11 Marks.

12 MS. RULE: Marcia Rule with AT&T. And, I believe, we  
13 also have some AT&T personnel on the phone, and they'll all enter  
14 their appearance when you take phone appearances.

15 MS. KAUFMAN: Vicki Gordon Kaufman for the Florida  
16 Competitive Carriers Association.

17 MS. McNULTY: Donna McNulty and D. O'Roark with  
18 Worldcom.

19 MR. MELSON: Rick Melson on behalf of Worldcom,  
20 Intermedia, and Rhythms Links, Inc.

21 MR. FEIL: Matthew Feil for Florida Digital Network.

22 MR. GROSS: Michael Gross, Florida Cable  
23 Telecommunications Association.

24 MR. HORTON: Norman H. Horton, Jr. for espire  
25 Communications.

1 MS. MASTERTON: Susan Masterton with Sprint.

2 COMMISSIONER DEASON: Anyone by telephone who  
3 wishes to make an appearance, you may do so now.

4 MS. NORRIS: This is Sharon Norris for AT&T.

5 MR. BRADBURY: And Jay Bradbury, AT&T.

6 MS. KEATING: And Beth Keating for Commission Staff.

7 I'll also be entering an appearance for Felicia Banks and Mary  
8 Anne Helton.

9 COMMISSIONER DEASON: Okay. Did someone just join us  
10 on the phone? Maybe someone just disconnected. Whatever.

11 We're here today to address the issues which we hope to  
12 finalize that all parties will be apprised of what the  
13 appropriate issues are. One thing we're going to discuss today  
14 before we leave and, I guess, it'll probably be the last order of  
15 business, but something you may want to consider as we proceed  
16 through the issues, is if there is to be a request for  
17 reconsideration of my decision, we need to review the time frame  
18 for that. It is my hope that we can get that before the full  
19 Commission expeditiously as possible so that the final decision  
20 can be made. As everyone is aware, I think, there will be  
21 testimony due -- first round of testimony is May 31st?

22 MS. KEATING: That's correct.

23 COMMISSIONER DEASON: Okay. Which is not all that far  
24 away. So, we will address that towards the end.

25 Have all parties received a copy of Staff's proposed

1 Issue List? I suppose so. Has anyone not received that?  
2 Hearing no response, my assumption is everyone has that in front  
3 of them.

4           What I intend to do is allow parties the opportunity to  
5 address what they consider to be the appropriate issues. I think  
6 that it would be certainly most helpful to me, if we work with  
7 Staff's list. If there are issues on there that you agree with,  
8 that's fine. If there are items which are on that list which you  
9 feel are inappropriately there, please address that and,  
10 likewise, if there are items which you believe need to be added  
11 to the Staff's list, please advise me of that as well.

12           It is my intent to give everyone ample opportunity to  
13 discuss their issues. I may have questions, Staff may have  
14 questions. I'll also give Staff an opportunity to provide any  
15 comments that they feel are appropriate. And it is my intent to  
16 take all that is said here today and give it due consideration  
17 and, as expeditiously as possible, issue an order setting forth  
18 what I believe the appropriate issues to be. And having said  
19 that, I will turn it over to the parties and, Ms. White, I will  
20 give you an opportunity to go first.

21           MS. WHITE: Okay. Are we going to go issue by issue or  
22 how do you want to proceed?

23           COMMISSIONER DEASON: We're going to go party by  
24 party. You're going to be the first party. I want you to  
25 address Staff's list of issues.

1 MS. WHITE: I just love being first.

2 COMMISSIONER DEASON: Well, you're the one that  
3 brought us all here today.

4 MS. WHITE: You're absolutely correct.

5 COMMISSIONER DEASON: We'd all rather be doing  
6 something else, Ms. White, really.

7 MS. WHITE: That's true. Even I would like to be doing  
8 something else.

9 COMMISSIONER DEASON: Yes.

10 MS. RULE: I might ask if we could have just a few  
11 minutes. I haven't finished going through to correlate the Staff  
12 list, and it appears that some are BellSouth issues, some are  
13 ALEC issues, and it may be with just a few minutes we can move  
14 things along.

15 MS. KEATING: Commissioner, that may be a good idea,  
16 because I think a lot of people had already left their offices to  
17 come over here before we e-mailed them the --

18 MS. RULE: Well, perhaps Staff could walk us through it  
19 and say here's BellSouth, here's the ALECs, here's Staff.

20 COMMISSIONER DEASON: Staff, are you prepared to do  
21 that?

22 MS. KEATING: We can sure give it a shot.

23 COMMISSIONER DEASON: Let's go through that. It  
24 probably would be an exercise that would be beneficial for  
25 everyone. And, Ms. Rule, if at the conclusion of that you feel

1 you need additional time, let me know and I'll give that  
2 consideration.

3 MS. RULE: And because we do have a couple people on  
4 the phone, Ms. Keating, if you could just read out the issue when  
5 you tell us where it came from, then Sharon Norris and Jay  
6 Bradbury could also hear what it is we're talking about.

7 MS. KEATING: Okay. Staff's Issue 1: Has BellSouth  
8 met the requirements of Section 271(c)(1)(A) of the  
9 Telecommunications Act of 1996?

10 And subpart (a) is: Has BellSouth entered into one or  
11 more binding agreements approved under Section 252 with  
12 unaffiliated competing providers of telephone exchange service?

13 Subsection (b) is: Is BellSouth providing access and  
14 interconnection to its network facilities for the network  
15 facilities of competing providers?

16 And subsection (c) is: Are such competing providers  
17 providing telephone exchange service to residential and business  
18 customers, either exclusively over their own telephone exchange  
19 service facilities or predominantly over their own telephone  
20 exchange service facilities?

21 COMMISSIONER DEASON: Well, I guess, I just can't wait  
22 to ask questions. While we're on this issue, let me go ahead and  
23 put out a question. As I indicated, parties, you'll be given  
24 opportunity to address whatever concerns you have, so as we work  
25 through this process, you may want to make some notes, and I will



1 give you that opportunity.

2           The first question I have, are these items which the  
3 Commission has already previously considered and made a  
4 determination?

5           MS. KEATING: If you're asking Staff, yes.

6           COMMISSIONER DEASON: Okay. Why are these issues,  
7 then?

8           MS. KEATING: Staff prepared its list based on lists  
9 submitted by both parties. This encompasses both the FCCA's list  
10 as well as BellSouth's list. If you look back at the  
11 Commission's original 271 order, it's not all that clear whether  
12 or not the issues would be in the proceeding.

13           It says, let's see, BellSouth has met the requirements  
14 of several checklist items in this proceeding and, therefore, may  
15 not be required to relitigate those issues. These aren't exactly  
16 checklist items, for one thing. And also, it says may not be  
17 required to relitigate, and that's --

18           COMMISSIONER DEASON: Well, let me ask you this: Did  
19 the Commission answer these questions in the previous 271  
20 proceeding?

21           MS. KEATING: They answered (a).

22           COMMISSIONER DEASON: In the affirmative?

23           MS. KEATING: In the affirmative.

24           COMMISSIONER DEASON: Is that something that's subject  
25 to change?

1 MS. KEATING: I would not think so.

2 COMMISSIONER DEASON: So, why is it an issue?

3 MS. RULE: Well, I would suggest that everybody agreed  
4 that this was an appropriate issue. And, I think, the real thing  
5 -- the real reason why we've included it is because we believe  
6 the FCC will be looking to the Commission for answers to these  
7 questions and those answers should be as fresh as possible.

8 I don't anticipate there'll be a lot of controversy  
9 about it and, I think, both Staff and AT&T and the ALECs and  
10 BellSouth all worded this issue exactly the same. So, it's not a  
11 question of how the issue is worded, but whether the answer would  
12 be helpful to the Commission or the FCC, and I suggest that it  
13 would.

14 COMMISSIONER DEASON: Okay. Anyone else want to add  
15 anything?

16 MS. WHITE: Yes. Nancy White for BellSouth. I guess,  
17 I looked at it a couple of different ways, particularly, with  
18 regard to Issue 1. Last time BellSouth filed, they were filing  
19 kind of under a combination of Track A and Track B. This time  
20 we're just going under Track A, so Track B -- there is no Track B  
21 in this case, which is different from last time.

22 I think, that on the issues that the Commission -- the  
23 checklist items that the Commission found that we met last time,  
24 what we envision saying is the Commission found we met these last  
25 time, nothing's changed, here are the latest numbers on how much

1 of this particular item we're providing. So, it kind of gives  
2 the Commission an update on that issue since where we were a  
3 couple years ago.

4 MS. KEATING: And Commissioner, if I could point out in  
5 the 271 order, it did note that Bell would still have to file  
6 everything that they were going to file at the FCC. So, if we're  
7 going to -- if they're presenting anything new with regard to  
8 those issues, there needs to be a way to get it into the record  
9 or at least accept it in some form.

10 COMMISSIONER DEASON: Okay. Let me ask this question.  
11 Should the wording of the issue be changed such that has anything  
12 changed since the Commission originally determined that BellSouth  
13 had entered into one or more binding agreements, blah, blah,  
14 blah?

15 MS. KEATING: I would think that would be an option.

16 MS. WHITE: I'm okay with the language as it is in this  
17 first issue. If you want to change it, then we'd be happy to  
18 work with that, but --

19 COMMISSIONER DEASON: The parties have any comment?

20 MS. KAUFMAN: Well, Commissioner, I think that as  
21 Ms. White said, we want the FCC to have the most current  
22 information. And Bell's going to have everything here that  
23 they're going to file at the FCC. And the issues put it in  
24 context. And also, just in case there's any confusion, the FCCA  
25 and AT&T passed around, before we began, a revised list, and

1 withdrawn our Issues 2 and 3 which related to the Track B and to  
2 the combination of tracks which were issues the last time, but we  
3 understand are not now. And, I think, Ms. White has reiterated  
4 that. So, we know they're going under Track A. And, I think,  
5 these issues just frame and update the same issue we had last  
6 time.

7 COMMISSIONER DEASON: Okay. Staff, you may continue.

8 MS. KEATING: Okay. We're moving on now to Issue 2?

9 COMMISSIONER DEASON: Yes, Issue 2.

10 MS. KEATING: Staff's Issue 2 reads: Has BellSouth  
11 provided interconnection in accordance with the requirements of  
12 Sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of  
13 1996, pursuant to Section 271(c)(2)(B)(I), and applicable rules  
14 promulgated by the FCC?

15 Subsection (a) is: Has BellSouth implemented physical  
16 collocation requests in Florida?

17 Subsection (b) is: Does BellSouth have legally-binding  
18 provisioning intervals for physical collocation?

19 Subsection (c) is: Does BellSouth provide local tandem  
20 interconnection to ALECs?

21 Subsection (d): Does BellSouth permit the use of a  
22 Percent Local Usage factor in conjunction with trunking?

23 Subsection (e): Does BellSouth provide ALECs with meet  
24 point billing data?

25 Subsection (f): Is BellSouth providing collocation at

1 remote terminals consistent with the requirements of the federal  
2 Telecommunications Act and orders of the FCC implementing the  
3 Act?

4 And subsection (g): Has BellSouth satisfied all other  
5 association requirements with this item?

6 COMMISSIONER DEASON: Okay. Anyone wish to provide  
7 comment? Ms. White.

8 MS. WHITE: BellSouth doesn't have a problem with 2(a)  
9 through (e), because that's what we suggested. And just to make  
10 sure everybody knows where we are, (a) through (e) of that issue  
11 come from things that we did not meet on this checklist item from  
12 the last order. So, that's why those specifics were under there.

13 I think, (f) is an issue that Sprint had. To me, it  
14 could be subsumed in 2, but I am not going to argue about it  
15 being a subissue under there.

16 (g), I think, that's something that Staff added. And  
17 maybe if you could just -- I notice that's added on every one.  
18 And maybe if you could just explain to me what you had in mind  
19 there.

20 MS. KEATING: Well, the reason we stuck this in here is  
21 just in case there isn't anything covered under the other  
22 discrete subsections. Normally, somebody could have lumped  
23 something else in under the general Item 2, but we're hoping, if  
24 possible, to get everything addressed within discrete  
25 subsections, so when we actually come to writing the

1 recommendation, we can stick everything in subsection. So, if  
2 there's anything that we haven't covered that somebody brings up  
3 along the way that's not one of those items, it would go into  
4 (d). That's the only reason.

5 COMMISSIONER DEASON: Let me ask this question. The  
6 way the issue is worded, it could be interpreted that it assumes  
7 that there are other associated requirements. We don't know for  
8 a fact that there's anything in addition to what is already  
9 listed in (a) through (f).

10 MS. KEATING: I think, we'd be amenable to changing it.

11 MS. WHITE: Yeah. I mean, maybe if you could say, "Are  
12 there other associated requirements for this item? If so, what  
13 are they and has BellSouth satisfied them?"

14 MS. KEATING: Or how about -- well, "Has BellSouth  
15 satisfied any other associated requirements, if any, for this  
16 item?"

17 MS. WHITE: Mm-hmm.

18 MS. RULE: Well, I don't have an objection to going in  
19 that direction. I would like to point out, though, that we  
20 probably, at this point, need to make a distinction between what  
21 are the requirements and are there specific areas that have been  
22 set out by this Commission or by the FCC as points to be met and,  
23 I guess, what I would classify more general requirement.

24 And I appreciate Staff's sensitivity to the fact that  
25 if you start enumerating a list of items that implies that that's

1 all there is, but this Commission and the FCC has never made a  
2 determination that that's all there is, these items, I believe,  
3 BellSouth picked up because they were points the Commission  
4 specified in the last go round.

5           So, I would hate to have a predetermination made that  
6 there are or are not other requirements, but as long as we have  
7 an opportunity to put that evidence in and the Commission will  
8 consider it, I guess, I don't really object to how it's phrased.  
9 I just want to be careful that we don't, at this point, assume  
10 that there are not such other requirements, just by virtue of  
11 fact that these are the ones the Commission found last time to be  
12 requirements.

13           MS. WHITE: Well, maybe to alay Ms. Rule's concern,  
14 BellSouth fully intends to answer the Issue number 2. You know,  
15 forget the subparts. We're going to answer that issue. Then, we  
16 see the subparts as additional items that we have to also talk  
17 about.

18           COMMISSIONER DEASON: Yeah. And, I think, Staff to  
19 some extent, for administrative ease, wishes to have another  
20 subcategory when they begin writing the recommendation that just  
21 fits neatly into a prearranged structure of issues. So, I'm not  
22 opposed to having Item (g). And I agree with Ms. Rule that we've  
23 not made a determination if there are any associated requirements  
24 in addition or if there are not. We don't know.

25           So, I would not want the issue to be worded such that

1 it gives the misrepresentation that there's been a decision, one  
2 way or the other, that there are or are not other associated  
3 requirements. So, if we can word that in a more neutral fashion.

4 MS. KEATING: We could drop the "all" and insert "if  
5 any."

6 COMMISSIONER DEASON: That will be fine with me.

7 MS. FOSHEE: The other thing I would propose is that  
8 subsection (f) may be the one that is causing us both concern,  
9 because that's a substantive topic that's not tied to the '97  
10 order, but brings up, you know, what could be one of the specific  
11 requirements of checklist item one.

12 So, I would propose that we delete subsection (f),  
13 because that's -- (f) starts to become in the family of things  
14 where you start -- you know, if you put one of them in, should  
15 you put all of them in, kind of thing. So, I would propose that  
16 we take (f) out.

17 COMMISSIONER DEASON: One moment, I'll give you an  
18 opportunity, Ms. Masterton. I'm trying to understand why you  
19 think it needs to be eliminated, because it's too specific or is  
20 it not relevant?

21 MS. FOSHEE: Oh, it's definitely relevant,  
22 Commissioner. I think, the issue is if you talk about  
23 collocation at the remote terminals, you arguably need a  
24 subsection talking about adjacent collocation, and you need a  
25 subsection talking about cageless collocation, and you need a



1 subsection talking about interconnection at any technically  
2 feasible point and all the other things that we need to show to  
3 prove to you that we've provided interconnection in accordance  
4 with checklist item one.

5           And, I think, they're all subsumed in Issue 2, the  
6 broad Issue 2. So, I'm afraid if we put subsection (f) down  
7 there, you're having this problem of do you put everything down  
8 or do you put nothing down and have them all subsumed in  
9 checklist Item 2? That's my concern.

10           COMMISSIONER DEASON: Yeah. Ms. Masterton.

11           MS. MASTERTON: This issue was suggested by Sprint. We  
12 think it's sort of a new wrinkle on collocation that's developed  
13 since the docket was originally reviewed in 1997. And we would  
14 like to see it as a specific issue, because it's really  
15 important, given the number of remote locations that BellSouth  
16 and other ILECs have in the state.

17           We don't mind doing what Nancy originally suggested --  
18 Ms. White -- and moving it under (a), as a subset of (a). That  
19 might be a way to go about it, because I do believe it is related  
20 to the general issue of collocation, but we would like to see it  
21 listed as a separate issue.

22           COMMISSIONER DEASON: Okay. Any other comments on  
23 Items 2(a) through (g)?

24           MS. KAUFMAN: Have we decided exactly how (g) is going  
25 to be worded now?

1 COMMISSIONER DEASON: We have a general  
2 understanding. Staff, do you have specific language at this  
3 point?

4 MS. KEATING: "Has BellSouth satisfied other associated  
5 requirements, if any, for this item?"

6 MS. KAUFMAN: Thank you.

7 COMMISSIONER DEASON: We'll be striking "all" and  
8 inserting "if any."

9 MS. KEATING: Yes, sir.

10 COMMISSIONER DEASON: Okay. Any other comments on  
11 Issue 2, including all subparts, thereof? Okay. Staff, you may  
12 continue.

13 MS. KEATING: Issue 3: Has BellSouth provided  
14 nondiscriminatory access to network elements with the exception  
15 of OSS, which will be handled in the third-party OSS test in,  
16 accordance with Section 271(c)(2)(B)(ii) and applicable rules  
17 promulgated by the FCC?

18 Subsection (a): Does BellSouth provide ALECs with  
19 mechanically-generated bills in the national standard CABS  
20 format?

21 (b): Does BellSouth make usage data for billing  
22 purposes available to ALECs?

23 Subsection (c): Does BellSouth offer Telric-based  
24 prices for: 1, network elements; 2, collocation; 3, line  
25 splitting; 4, line sharing; 5, other.

1           Subsection (d): Does BellSouth provide  
2 nondiscriminatory access to billing functions?

3           Subsection (e): Does BellSouth provide  
4 nondiscriminatory access to combinations of network elements?

5           And subsection (f) is: Has BellSouth satisfied all  
6 other associated requirements for this item?

7           And I'd suggest we reword that one as we did in the  
8 previous issue.

9           COMMISSIONER DEASON: Very well. Comments on Staff  
10 Issue 3 and all subparts?

11           MS. WHITE: On 3(c), the does BellSouth offer  
12 Telric-based rates of prices? BellSouth would object to that one  
13 to the extent it's going to include any elements that are already  
14 in the UNE cost docket. We don't want to have to reinvent the  
15 wheel here, so we would not object to a subissue like that for  
16 any or for those particular elements that are not contained in  
17 the generic UNE cost docket.

18           As far as (d) and (e) go, BellSouth believes --

19           COMMISSIONER DEASON: Excuse me. Before you leave  
20 that --

21           MS. WHITE: I'm sorry.

22           COMMISSIONER DEASON: Okay. Staff, has four items  
23 listed, plus a fifth, which is other. Which of those do you  
24 object to?

25           MS. WHITE: Well, but network elements, I mean, that's

1 listed as one item in the subissue, but there are hundreds of  
2 network elements. How many -- as far as I know, the vast  
3 majority of network elements have been dealt with in the UNE cost  
4 docket. Ms. Foshee, do you know how many? Almost all of them  
5 have. Collocation --

6 COMMISSIONER DEASON: Let me see if I understand. Are  
7 you saying this is -- I'm just trying to understand. This is  
8 relevant for 271, but you're saying that it's been basically  
9 decided in another docket?

10 MS. WHITE: Yes, it's been decided in the UNE cost  
11 docket. I mean, that's what the Commission just did last week is  
12 decide Telric-based prices for the majority of network elements,  
13 and there are some network elements that BellSouth offers that  
14 were not in that generic case.

15 So for those, I think, we're going to have to come in  
16 and show Telric-based prices in the 271 docket. But for those  
17 where we've already proven that, and the Commission's already  
18 adopted rates, then it seems, to me, ineffective to do it a  
19 second time.

20 COMMISSIONER DEASON: Okay. Okay, you may continue.

21 MS. WHITE: Collocation, was that -- I apologize. I  
22 think, there were some elements of collocation in the generic UNE  
23 docket and some that are not. Line splitting and line sharing --  
24 line splitting was not in the generic UNE cost docket, and I'm  
25 not sure about line sharing, I apologize.

1           So, I guess, all I'm saying is for those elements, for  
2 those whether it's network elements, whether it's collocation  
3 line splitting or line sharing that have already been dealt --  
4 that we've already dealt with just recently in the UNE cost  
5 docket, that shouldn't be redone in this docket.

6           COMMISSIONER DEASON: Okay. You may continue.

7           MS. WHITE: And then as far as (d) and (e) go,  
8 BellSouth believes that those two subissues are subsumed in the  
9 greater Issue 3. I guess, if somebody feels strongly enough  
10 about it to break them out, I don't know how much we would  
11 object, but that's all I have on Issue 3.

12           COMMISSIONER DEASON: Okay. Other comments on  
13 Issue 3? Mr. Melson?

14           MR. MELSON: Commissioner Deason, I think, Issue 3 is  
15 the one that is ultimately going to be the focus of most of the  
16 argument today, because Staff's version excludes all OSS topics.  
17 And, I think, there's an issue that Ms. Rule will address later  
18 regarding the extent to which there are some live OSS issues for  
19 this proceeding.

20           With respect to putting that piece of it aside,  
21 Worldcom would prefer to see subissue (c) remain in. It sounds  
22 as though BellSouth's answer to that will be, yes, BellSouth  
23 offers Telric-based prices for network elements. Those were set  
24 in the UNE cost docket. By the time Direct Testimony is filed,  
25 that order may not even yet be out. I anticipate there may be

1 motions for reconsideration and may be motions for  
2 reconsideration raising the question of whether the rates set,  
3 indeed, comply with Telric. We'd like to have an opportunity, in  
4 this docket, to state a position, if we get to that point, that  
5 specific rates are not Telric-based.

6 COMMISSIONER DEASON: Are you saying specific rates  
7 which were set in the other docket?

8 MR. MELSON: Yes, sir. You've got -- and at this  
9 point, Commissioner, Worldcom, I don't believe, made any decision  
10 on reconsideration in that docket. I would note that in that  
11 docket you are proposing or have voted to establish final rates,  
12 but also have voted to require submission of new cost data within  
13 120 days for the purpose of re-examining again. It is likely  
14 going to be our position that until that second exercise is  
15 completed, that the rates, as they exist, are not Telric-based.

16 And since Bell is required to offer Telric-based rates,  
17 we'd like the ability in this docket to potentially sponsor  
18 testimony that sets out our rationale in our belief. Recognize,  
19 we may be swimming upstream, but we believe it is a fair issue  
20 for the docket, because the FCC ultimately has to find that  
21 BellSouth is offering Telric-based rates.

22 COMMISSIONER DEASON: And isn't that the purpose of  
23 the other docket for purposes of the Florida jurisdiction?

24 MR. MELSON: That was the purpose of the other docket.  
25 And the other docket, frankly, will still be in a state of flux,

1 if I understand correctly the decision to have a further filing  
2 by BellSouth and further hearings, and we'd like the opportunity  
3 to point out here what the impact of that state of flux is.

4 I don't think we necessarily expect coming in and  
5 trying to prove up particular rates in this proceeding. I don't  
6 think this is going to be a rate-setting proceeding, but it is a  
7 proceeding which you have to consider whether there are rates in  
8 place that, indeed, meet the federal standard.

9 COMMISSIONER DEASON: But do you disagree that when  
10 it is all said and done that that docket will have established --  
11 whether you agree with the rate or not, at least it will be the  
12 position of this Commission, who is the one making the  
13 recommendation to the FCC, that we have gone through and we have  
14 established Telric rates for those items for which there need to  
15 be Telric-based rates?

16 MR. MELSON: Yes, sir. I think, that would be the  
17 Commission's position.

18 COMMISSIONER DEASON: That will be the ultimate  
19 decision. And it may take a little longer than we all would  
20 like. That's going to be the ultimate disposition. And whether  
21 that timing coincides with this docket before, during, or after,  
22 that remains to be seen. So, I guess, I'm having difficulty  
23 understanding why this needs to be an issue in this docket.

24 MR. MELSON: Commissioner, there was an issue -- and I  
25 think, there is a legal issue as to whether interim rates that

1 may or may not be Telric-based are sufficient for 271 compliance.  
2 While the Commission has called the rates it set in the UNE  
3 docket final rates by requiring further filings, by anticipating  
4 further hearings, I think, one could make a legal argument that  
5 those rates, in fact, are interim and some parties may believe  
6 they are not Telric-based, and we simply believe that we need the  
7 freedom in this docket to raise those questions.

8 MS. RULE: And Commissioner, if I may add to that, one  
9 thing that we look at as ALECs is the ability to build a record  
10 here for the FCC; keeping in mind that, you know, as Mr. Melson  
11 stated, we would anticipate that your decision would be that  
12 you've set Telric rates in the other docket.

13 COMMISSIONER DEASON: Let me interrupt you just a  
14 moment because, I guess, this is a fundamental question that I  
15 need to be enlightened upon. You said that our purpose here is  
16 to develop a record for the FCC.

17 MS. RULE: Part of our aim, as AT&T participating. The  
18 FCC will look to the Commission for its consultation, but when  
19 you look over all the numerous 271 orders that have been issued,  
20 one of the things the FCC does -- says repeatedly is it looks at  
21 the quality, the evaluation the Commission engaged in. And  
22 you'll note, particularly, in the older orders where they were  
23 not passing the BOC for 271 purposes, they sometimes took other  
24 Commissions to task for lack of rigorous examination.

25 And one thing we want to do, to some extent, and I'm



1 not saying that we particularly will be arguing that rates are or  
2 are not Telric-based, but we believe we have the right to make  
3 our case to the Commission knowing that the Commission will  
4 probably reject it on this particular point; and to the extent,  
5 you know, as Mr. Melson stated, there is a legal issue, we'd like  
6 to reserve that.

7 COMMISSIONER DEASON: Well, let me ask you this. Do  
8 you look at this process as the FCC being the reviewing body of  
9 our decision or are we just here to make a consultation and  
10 recommendation to the FCC?

11 MS. RULE: I think, it's twofold, because certainly the  
12 purpose -- the reason we are here and the purpose of this  
13 proceeding is for you to reach your decision and pass that on to  
14 the FCC. But at the same time, the facts and information that go  
15 into your decision are of interest to the FCC.

16 COMMISSIONER DEASON: Isn't the FCC free to have their  
17 own proceeding and take any evidence that they want?

18 MS. RULE: Absolutely. But at the same time, we also  
19 believe that if there is a legal argument to be made, we would  
20 like to make it to you for your own purposes, and you may well  
21 reject it.

22 COMMISSIONER DEASON: Now, you say legal argument,  
23 as opposed to a factual argument or one that we need to determine  
24 factually through evidence in the record?

25 MS. RULE: Well, I can't say to you that AT&T, at this

1 point, plans to put on a case against any particular rate or any  
2 rate at all that you may set in the other docket. So, you know,  
3 speaking from my point of view representing AT&T, I don't at this  
4 point plan to make that sort of argument. But if you look at  
5 what the decision is that you're making in this docket, that the  
6 rates are Telric, what you're going to be doing -- I guess, the  
7 mechanism of how you reach that conclusion is you look to the  
8 other docket and you say we've set those rates and we find in  
9 this docket, in our 271 docket, that they are sufficient for 271  
10 purposes. And, I think, that's the nexus, that's the point at  
11 which we'd like to come in and make arguments.

12 COMMISSIONER DEASON: Okay. Other comments on  
13 Issue 3?

14 MS. KAUFMAN: Commissioner, I'd like to comment on (d)  
15 and (e). The FCCA agrees with what Mr. Melson and Ms. Rule had  
16 to say on the pricing issue and, I guess, we're going to come  
17 back to the OSS question. But, I think, I heard Ms. White say  
18 that she doesn't have an objection to you, specifically, breaking  
19 out (d) and (e).

20 And we think it's important, as we did with the pricing  
21 issues, that those issues remain separate for clarity of the  
22 recommendation and the Commission's decision so that the items  
23 are appropriately and easily categorized when we're going through  
24 the process.

25 COMMISSIONER DEASON: Okay.

1 MS. RULE: And if this is the appropriate time, I'd  
2 like to address the issues that AT&T and FCCA, they are  
3 proposing. They are subissues (a), (b), and (c) that would come  
4 under this particular issue.

5 COMMISSIONER DEASON: Okay. Please proceed.

6 MS. RULE: There are three things or three subissues we  
7 would ask to be added. The first deals with performance  
8 measures, the second with commercial experience, and the third is  
9 OSS issues that are beyond the scope of the test, so I'd like to  
10 take them separately.

11 I realize that performance -- a very important  
12 performance measures docket is going on, as we speak, and is  
13 going to hearing this week. And ultimately -- and were the  
14 timing issue's a little bit different, we would anticipate that  
15 you would take the results of that performance measures docket  
16 the same way you intend to take the results of the UNE cost  
17 docket, review them or look to them, say that you've made a  
18 determination, a factual and legal determination, and that you  
19 are satisfied that they meet your criteria for 271 purposes.

20 But due to the timing of that case, that will probably  
21 not be able -- you won't be able to do it by the time your  
22 hearing rolls around in this case, and here's why: You may well  
23 have set standards in that docket, and you will go through the  
24 exercise of reviewing everybody's arguments to determine what the  
25 appropriate standards are and how BellSouth should meet them and

1 what the remedies should be, if they don't, but you won't have an  
2 opportunity to look and see whether BellSouth has actually met  
3 them.

4           So, you'll go through the policy exercise of setting  
5 the standards, but you won't have any evidence before you at the  
6 time to determine whether or not BellSouth can or has actually  
7 met them, so you'll go through one of the two parts of the  
8 exercise.

9           So, we do have some interim performance measures in the  
10 OSS test and, I think, that's a very valuable adjunct to the  
11 test. What's a little troublesome, for purposes of 271, is the  
12 Commission has never conducted a full review of those measures  
13 and has never made a policy determination that those are the  
14 appropriate ones necessary to track the experience consumers will  
15 receive in the Florida market.

16           And, as I said, they are valuable, we appreciate the  
17 Staff's help in putting those measures in, but we view them as  
18 interim. And short of the Commission's final review and factual  
19 and policy determination on the correct measures and then whether  
20 BellSouth's met them, we believe it's appropriate to bring  
21 information to you in this docket about what performance measures  
22 should be used to evaluate.

23           The alternative would be hold off on that part of the  
24 decision until you've reached the conclusion of the other docket.  
25 And it's probably going to be best to separate our subparts,

1 because I know Ms. White or Ms. Foshee will have some comments  
2 about that and Staff may well, too, but if you'd like me to  
3 proceed on issues (b) and (c), I can do that.

4 COMMISSIONER DEASON: Go ahead and proceed with (b)  
5 and (c).

6 MS. RULE: Okay. Commercial experience; this is  
7 somewhat related to but not the same as performance measures.  
8 Commercial experience should tell the Commission what's actually  
9 going to or what's actually happening in the marketplace, and it  
10 is distinct from testing. I want to preface all these comments  
11 by saying I do believe that the test being conducted under the  
12 supervision of this Commission and of Staff is the best  
13 third-party test going. And I do not mean to say that any of my  
14 comments here today are meant to reflect badly upon it.

15 The Staff has done a tremendous job, and they've been  
16 working hard on it. We appreciate that, but it is what it is.  
17 And one of the things it was not set up to do is tell you  
18 commercial experience. And commercial experience is the best  
19 predictor of the consumer's experience in the marketplace.

20 And I was trying to come up with an example of another  
21 situation that you might be familiar with where commercial  
22 experience adds to the information available. The best one I  
23 could come up with is the process of approving prescription  
24 drugs.

25 There's lots of testing that goes on, lots of medical

1 testing, lab testing, and even human testing. But sometimes,  
2 when you get to marketplace, the commercial experience of the  
3 approved and tested prescription drug, such that you need,  
4 perhaps, to change dosage, change recommendations or even pull  
5 the drug from the market, and those are things that don't always  
6 become apparent in the test environment.

7           So, we look on this as a real-world check where the  
8 ALECs could bring to you information, if it varied from the test  
9 environment, which it may or may not. So, this is something we  
10 think is not covered by the test, and this is something I've  
11 discussed with Sharon Norris. Sharon, if you would like to jump  
12 in here, feel free.

13           MS. NORRIS: No, I think, you've covered the issues as  
14 we understand them. Not all CLEC experiences are statistical in  
15 nature. Either there are other types of problems that I may have  
16 that the performance measures, while fairly comprehensive, don't  
17 get at, but could be an impediment to competition. And we, you  
18 know, will collect our own data we may want to present as  
19 findings to the Commission, because AT&T, for example, is  
20 frequently working with BellSouth where our own collective data  
21 does not match what they are reporting, and we try to work  
22 through those data integrity issues, some of which are still  
23 outstanding as of today.

24           So, it's that kind of, I think, sanity check that  
25 Marcia -- or Ms. Rule -- indicated that we feel like would be a

1 useful addition to the Commission.

2 MS. RULE: And I would like to add that BellSouth has  
3 repeatedly stated that the most probative evidence that OSS  
4 functions are operationally ready is actual commercial usage.  
5 And BellSouth said that most recently in North Carolina on April  
6 19th in urging the Commission there not to wait for a third-party  
7 test, because they say that the commercial experience is the most  
8 compelling evidence of an RBOC's compliance with the checklist  
9 item. So, if that, in BellSouth's opinion, is the most  
10 compelling evidence, that's something the Commission should  
11 consider in addition to the very important evidence to be offered  
12 by the third-party test.

13 And the third issue that we ask to be added is listed  
14 on the handout, what OSS issues should the Commission consider  
15 that are beyond the scope of the KPMG test? Has BellSouth met  
16 its obligation as to those issues? And we're not asking to  
17 second-guess the test. I think, it is a great test, it will  
18 provide valuable evidence, but it is set up to do certain things  
19 and there are other things that it does not do.

20 For example, BellSouth -- it only tests what BellSouth  
21 offers. And in your last 271 order, this Commission made a  
22 specific finding of the characteristics that an interface must  
23 exhibit in order to be compliant with the Act and to be  
24 nondiscriminatory, and the first one is the interface must be  
25 electronic.

1           So, if Bell -- we find ourselves in the situation here  
2 where the test can only test what BellSouth is offering. If  
3 BellSouth does not offer an electronic interface for a particular  
4 function, it's not being tested. But if we exclude every  
5 possible OSS issue from this case on the grounds that it's being  
6 tested, then we're in a catch 22 situation. BellSouth will not  
7 be meeting a specific finding that you made in the last 271 case.  
8 It's not being tested, and we aren't able to bring you evidence  
9 on it.

10           So, that would be one example of something that's  
11 outside the scope of the test and we would like to bring you  
12 evidence on. There are other types of issues, too. For example,  
13 in the test, KPMG is not making any evaluation of BellSouth's OSS  
14 for ordering and provisioning of line splitting. And that's  
15 because BellSouth, although it has an obligation to offer it, has  
16 not done so. So, it's not being offered, it can't be tested, and  
17 if we aren't able to bring you information on this topic, it  
18 takes it off the table entirely, and I don't think that was the  
19 Commission's intent when it ordered the third-party test.

20           There's another type of category of information we'd  
21 like to bring you. KPMG will be testing manual ordering  
22 processes, but it does not make any determination of whether a  
23 specific order should be able to be sent electronically. That's  
24 a policy decision that's within your purview, and it's not  
25 something that can be tested by somebody else. That's an issue



1 upon which the Commission should receive evidence, make a policy  
2 determination, and we'll go forward from there. In those areas  
3 where the Commission has already made a policy determination, you  
4 can test whether or not BellSouth is complying with it, but if  
5 you haven't crossed that initial threshold, it just can't be  
6 included in the test.

7           Okay, another example, KPMG will be testing both CLEC  
8 and BellSouth flow-through, but it's not clear what will happen  
9 when they find differences between the retail and CLEC  
10 flow-through. It's not clear that they have to be satisfied. It  
11 may be that we're in a position of wanting to bring you evidence  
12 on that. We'd like to be able to present evidence as to the  
13 level of nondiscriminatory performance, if that arises.

14           Another very important issue that the Commission has  
15 not dealt with on a policy basis is change control. What KPMG is  
16 doing with the test is completeness and consistency reviews, but  
17 they're not in a position to make a determination whether it's  
18 adequate for 271. If you look at the FCC's 271 orders, they do  
19 look to the Commission to make that sort of determination,  
20 typically, in an interconnection agreement.

21           So, we would like to bring you evidence as to whether  
22 or not the change-controlled process is adequate. The KPMG test  
23 will tell you whether or not BellSouth is following the process,  
24 but it doesn't tell you whether the process itself meets the  
25 needs of Florida ALECs or Florida consumers.

1           And on the issue of change control, ALECs have made a  
2 number of requests to BellSouth to either improve or fix its OSS.  
3 Some of those are still pending and have not been dealt with over  
4 the past couple of years. And we would like to be able to bring  
5 you evidence about which of those we believe are threshold  
6 requirements for 271. And the KPMG consistency review won't  
7 touch those issues, but we do think they're important for your  
8 decisionmaking.

9           And I've got a list. I can keep on going, but that is  
10 the sort of information that we would like to bring you. We  
11 understand and recognize that the third-party test will be  
12 bringing you information on what's within its purview, but on  
13 things that are outside the scope but still important to your 271  
14 decision, we propose subissue (c). I can go on through more on  
15 the list, if you'd like.

16           COMMISSIONER DEASON: Please, do not.

17           MS. RULE: I was hoping you would say that.

18           COMMISSIONER DEASON: Ms. White?

19           MS. WHITE: I'll let Ms. Foshee deal with this.

20           MS. FOSHEE: Thank you, Commissioner, just a couple  
21 points in response. First of all, I would like to state that  
22 BellSouth supports what we assume to be the Staff's position from  
23 its issues list and that being, first of all, that performance  
24 measurements and performance data will be handled in the context  
25 of the third-party test.

1           We think that that is an appropriate place for these  
2 things to be handled. There are a set of performance  
3 measurements that were developed by this Commission in the  
4 context of that test. And despite Ms. Rule's comment that  
5 there's been no policy decision made that those measures were  
6 appropriate, this Commission stated in its November 16th, 2000,  
7 order that these measures provide the quantitative yardstick by  
8 which the existence of nondiscrimination or parity can be  
9 detected. So, I think that the Commission has determined that  
10 those are an appropriate set of measures and that the third-party  
11 test is the appropriate place to handle those.

12           There are certain pieces of additional data that we  
13 believe the Commission needs to have at its disposal to render a  
14 decision on 271, specifically, some data on loop makeup  
15 timeliness, some xDSL data, and we would like to approach the  
16 Staff about adding some measures to the third-party test so that  
17 we can provide that data so the Commission will have it to render  
18 as completed as possible 271 decision.

19           But with respect to the measures, we think that the  
20 third-party test is the appropriate place to handle those. That  
21 also is the appropriate place to handle the commercial experience  
22 or the commercial data that Ms. Rule referred to. We do believe  
23 that that is the most probative evidence of our compliance with  
24 the 271 checklist, and we believe the FCC has said clearly that  
25 commercial issue is the most probative evidence, so we definitely

1 want to present that to this Commission. We believe that the  
2 performance data that we will file with the Commission will do  
3 that, and so that can also be handled in the context of the  
4 third-party test, as I understand the Staff would like to do.

5           With respect to the OSS issue, I think, the  
6 Commission's order speaks for itself, and it's very clear. It  
7 says that if BellSouth's OSS systems pass the third-party test in  
8 Florida, then BellSouth shall be considered to have remedied the  
9 OSS concerns that we identified in order number PSC 971459-FOF-TL  
10 for purposes of our recommendation to the FCC on any future  
11 application by BellSouth for interLATA authority in Florida.

12           The third-party test was embarked upon by the  
13 Commission and by BellSouth to alleviate any concerns that this  
14 Commission had about our provision of nondiscriminatory access to  
15 OSS. We have participated fully in that test, the Staff has done  
16 an enormous amount of work on that test, and we think that it is  
17 fully comprehensive and will address and provide the Commission  
18 with any information that it needs to assess our compliance with  
19 checklist Item 2.

20           As Ms. Rule's comments evidence, what the ALECs want  
21 and as the Commissioner noted in our last get together, it was a  
22 constantly changing bar. They want -- you know, now they're  
23 saying that line splitting isn't in the test, that the test isn't  
24 good enough. We are in a constantly changing environment. And,  
25 you know, those things -- at some point you have to say enough is

1 enough, and we believe the time is now to do that.

2           The other important point is in Staff's proposal what  
3 they had talked about was having a comment period after the  
4 third-party test. We think the comment period will provide ample  
5 opportunity for any party to raise questions, present information  
6 having to do with the third-party test. And we can keep that  
7 separate from the 271 hearing.

8           So, I think, our position, if we understand the Staff's  
9 proposal, we agree with, and that is to have both performance  
10 measurements, performance data in the third-party test  
11 proceeding, as well as all of the issues dealing with BellSouth's  
12 provision of nondiscriminatory access to OSS.

13           Thank you.

14           COMMISSIONER DEASON: Thank you. Staff?

15           MS. KEATING: Well, the best I can say is, essentially,  
16 what BellSouth has stated our position is, is essentially  
17 correct. We agree that (a) and (c) are fully addressed in the  
18 third-party testing. As far as the interim performance measures,  
19 the Commission accepted those for purposes of the test. It was  
20 issued as a PAA. Parties had an opportunity to protest. No one  
21 did.

22           To do what the ALECs are suggesting would, essentially,  
23 require re-running the test using final performance measures. As  
24 far as commercial data, that is being accepted in the test. It's  
25 something that was always contemplated by the Commission to be

1 accepted within the context of the OSS testing proceeding. It is  
2 not something that's being tested, per se, but it will be  
3 addressed in the report that's provided by KPMG.

4           And just to go back to the way the test was set up, I  
5 mean, Staff worked from the Commission's original 271 order in  
6 setting up the test in the first place. So, you know, we tried  
7 to address all of the Commission's concerns in setting up that  
8 test. And, you know, to change course, essentially, at this  
9 point, would just prolong the OSS testing, and we think it  
10 thoroughly covers (a) through (c) of the issues the FCC has  
11 proposed.

12           There are a couple of other points that I disagree with  
13 what Ms. Rule suggested. I don't know whether they're really  
14 necessary to be addressed with regard to the issues, but as far  
15 as electronic interfaces, she said the Commission required  
16 electronic interfaces, but the Commission went on to say that the  
17 interface must require no more human or manual intervention that  
18 is necessarily involved for BellSouth to perform a similar  
19 transaction for itself.

20           So, if BellSouth doesn't perform the transaction for  
21 itself electronically, then KPMG has not tested it, because it is  
22 not required to be provided electronically.

23           MS. RULE: I need to disagree with that. KPMG is  
24 testing it if it's provided for ALECs electronically. If it's  
25 not provided for ALECs electronically, it's not being tested.

1 MS. KEATING: Suffice it to say, we disagree with the  
2 ALECs' interpretation of why these need to be issues in the 271  
3 proceeding.

4 COMMISSIONER DEASON: Okay. All right. Let's move  
5 along to the next issue, Issue 4. I'm sorry, was there something  
6 else on 3?

7 MS. KEATING: I think, Ms. Simmons might want to add --

8 MS. SIMMONS: Commissioner Deason, I was just going to  
9 mention that in terms of the KPMG third-party test, they are  
10 looking at the comparability of retail and wholesale processes,  
11 and I think that's important, because not all ordering is done  
12 electronically.

13 COMMISSIONER DEASON: Okay, thank you.  
14 Issue 4.

15 MS. KEATING: Issue 4: Has BellSouth provided  
16 nondiscriminatory access to the poles, ducts, and conduits, and  
17 rights-of-way owned or controlled by BellSouth at just and  
18 reasonable rates in accordance with the requirements of Section  
19 224 of the Communications Act of 1934, as amended by the  
20 Telecommunications Act of 1996, pursuant to Section  
21 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?

22 COMMISSIONER DEASON: Before I hear comments from  
23 parties, let me ask, again, a threshold question. As I recall,  
24 this issue was addressed in the previous 271 case and that the  
25 Commission made an affirmative decision that BellSouth was

1 providing nondiscriminatory access to poles, ducts, conduits. So  
2 the question is, is it necessary for this to be an issue in this  
3 proceeding? I'll let the parties address that as they make their  
4 comments.

5 MS. WHITE: Yes, for a couple of reasons. Yes, because  
6 the state commission has an obligation, in this case, to  
7 determine whether BellSouth has met the 14-point checklist or  
8 not. This is one of the checklist items.

9 Second, I think, it's important that you know that not  
10 only did we meet this checklist item the last time, we still meet  
11 it today. Nothing's happened to change that compliance, and  
12 here's the latest information on that.

13 And three, your order in the last 271 case that said  
14 next time you file, file everything you're going to rely on to  
15 make your case at the FCC. This is part of that. So, for those  
16 three reasons, I believe, we have to have it as an issue.

17 COMMISSIONER DEASON: Okay. Other comments?

18 MS. KAUFMAN: I was just going to agree with Ms. White.

19 MS. WHITE: Ooh.

20 MS. KAUFMAN: Write that down.

21 MS. WHITE: Wait a minute.

22 COMMISSIONER DEASON: Okay. Let me get out my  
23 highlighter here. Ms. White, I would assume then that other  
24 issues, for example, Issue 5, your response would be the same.

25 MS. WHITE: Yes.



1 COMMISSIONER DEASON: Whenever there were items that  
2 we previously addressed, you believe that they need to be  
3 retained as issues?

4 MS. WHITE: Yes. I might have a problem with one of  
5 the subissues, but the basic issue, yes, I think, we do.

6 COMMISSIONER DEASON: Okay.

7 MS. WHITE: For those same reasons.

8 COMMISSIONER DEASON: All right. Staff, Issue 5.

9 MS. KEATING: Issue 5 is: Has BellSouth unbundled the  
10 local loop transmission between the central office and the  
11 customer's premises from local switching or other services,  
12 pursuant to Section 271(c)(2)(B)(iv) and applicable rules  
13 promulgated by the FCC?

14 Subsection (a): Has BellSouth complied with its  
15 obligation to provide xDSL-capable loops in accordance with FCC  
16 requirements in the following FCC orders --

17 COMMISSIONER DEASON: I don't think you need to read  
18 all of those orders. And let's talk a little bit slower for the  
19 court reporter when we're reading this stuff, okay?

20 MS. KEATING: And subsection (b): Has BellSouth  
21 satisfied all other associated requirements for this item? And  
22 again, I'd suggest rewording it.

23 COMMISSIONER DEASON: Very well. Ms. White?

24 MS. WHITE: Yes. In accordance with the comment you  
25 just made, I would have a suggestion for (a). I hate to list all

1 of these orders, because by the time this goes to hearing there  
2 might be additional orders, and I don't want to be limited to  
3 these, so I would ask that if (a) is going to be left in, it be  
4 changed to read, "Has BellSouth complied with its obligation to  
5 provide xDSL-capable loops in accordance with applicable FCC  
6 rules and orders?"

7 COMMISSIONER DEASON: Okay. With that change, do you  
8 agree that subpart (a) needs to be included?

9 MS. WHITE: I think, it's subsumed under the bigger  
10 Issue 5, but I don't feel that strongly about it if the parties  
11 feel like it must be a subissue.

12 COMMISSIONER DEASON: Okay, other comments on  
13 Issue 5?

14 MS. WHITE: I assume, (b) would also be changed as  
15 we've done before.

16 COMMISSIONER DEASON: Yes, that's correct. Issue 6.

17 MS. KAUFMAN: Commissioner Deason, I just wanted to  
18 comment on Issue 5 that we would much prefer to have that  
19 subissue remain. We don't have a problem with rewording it the  
20 way Ms. White has suggested, because she's right, things could  
21 change and additional orders could come out. So, we would accept  
22 her change, but we'd like to keep it as a separate subissue.

23 COMMISSIONER DEASON: Very well. Issue 6.

24 MS. KEATING: Has BellSouth unbundled the local  
25 transport on the trunk side of a wireline local exchange carrier

1 switch from switching or other services, pursuant to Section  
2 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?

3 Subsection (a): Does BellSouth bill for  
4 usage-sensitive UNEs?

5 Subsection (b): Has BellSouth satisfied all other  
6 associated requirements for this item? And again, I'd suggest  
7 rewording that, like the others.

8 COMMISSIONER DEASON: Any comments? Hearing none,  
9 we'll move along then to Issue 7.

10 MS. KEATING: Issue 7: Has BellSouth provided  
11 unbundled local switching from transport local loop transmission  
12 or other services, pursuant to Section 271(c)(2)(B)(vi) and  
13 applicable rules promulgated by the FCC?

14 Subsection (a): Does BellSouth bill for unbundled  
15 local switching on a usage-sensitive basis?

16 Subsection (b): Does BellSouth provide unbundled local  
17 switching on both the line side and the trunk side of the switch?

18 And subsection (c): Has BellSouth satisfied all other  
19 associated requirements for this item? And again, reword.

20 COMMISSIONER DEASON: Okay. Any comments on  
21 Issue 7? Hearing none, Issue 8.

22 MS. KEATING: Issue 8: Has BellSouth provided  
23 nondiscriminatory access to the following, pursuant to Section  
24 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC?

25 Subsection 1: 911 and E911 services.

1           Subsection 2: Directory assistance services to allow  
2 the other telecommunications carrier's customers to obtain  
3 telephone numbers.

4           And subsection 3: Operator call completion services.

5           Sub (a) under that: Does BellSouth provide ALECs  
6 access to all information contained in BellSouth's listing  
7 database?

8           Sub (b): Does BellSouth provide selective routing in  
9 Florida?

10          And sub (c): Has BellSouth satisfied all other  
11 associated requirements for this item?

12          COMMISSIONER DEASON: Okay. Comments on Issue 8?

13          MS. NORRIS: Mr. Deason, this is Sharon Norris at AT&T.  
14 Not on this specific item. I just want to advise the Commission  
15 that we have now received a copy of this, and if we're the only  
16 folks on the phone, and to the extent you're reading it solely  
17 for our benefit, we'll relieve you of that burden, but otherwise,  
18 I just wanted you to have the option.

19          COMMISSIONER DEASON: All right. Thank you for  
20 informing us. That may speed things along a little bit.

21          MS. WHITE: I have one addition related to 8(a). This  
22 is actually our issue, but I think we need to add: "BellSouth's  
23 directory listing database," so it's specific exactly what  
24 database we're talking about.

25          COMMISSIONER DEASON: Okay. Any other comments on

1 8? Issue 9, and we do not have to read it.

2 MS. KEATING: Thank you.

3 COMMISSIONER DEASON: Comments on Issue 9?

4 Issue 10. Issue 11. Issue 12. Issue 13. Issue 14.

5 Issue 15.

6 MS. WHITE: We have a comment on 15(c). First of all,

7 I believe, this issue is subsumed in the broader issue of 15. If

8 -- I think, it was Florida Digital Network, I'm not sure -- if

9 they insist that it be a subissue, I would ask that the wording

10 be changed, because I don't think it's neutral wording.

11 COMMISSIONER DEASON: Okay. Do you have suggested

12 wording?

13 MS. WHITE: Maybe the same one as the other one: "Has

14 BellSouth complied with its obligation to provide xDSL service

15 or..." -- I'm not quite sure. I'd have to work on that for a

16 minute, I'm sorry.

17 MR. FEIL: Commissioner, if it helps Ms. White, I

18 don't -- Florida Digital raised this issue. I don't know that

19 it's necessary that it be segregated out this way, as long as I

20 can make the argument that I want to make. I can't say that it's

21 not subsumed within the broader 15. I just want to make sure

22 that it's addressed.

23 COMMISSIONER DEASON: Okay. Ms. White, Mr. Feil is

24 indicating that it does not have to be a subissue as long as it's

25 understood that he is able to raise a question of the provision

1 of DSL-related services within the broader Issue 15.

2 MS. WHITE: That's absolutely acceptable to BellSouth.

3 MR. FEIL: Thank you.

4 MS. WHITE: I would ask that it be taken out.

5 COMMISSIONER DEASON: Okay. Any other comments  
6 on 15?

7 MS. KAUFMAN: Commissioner Deason, I think that  
8 Issue 15 is sort of the resale counterpart of the issue we talked  
9 about earlier. And, I believe, the same arguments that Ms. Rule  
10 and others made in regard to the three suggested issues on the  
11 FCCA-AT&T list are equally applicable, but the wording is  
12 different, because it's resale. So, I'm sure you don't want to  
13 hear all that again, but just so it doesn't get lost.

14 COMMISSIONER DEASON: Subparts (a), (b), and (c).

15 MS. KAUFMAN: As reworded to fit the resale.

16 COMMISSIONER DEASON: Okay. I understand.

17 MS. WHITE: BellSouth's comments would also remain the  
18 same, just in case anybody had a question about that.

19 COMMISSIONER DEASON: Okay.

20 MS. NORRIS: This is Sharon Norris. I'll just bring up  
21 one thing for the Staff's consideration, not again making any  
22 arguments that Ms. Rule made, but sort of the opposite track. It  
23 looks to me, though, (a) and (b) would be covered by the test.  
24 And if -- depending on which way the Commission rules, if the  
25 policy decision is the same on OSS testing, they may not need to

1 include those explicitly, because they would already consider  
2 them. I don't know, my understanding is that the test does look  
3 at access to billing functions and makes sure that BellSouth  
4 renders accurate bills so, BellSouth, you may have an opinion on  
5 that.

6 COMMISSIONER DEASON: Ms. White, do you agree with  
7 that?

8 MS. WHITE: I'm not sure I understand. Am I hearing  
9 Ms. Norris to retract Ms. Rule's argument on --

10 MS. NORRIS: No, I was just suggesting that whichever  
11 way the Commission decided to rule on that, they may, just for  
12 consistency purposes -- I mean, we know our preference is a very  
13 strong preference that we be able to bring evidence to this  
14 Commission we think is relevant, but should they rule that  
15 anything outside the OSS test is not relevant, then I was just  
16 remarking that those two items are covered by the test as well.

17 COMMISSIONER DEASON: You're indicating that items (a)  
18 and (b) under 15, that those items are presently covered by the  
19 OSS test?

20 MS. NORRIS: That is my understanding. And would offer  
21 that to the Staff for their consideration. They may have an  
22 immediate reaction or they may want to consider that in their  
23 final determination.

24 COMMISSIONER DEASON: Okay.

25 MS. WHITE: Well, then, you'd you have go back to Issue

1 3(d) and (e), because those two issues are in that one as well.

2 MS. NORRIS: Absolutely. And our preference is that  
3 they all be left in, including the issues that we're suggesting.  
4 I just, again, was remarking on the consistency of the policy  
5 decision.

6 COMMISSIONER DEASON: Okay, thank you.

7 Issue 16, any comments? Issue 17. And Issue 18.  
8 Okay. We have made it through Staff's recommended Issue List.  
9 I'm going to give one last opportunity for the parties to address  
10 matters which they may have failed to address earlier concerning  
11 any of these issues.

12 MR. FEIL: Commissioner?

13 COMMISSIONER DEASON: Yes.

14 MR. FEIL: Florida Digital did raise one issue in its  
15 Issue ID list, it was issue number one, in Florida Digital's  
16 Issue ID list, and that is, "Is it consistent with the public  
17 interest convenience and necessity for BellSouth to receive the  
18 authorization requested?" It's not been included in Staff's  
19 recommended list. The reason I included it is because, I think,  
20 it's appropriate for Commission consideration.

21 The Texas Commission considered it. The New York  
22 Commission, as I understand it, considered it. From the Texas  
23 Commission evaluation, I wanted to read this: "The Texas  
24 Commission has used the public interest requirement to review  
25 whether other relevant factors exist that would frustrate the



1 intent of Congress that markets be open. The Texas Commission  
2 further sought assurance, not in the form of paper promises, but  
3 in the form of proven track record, that SWBT had in place the  
4 mechanisms that would ensure that the local market remain open  
5 after SWBT's long-distance entry."

6 So, my point is that at some point the Commission  
7 should consider -- I think, it's appropriate for the Florida  
8 Commission to consider it in this context in this proceeding.

9 COMMISSIONER DEASON: Well, Mr. Feil, we've reviewed  
10 all of these issues. Most of them are prefaced in the context of  
11 making a reference in a specific provision within the  
12 Telecommunications Act. Where, within the Telecommunications  
13 Act, is there a reference to the public interest convenience, and  
14 necessity, which would be the predicate for this issue?

15 MR. FEIL: It's not a checklist item, Commissioner. I  
16 cannot argue it is a checklist item, but it is in 271,  
17 specifically, 271(d)(3)(C).

18 COMMISSIONER DEASON: Staff, do you have that  
19 reference?

20 MR. FEIL: I'll try to read it.

21 COMMISSIONER DEASON: Slowly.

22 MR. FEIL: And it pertains to the determination of the  
23 FCC. "Not later than 90 days after receiving --"

24 COMMISSIONER DEASON: Slowly, slowly.

25 MR. FEIL: Okay. "Not later than 90 days after

1 receiving an application under paragraph one, the Commission  
2 shall issue a written determination approving or denying the  
3 authorization requested in the application for each state. The  
4 Commission shall not approve the authorization requested in an  
5 application submitted under paragraph one, unless it finds --"  
6 and there's a laundry list item of "(a), (b), and (c) is the  
7 requested authorization is consistent with the public interest  
8 convenience and necessity."

9 COMMISSIONER DEASON: This is a requirement for the  
10 FCC, not the state commission, correct?

11 MR. FEIL: It's not a checklist item, correct.

12 COMMISSIONER DEASON: Okay.

13 MS. KAUFMAN: Commissioner, FCCA and AT&T raised the  
14 related item, and we raised it under that public interest  
15 standard as well, so I don't know if you might want to hear about  
16 that at the same time.

17 COMMISSIONER DEASON: Please, proceed.

18 MS. KAUFMAN: The issue that we raised had to do with  
19 whether -- it's number four on our list, our original list, and  
20 it's "Has BellSouth complied with its obligations under Chapter  
21 364 Florida statutes to offer network elements?"

22 And we would be happy to accept Mr. Feil's issue either  
23 way, but it goes to the same argument that he was making. And, I  
24 think, that the FCC is very interested, obviously, in this  
25 Commission's view about the checklist items, as well as whether

1 the Commission believes it delves in compliance with state law.

2 And sort of the ultimate question with this is --

3 COMMISSIONER DEASON: Hold it. You're saying that the  
4 FCC is interested in whether the application complies with the  
5 state law?

6 MS. KAUFMAN: Not with whether the application complies  
7 with state law, but whether BellSouth, in its activities in the  
8 state, is in compliance with state law. No, I don't think that  
9 the ap-- the application is a federal process, and the  
10 requirements are set forth in the sections we've been looking at  
11 this afternoon. But, I think, under the public interest  
12 determination, they would be interested to have this Commission's  
13 opinion as to whether BellSouth is in compliance with state law  
14 and whether or not this Commission believes the public interest  
15 standard has been met.

16 COMMISSIONER DEASON: Is it your position that this  
17 company, regulated by this Commission, is not in compliance with  
18 the state law that this Commission is here to enforce?

19 MS. KAUFMAN: We phrased our issue in terms of its  
20 offering of network elements. And, I think, we have expressed  
21 concern over and over again in proceedings that there are areas  
22 that are problematic in that regard.

23 No, I'm not suggesting, you know, as a general matter,  
24 they are not in compliance with state law. That's why we phrased  
25 our issue more narrowly than, I think, Mr. Feil did, but as I

1 said, we could address our issue under his.

2 COMMISSIONER DEASON: Okay. Staff? Oh, I'm sorry,  
3 Ms. White.

4 MS. WHITE: You know you weren't going to get away  
5 without me talking. Bottom line is that the Act --

6 COURT REPORTER: Microphone.

7 MS. WHITE: I'm sorry. This is a 271 case. Section  
8 271 of the Act, specifically, delineates the responsibilities of  
9 the FCC and the state commission. You previously looked at one  
10 of the responsibilities of the FCC, which is to determine whether  
11 interLATA authority is consistent with the public interest.

12 Section 271(d)(2)(B), which is a few paragraphs above that, it's  
13 labeled, "Consultation with state commissions, specifically, sets  
14 forth what the state commission's obligations are and that is to  
15 verify the compliance of the bell operating company with the  
16 requirements of subsection (c)."

17 Subsection (c) is the 14-point checklist, as well as  
18 whether Track A or Track B applies. I don't believe the public  
19 interest argument or issue is appropriate here, because that's a  
20 matter for the FCC. I also would note that in the last 271 case,  
21 Commissioner Johnson, then acting as prehearing officer, decided  
22 that it was not an appropriate issue under the Act for the 271  
23 state case. I forgot what I was -- I guess, that was it. Thank  
24 you.

25 Oh, I'm sorry, I did have one more thing, Chapter 364.

1 If I don't write these things down, I'm losing my mind. I kind  
2 of find it really interesting to bring Chapter 364 Florida  
3 statutes into this, because I don't know of anybody who has filed  
4 a complaint or an arbitration under state law for network  
5 elements since the Telecommunications Act, federal Act, was  
6 passed.

7 I don't believe I've heard anybody complain that  
8 they're not getting UNE dockets under -- I mean, UNE, Unbundled  
9 Network Elements, under state law. I don't believe that anybody  
10 said we're pursuing arbitration under state law. So, I don't  
11 think that state law has anything do with the 271 case. The 271  
12 case is, specifically, set forth in the Act with the  
13 requirements, and Chapter 364 doesn't have anything to do with  
14 it.

15 Thank you.

16 MR. MELSON: Commissioner Deason, I would refresh  
17 Ms. White's recollection that in the Worldcom arbitration case,  
18 we did rely on Chapter 364, in addition to federal law and, in  
19 fact, have a pending motion for reconsideration that indicates  
20 that the Commission has independent state law authority that it  
21 should exercise in some areas. I'm not sure it goes to this  
22 particular argument, but I just didn't want that to go  
23 uncorrected.

24 COMMISSIONER DEASON: Okay, thank you.

25 MS. RULE: And that was the specific subject of

1 testimony in the AT&T arbitration as well is the Commission's  
2 authority to order network combinations under Section 364.

3 MS. WHITE: I'll also let you know that I should have  
4 shut up while I was ahead. I apologize, both to Ms. Rule and  
5 Mr. Melson. Obviously, I forget all the fun we have.

6 COMMISSIONER DEASON: Staff?

7 MS. KEATING: Well, as far as the state law issue, we  
8 can't find anywhere under 271 where that's something that we're  
9 supposed to look at, so Staff doesn't believe that that's  
10 something that needs to be addressed.

11 As far as the public interest standard, we also think  
12 that this is something that -- I mean, essentially, that's why  
13 you have the checklist. If they meet that, then it seems to us  
14 that they're presumed to -- or at least, to some extent, to have  
15 been within the public interest. And we don't think it needs to  
16 be a discrete issue. And from our reading of 271, it looks like  
17 that's something that the FCC is making a determination on. It's  
18 not really for the state commission to take a look at, so that's  
19 why we didn't include it.

20 MR. FEIL: Commissioner, if I may?

21 COMMISSIONER DEASON: Yes.

22 MR. FEIL: Again, I did not say it was a checklist  
23 item. I wasn't representing that it was, but at some point and  
24 time this Commission's going have to consider whether or not it's  
25 in the public interest for BellSouth to be in the interLATA

1 market. And with regard to what Ms. Keating said, the Texas  
2 Commission said the following: "The Texas Commission --"

3 COMMISSIONER DEASON: Let me interrupt a second,  
4 Mr. Feil. You seem to be indicating that this Commission has  
5 broader authority or that we can interpret that we have broader  
6 authority than what's clearly delineated within the  
7 Telecommunications Act. That's a novel idea, maybe one I would  
8 subscribe to, I'm not sure.

9 What about under your interpretation, would this  
10 Commission, Florida Commission, have the latitude to say  
11 something to the effect: Well, this application doesn't meet all  
12 14 checklist items, it meets 13 of the 14. And because we have  
13 this broad discretion under Chapter 364 to determine what's in  
14 the public interest, we think in the public interest it's better  
15 go ahead and have Bell enter this competition so that our  
16 customers can benefit from that competition. So, therefore,  
17 under that broader interpretation, we're giving you a  
18 recommendation to approve the 271 application.

19 MR. FEIL: Well, Commissioner, I'm not here to suggest  
20 to you what decision you should make, but what I --

21 COMMISSIONER DEASON: No, see, I'm trying to work it  
22 both ways. You seem to be indicating it's a limiting factor,  
23 that it's one more test that Bell has got to meet in addition to  
24 a 14-point checklist. And I'm asking you is the contrary true  
25 that if we do have this amount of discretion, do we also have the

1 ability to exercise it in the opposite direction and consider  
2 ourselves not bound only to 14-point checklist items, but look at  
3 the broader picture and pretty much put ourselves in the place of  
4 the FCC and say that there are broader public interest  
5 determinations which we feel would indicate that this application  
6 should be approved?

7 MR. FEIL: Well, I would suggest that what's sauce for  
8 the goose is sauce for the gander. Now, if the FCC accepted or  
9 rejected that evaluation of the Commission, that's for the FCC to  
10 decide. But I would suggest that if it's fair to me, it's fair  
11 to them.

12 COMMISSIONER DEASON: Okay. All right.

13 MR. FEIL: One other thing, I'm sorry, Commissioner.

14 COMMISSIONER DEASON: I apologize. I interrupted.

15 MR. FEIL: The Texas Commission, in their evaluation,  
16 said: "The Texas Commission verified that SWBT has met the  
17 competitive checklist. Compliance with the competitive checklist  
18 is by itself a strong indicator that SWBT's long-distance  
19 interest would be consistent with the public interest, but the  
20 Texas Commission has used the public interest requirement to  
21 review whether other relevant factors exist that would frustrate  
22 the intent of Congress that markets be open." And I read the  
23 rest of that before, but the point is the Texas Commission says  
24 okay, the competitive checklist is an indicator of whether or not  
25 the public interest is served, but that's not all there is.



1 COMMISSIONER DEASON: Okay. Any other concluding  
2 thoughts, comments on any issue?

3 MS. RULE: AT&T has another issue, and it fits into the  
4 category of those things that would be appropriate for the  
5 Commission to consider, although not required by the checklist.  
6 And that was number 22 on the FCCA-AT&T list: Has BellSouth  
7 complied with the separate affiliate requirements of Section 272?"

8 And again, this is not a checklist item, but BellSouth  
9 is required under Section 272 of the Act to maintain a separate  
10 affiliate. The Section 272 sets forth certain safeguards and  
11 requires a biennial audit and that the audit results would be  
12 submitted to the FCC as well as to state commissions.

13 So, it appears that Section 272 does give state  
14 commissions a role. I think this is an appropriate area of  
15 inquiry when you're looking at BellSouth's entry into the  
16 long-distance market as satisfying yourself that they have met  
17 Section 272 requirements. Although, again, I must say this is  
18 not a checklist item, it is appropriate as an area for Commission  
19 inquiry.

20 COMMISSIONER DEASON: Let me ask you a fundamental  
21 question and, I guess, it may be one of timing. Are the  
22 requirements of Section 272 activated if BellSouth is given 271  
23 authority and only if they were given 271 authority?

24 MS. RULE: Yes, because it's for competitive  
25 activities.

1           COMMISSIONER DEASON: So, I'm just trying to  
2 understand. You're indicating that we need to consider they are  
3 meeting a requirement that would be activated by them getting 271  
4 authority before they are granted 271 authority?

5           MS. RULE: Well, I think, it would be similar to the  
6 issue that you looked at last time, how does BellSouth plan to  
7 offer dialing parity? You were looking ahead to see what was  
8 going to happen and here, you could rephrase the issue to say  
9 does BellSouth plan to meet it? But I think, this is information  
10 that's informative to the Commission appropriate to inquire to,  
11 although certainly not a prerequisite to this Commission's  
12 consideration of a 271 application.

13           COMMISSIONER DEASON: And let me ask another  
14 question. Here, again, realizing that our role as a state  
15 commission is just to make a recommendation to the FCC, given  
16 that role, isn't it the FCC's, then, responsibility if they make  
17 a determination that there should be 271 relief, then, to start  
18 asking the question as to how BellSouth is to comply with Section  
19 272?

20           MS. RULE: Certainly, the FCC would be the appropriate  
21 enforcement authority, not this Commission. But it relates to  
22 the public interest inquiry that Mr. Feil pointed out has been  
23 reviewed by other Commissions. And, I think, it's certainly  
24 within the Commission's authority to inquire into how BellSouth  
25 plans to meet its obligations.

1 I'm not saying that if the Commission found that  
2 they've done nothing that the Commission, then, would or have the  
3 ability to or should withhold 271 approval. I do think it's a  
4 separate issue that's appropriate for inquiry, although not  
5 necessary to meet the checklist.

6 COMMISSIONER DEASON: Okay. Ms. White?

7 MS. WHITE: Yes, I'll be quick. Once again, I think,  
8 we have to be governed by what is in the Act that covers this  
9 case. Once again, Section 271(d)(3)(B), right above the public  
10 interest requirement states that "the requested authorization  
11 will be carried out in accordance with the requirements of  
12 Section 272, that that is one of the obligations and  
13 responsibilities of the FCC, not the state commission."

14 So, I believe, that that issue would be irrelevant to  
15 the Commissioner's look at this case and in regard to the state  
16 case that BellSouth will be filing. So, I would ask that it not  
17 be included as an issue.

18 COMMISSIONER DEASON: Staff, any comments on that  
19 question?

20 MS. KEATING: We excluded it, essentially, for the same  
21 reason that we did the issue regarding state law. We don't think  
22 that it's something that's necessary for consideration under 271.  
23 And if you look at what the FCC's going to be consulting with the  
24 state commission about, it's in 271(d)(2)(B), the very last line  
25 says, "to verify the compliance of the bell operating company

1 with the requirements -- "

2 COMMISSIONER DEASON: Slow down, slow down.

3 MS. KEATING: Sorry. "of subsection (c)," which is  
4 subsection (c) of 271. There's no reference to 272.

5 COMMISSIONER DEASON: Okay. All right. Thank you,  
6 all.

7 Oh, we need to talk about scheduling for any  
8 reconsideration of the prehearing officer's decision.

9 Ms. Keating, I understand that after I issue an order, parties  
10 will be given ten days in order to file a request for a  
11 reconsideration; is that correct?

12 MS. KEATING: That's correct.

13 COMMISSIONER DEASON: And that ten days, that is  
14 prescribed, what, within statute or procedure?

15 MS. KEATING: That's jurisdictional. The ten days  
16 cannot be changed.

17 COMMISSIONER DEASON: Okay. Let me advise the parties  
18 as to my reason for inquiring. I'm looking at the Commission's  
19 calendar, and it appears that the May 15th Agenda would, in all  
20 likelihood, be the earliest that the Commission could reconsider  
21 my decision. And that would take some doing. The next available  
22 Agenda is two weeks later, which is May the 29th, which is  
23 probably more doable, but it's two days before testimony is due.

24 So, I'm looking for input from the parties. My desire  
25 would be to try to have this before the Commission on the 15th so

1 that parties can have before them a final decision on the issues  
2 in enough time that, hopefully, it will be useful in compiling  
3 the testimony that will be due on the 31st of May.

4 So, I'm advised by Staff counsel that there's nothing I  
5 can do about the ten days, that perhaps I could require that it  
6 be hand-delivered as opposed to mailed, which would cut off five  
7 days from the response time. What is the response time?

8 MS. KEATING: Seven days.

9 COMMISSIONER DEASON: That, likewise, is not a -- that  
10 seven days, that's prescribed --

11 MS. KEATING: Right, that's within the rule.

12 COMMISSIONER DEASON: Okay. So, those 17 days, I  
13 cannot do anything about. I can impose upon Staff and have them  
14 have an extremely short turn-around period to file the  
15 recommendation and impose on Commissioners that they be getting  
16 a recommendation filed out of time for the normal recommendation  
17 period, and that's maybe something that we need to do.

18 So, I guess, I need some feedback. Do the parties feel  
19 that it would be helpful to them to have a decision by the 15th  
20 or do you all just want to throw the dice and just wait until the  
21 29th?

22 MS. WHITE: BellSouth does not want to throw the dice.  
23 BellSouth would like a decision as soon as possible.

24 COMMISSIONER DEASON: And how do you recommend  
25 that we do that?

1 MS. WHITE: Possibly, there are only a very limited  
2 number of parties that filed issues. I believe, Sprint's was  
3 taken care of. So, really what you're looking at is FCCA, AT&T,  
4 and Florida Digital Network's. I mean, it seems to me that those  
5 parties would be the ones that would be most likely to seek  
6 reconsideration, if need be, and maybe we can get together and  
7 say, okay, we'll cut down -- we'll agree among ourselves that  
8 we'll get a response in -- a reconsideration in within a certain  
9 period of time.

10 COMMISSIONER DEASON: Now, the time for response is  
11 not triggered by the ten-day or is it? Is it seven days after  
12 the ten or seven days after it's filed?

13 MS. KEATING: Seven days after it's filed.

14 COMMISSIONER DEASON: So, if a party files it early,  
15 then the seven days is triggered.

16 MS. KEATING: Right.

17 COMMISSIONER DEASON: Okay. Well, I guess, the ball is  
18 kind of in everybody's court. If you want to cooperate and try  
19 to do things expeditiously in hopes of getting an expedited  
20 decision, it may very well rest upon what you do. And if you're  
21 the only one that doesn't do something early, maybe your  
22 colleagues will frown upon you.

23 MS. WHITE: I mean, maybe counsel for FCCA and AT&T  
24 and FDN would --

25 MS. RULE: Ms. Keating, could you walk me through the

1 time periods again now that I have a calendar in front of me?  
2 You're talking about issuing an order when?

3 MS. KEATING: Starting with the orders, I believe,  
4 Commissioner, we talked about trying to get something out maybe  
5 tomorrow at the latest.

6 COMMISSIONER DEASON: Yes, it's my intent to have an  
7 order out by tomorrow.

8 MS. KEATING: So, ten days from that would be -- let's  
9 see, where are we at? We're on the 24th? That would be next  
10 Friday the 4th --

11 COMMISSIONER DEASON: May the 4th.

12 MS. KEATING: -- would be ten days. So, if you could  
13 back it up to seven days even, or I -- you know.

14 COMMISSIONER DEASON: Just let me indicate that,  
15 obviously, the parties have their due process rights and they can  
16 file when they want to, as long as it's within the time frames  
17 prescribed, and you're free to do that. The only thing is  
18 recognize that it may result in a decision being brought to the  
19 -- I mean, the matter being brought to the Commission on the 29th  
20 as opposed to the 15th.

21 MS. KEATING: Now, Commissioner, if I could interject,  
22 at least as far as requiring next-day service, hand-delivery,  
23 something like that, now, I believe, that you can require that.

24 COMMISSIONER DEASON: I can require hand-delivery to  
25 next-day service?

1 MS. KEATING: So, at least at a minimum we'd have  
2 something on -- you know, we'd have the responses and everything  
3 in by that Friday. Now, it may mean a recommendation the Monday  
4 before Agenda, but --

5 MS. RULE: Hand-delivery is going to be a little bit of  
6 a problem, but some form of expedited delivery I'm sure we can  
7 work out.

8 MS. KEATING: Electronic filing or something like that.

9 MS. RULE: Fax.

10 COMMISSIONER DEASON: Well, I'll just request that the  
11 parties be aware and try to cooperate in any way that you can.  
12 And the hope is to try to get these issues nailed down as quickly  
13 as possible so we can go forward and, I think, that's to  
14 everyone's benefit to do that. So, I would just request that you  
15 keep that in mind and any way that you can expedite to do that to  
16 the -- Ms. Keating, do you think it would be appropriate to  
17 require there to be -- well, maybe not hand-delivery of a filing,  
18 but some type of expedited next-day delivery?

19 MS. KEATING: Expedited service? I think, it certainly  
20 would be if we're looking at trying to get this on the Agenda for  
21 the 15th.

22 COMMISSIONER DEASON: Is that an undue burden on  
23 anyone? If it is, speak up, I'll hear you.

24 MS. KAUFMAN: What did you say? I'm sorry.

25 MS. KEATING: An expedited service.



1 MS. KAUFMAN: You mean, just faxing it or electronic,  
2 is that what you're saying?

3 MS. KEATING: Right.

4 MS. WHITE: Or FedEx. This Commission has ordered it  
5 before, so...

6 MS. KEATING: For all intents and purposes, you're  
7 talking about service on -- BellSouth will be the one responding  
8 or vice versa. I mean --

9 MS. RULE: Well, we may both be responding to --

10 MS. KEATING: But I mean, as far as a response to a  
11 motion for reconsideration, I think, everybody has a point of  
12 service in town, so I don't know really how --

13 MS. RULE: I don't believe Mr. Feil does.

14 MR. FEIL: We all have e-mail.

15 MS. RULE: Oh, here's a suggestion. Let's assume the  
16 order is issued, I can't remember, is it 2:00 is the last time to  
17 get it out to the clerk's office, and let's assume you could make  
18 copies available after that time to the parties. That would be  
19 late Wednesday afternoon. And suppose we could then get -- agree  
20 among ourselves to respond within a week, which would be on  
21 Wednesday the 2nd and then allow additional -- or request  
22 additional responses to whatever may be filed, if anything, by --  
23 I don't know -- I'm assuming the 9th. That's a pretty quick  
24 turn-around, but it would only give --

25 COMMISSIONER DEASON: Let me ask Staff. Staff, if you

1 have all of the requests and responses thereto in your possession  
2 by the 9th, can you still turn around a recommendation?

3 MS. KEATING: Yes, sir. We're gluttons for punishment.

4 MS. WHITE: BellSouth will agree to those dates.

5 MS. RULE: AT&T will agree.

6 COMMISSIONER DEASON: Any objection to the dates as  
7 described by Ms. Rule? We're basically looking at one week for  
8 requests for reconsideration, and then one week for responses.

9 MS. RULE: And that would be inclusive of any service  
10 time, so anything people could do to circulate electronically or  
11 by fax would be welcomed.

12 COMMISSIONER DEASON: Speak now or forever hold your  
13 peace. That appears to be workable. Thank you for your  
14 cooperation, and thank you for your participation.

15 Any last items before we adjourn today?

16 MS. WHITE: The -- well, I'll talk with her after.

17 MS. KEATING: I think, I know what Ms. White may be  
18 going to bring up. She filed a motion to late-file her list of  
19 issues.

20 MS. WHITE: That wasn't what I was going to say.

21 MS. KEATING: Oh, sorry. Well, it's something that  
22 perhaps I should bring up. BellSouth --

23 MS. RULE: Well, I'm going to object to Ms. White's  
24 motion, because she objected to a motion I filed for late-filed  
25 something else.

1 MS. WHITE: But I gave you two weeks.

2 MS. RULE: Well, no, no, I got an objection today  
3 saying deny it. No, no, it's saying deny the whole thing.  
4 Squabbling. We can't let this agreeable time period go by  
5 without disagreeing on something.

6 MS. KEATING: I just thought I'd point out it was never  
7 ordered. It was just something in the --

8 COMMISSIONER DEASON: I think by this point, it's  
9 probably moot, but show it granted --

10 MS. WHITE: But I do apologize for the delay.

11 COMMISSIONER DEASON: Yeah. Show that it's granted so  
12 that the record is clear. Was there some last thing we needed to  
13 ad--?

14 MS. WHITE: I can talk to Ms. Keating.

15 COMMISSIONER DEASON: Okay. Thank you, all. This  
16 conference is adjourned.

17 (Hearing concluded at 2:40 p.m.)

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1 STATE OF FLORIDA    )  
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 3 COUNTY OF LEON     )

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I, KORETTA E. STANFORD, RPR, Official Commission Reporter, do hereby certify that an Issues ID Conference was held in docket 960786-TL before Prehearing Officer J. Terry Deason at the time and place herein stated.

It is further certified that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision and that this transcript, consisting of 67 pages, constitutes a true transcription of my notes of said proceedings.

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

DATED this 2nd day of May, 2001.

*Koretta E. Stanford*  
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 Official Commission Reporter  
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