

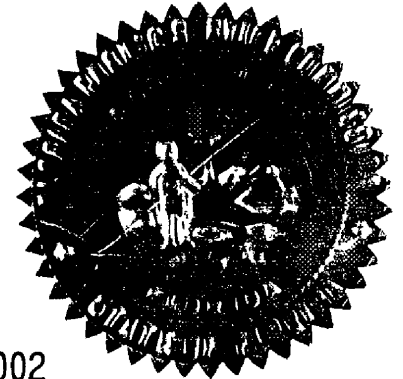
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990649A-TP

In the Matter of

INVESTIGATION INTO PRICING OF  
UNBUNDLED NETWORK ELEMENTS  
(BELLSOUTH TRACK).

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11 PROCEEDINGS: PREHEARING CONFERENCE

12 BEFORE: CHAIRMAN LILA A. JABER  
13 Prehearing Officer

14 DATE: Thursday, January 17, 2002

15 TIME: Commenced at 1:30 p.m.  
16 Concluded at 2:00 p.m.

17 PLACE: Betty Easley Conference Center  
18 Room 152  
19 4075 Esplanade Way  
20 Tallahassee, Florida

21 REPORTED BY: JANE FAUROT, RPR  
22 Chief, Office of Hearing Reporter Services  
23 FPSC Division of Commission Clerk and  
24 Administrative Services  
25 (850) 413-6732

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## 1 APPEARANCES:

2 NANCY B. WHITE, KIP EDENFIELD and ANDREW S. SHORE,  
3 c/o Nancy H. Sims, BellSouth Telecommunications, Inc., 150  
4 South Monroe Street, Tallahassee, Florida 32301, appearing on  
5 behalf of BellSouth Telecommunications, Inc.

6 TRACY W. HATCH and FLOYD R. SELF, Messer, Caparello &  
7 Self, P.A., P. O. Box 1876, Tallahassee, Florida 32302,  
8 appearing on behalf of AT&T Communications of the Southern  
9 States.

10 DONNA McNULTY, The Atrium Building, Suite 105, 325  
11 John Knox Road, Tallahassee, Florida 32303, and RICHARD D.  
12 MELSON, Hopping Green & Sames, P. A., Post Office Box 6526,  
13 Tallahassee, Florida 32314 appearing on behalf of MCI WorldCom,  
14 Inc.

15 SUSAN MASTERTON, P. O. Box 2214, Tallahassee, Florida  
16 32316, and JOHN P. FONS, Ausley and McMullen, P. O. Box 391,  
17 Tallahassee, Florida, appearing on behalf of Sprint  
18 Communications Company Limited Partnership.

19 MICHAEL A. GROSS, 246 East 6th Avenue, Tallahassee,  
20 Florida 32303, appearing on behalf of Florida Cable  
21 Telecommunications Association.

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1 APPEARANCES CONTINUED:

2 MATTHEW FEIL, 390 North Orange Avenue, Suite 2000,  
3 Orlando, Florida 32801, appearing on behalf of Digital Network,  
4 Inc.

5 JOSEPH McGLOTHLIN, McWhirter, Reeves, McGlothlin,  
6 Davidson, Decker, Kaufman, Arnold and Steen, P. A., 117 South  
7 Gadsden Street, Tallahassee, Florida 32301, appearing on behalf  
8 of Z-Tel Communications, Inc.

9 WAYNE D. KNIGHT and BETH KEATING, FPSC Division of  
10 Legal Services, 2540 Shumard Oak Boulevard, appearing on behalf  
11 of FPSC staff.

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

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CHAIRMAN JABER: Let's call the prehearing to order.  
Counsel, read the notice.

MR. KNIGHT: Notice was given on December 28th, 2001 in Docket Number 990649A-TP, investigation into pricing of unbundled network elements, the BellSouth track, that a prehearing would be held at this time and place for the purpose set forth in the notice.

CHAIRMAN JABER: Thank you, Mr. Knight.  
Let's take appearances, for the sake of my sanity, in the order of the names as they appear on the draft prehearing order.

MS. WHITE: Nancy White for BellSouth Telecommunications, Incorporated. And also who will be appearing with me at the hearing of this matter will be Andrew Shore for BellSouth.

CHAIRMAN JABER: S-H-O-R-E?

MS. WHITE: Yes, ma'am. And, I'm sorry, I did forget somebody else. Mr. Kip, K-I-P, Edenfield, E-D-E-N-F-I-E-L-D, will also be appearing at the hearing of this matter for BellSouth.

MR. HATCH: Tracy Hatch and Floyd Self of the Messer, Caparello, and Self law firm appearing on behalf of AT&T Communications of the Southern States, Inc.

MR. MELSON: Donna McNulty of MCI WorldCom and Rick

1 Melson of Hopping, Green & Sams on behalf of MCI WorldCom.

2 MR. FONS: John Fons appearing on behalf of Sprint  
3 Florida. And also appearing will be Susan Masterton.

4 CHAIRMAN JABER: Thank you, Mr. Fons.

5 Michael Gross? Not at the prehearing. Okay, Matt  
6 Feil?

7 MR. FEIL: Matthew Feil here on behalf of Florida  
8 Digital Network. At the hearing may be appearing Michael Sloan  
9 of the Swidler, Berlin law firm in Washington, D.C.

10 MR. MCGLOTHLIN: Joe McGlothlin of the McWhirter  
11 Reeves law firm for Z-Tel Communications, Inc.

12 MR. KNIGHT: Wayne Knight and Beth Keating appearing  
13 on behalf of the Florida Public Service Commission.

14 CHAIRMAN JABER: Mr. Wahlen.

15 MR. WAHLEN: Yes, I am Jeff Wahlen for Alltel  
16 Communications, Inc. Alltel is a party to this part of the  
17 docket, but did not file testimony or a prehearing statement,  
18 and I would like to be excused from the final hearing.

19 CHAIRMAN JABER: They are indeed a party? You may be  
20 excused from the hearing. Do you intend to file post-hearing  
21 briefs?

22 MR. WAHLEN: No, ma'am. No, we are just going to  
23 watch. Thank you very much.

24 CHAIRMAN JABER: Okay. Any other appearances? Mr.  
25 Knight, I understand that we have some preliminary matters.

1 MR. KNIGHT: Yes, we do. FDN has filed a motion to  
2 accept the prehearing statement.

3 CHAIRMAN JABER: Are there any objections to FDN's  
4 motion to accept the prehearing statement? Without objection,  
5 that will be granted.

6 MR. KNIGHT: I just wanted to note that BellSouth did  
7 have a motion to compel out and they have submitted a letter  
8 withdrawing that motion.

9 CHAIRMAN JABER: Okay. Thank you, Ms. White.

10 MS. WHITE: You're welcome. But I would also like to  
11 thank Mr. Hatch and Mr. Melson.

12 CHAIRMAN JABER: Well, I don't mean to leave you all  
13 out. I'm sure it was a team effort. I am very proud of you  
14 all. That's great.

15 MR. HATCH: Group hug. ---

16 CHAIRMAN JABER: That's good.

17 MR. KNIGHT: Network Plus, Incorporated --

18 CHAIRMAN JABER: I wouldn't go that far. I heard  
19 that. But there is always hope.

20 MR. KNIGHT: Network Plus, Incorporated has filed a  
21 petition to intervene. Responses are not due until the 28th on  
22 that.

23 CHAIRMAN JABER: Who represents Network Plus?  
24 Do you want to enter an appearance, Mr. Gross?

25 MR. GROSS: Yes, please. I'm sorry for being late.

1 CHAIRMAN JABER: That's fine. Go ahead and give the  
2 name of your client for the record.

3 MR. GROSS: FCTA, Michael Gross. Thank you.

4 CHAIRMAN JABER: Thank you. Now, who represents  
5 Network Plus?

6 MR. KNIGHT: Lisa Corner-Butler (phonetic).

7 CHAIRMAN JABER: Let me ask you, I realize that the  
8 responses are not due until January 28th. Do the parties want  
9 an opportunity to file a written response, or can you all  
10 represent you don't have any objection?

11 MS. WHITE: Nancy White for BellSouth. I don't  
12 have -- I have not seen that yet, I don't think, but I don't  
13 have any objection as long as they are taking the case as they  
14 find it and not trying to put in testimony or anything at this  
15 late date.

16 MR. KNIGHT: They have noted that they are taking the  
17 case as they find it, and they are primarily observing and  
18 wishing to file a post-hearing brief.

19 MS. WHITE: Then I have no objection.

20 CHAIRMAN JABER: Mr. Melson, Mr. Hatch?

21 MR. MELSON: No objection.

22 MR. HATCH: No objection.

23 CHAIRMAN JABER: On the representation that there are  
24 no objections to Network Plus' motion for leave to intervene,  
25 you can show that granted, Mr. -- I just went blank on your

1 name, I'm sorry. You can show it granted. All right.

2 Mr. Knight, what else?

3 MR. KNIGHT: We have some confidentiality issues that  
4 need to be addressed.

5 CHAIRMAN JACOBS: Now, are there outstanding requests  
6 for confidentiality?

7 MR. KNIGHT: At this time, no.

8 CHAIRMAN JABER: But there are items for which  
9 confidentiality has been requested in the past, and it's time  
10 to release that information, is that correct?

11 MR. KNIGHT: Well, we have items for which  
12 confidentiality was claimed. But the parties should be  
13 cognizant that within 21 days after the hearing they are  
14 supposed to file a specified request for confidentiality; and  
15 if they don't, then we have to release the information.

16 CHAIRMAN JABER: Right. And the time has come to  
17 release that information.

18 Go ahead, Ms. Keating.

19 MS. KEATING: Not in this track, Track A. We ran  
20 into some concerns in the prior portion of the docket. We are  
21 finding that there were certain things entered into the record  
22 at that previous hearing and requests were not forthcoming  
23 within 21 days which is provided for in our confidentiality  
24 rule.

25 CHAIRMAN JABER: We used it in the hearing, but the



1 parties should have followed-up and sought specific  
2 confidential classification for it, and that was not done.

3 MS. KEATING: That was not done. And we want to make  
4 sure they are real cognizant of that rule and that they don't  
5 let that happen in this track.

6 CHAIRMAN JABER: But in the meantime, for the  
7 information that was used at the hearing, what is the process  
8 now?

9 MS. KEATING: We are continuing to look into it and  
10 confirm for sure that there was no overlap of requests and  
11 documents. We have notified counsel for those parties that had  
12 documents for which requests were filed. But right now it  
13 appears that the information may have to be released.

14 CHAIRMAN JABER: Let me tell you, I don't think it is  
15 staff's burden to follow your request for confidential  
16 classification or lack thereof. It is your burden to get with  
17 staff and figure out if the right request was made. And if  
18 not, staff will release the information. But you have until  
19 the close of business next Tuesday to meet with staff and take  
20 a look at the information that was deemed confidential at the  
21 hearing and close it out that way.

22 With respect to this hearing, I have said to staff  
23 and I will repeat to all of you that we will not babysit for  
24 this hearing. You will follow our rules on confidentiality and  
25 every single order on confidentiality and the procedures that

1 this Commission has put in place. I don't need to tell you all  
2 this is a very serious issue.

3 So please govern yourselves accordingly and make sure  
4 that you are using the red folders at the hearing, make sure  
5 that the Commissioners have a good understanding of what it is  
6 that you believe is confidential so that no one inadvertently  
7 releases that information during questioning.

8 Anything else, Ms. Keating?

9 MS. WHITE: Chairman Jaber, just to make sure that  
10 you are aware of everything, I think that we still have -- the  
11 time is still running for us to file a couple of more requests  
12 for confidentiality. I think the time -- the delay isn't until  
13 after the hearing, but we're going to try to do our best to get  
14 them in before the hearing starts. So, hopefully that would  
15 make it a little simpler.

16 CHAIRMAN JABER: Sounds good. Mr. Hatch.

17 MR. HATCH: Just one item that pops up. I was going  
18 to mention it later, but since we're talking about  
19 confidentiality. There was an Exhibit 10 filed with  
20 Mr. Pitkins' testimony that was labeled confidential, it is not  
21 confidential. I just wanted to make that clear to folks.

22 CHAIRMAN JABER: Thank you, Mr. Hatch. That is  
23 BFP-10, unbundled network elements, recurring cost study?

24 MR. HATCH: Correct. It's essentially the rate  
25 summary.

1 CHAIRMAN JABER: Thank you. All right. Mr.  
2 Knight, anything else before we go to the draft prehearing  
3 order?

4 MR. KNIGHT: No, Madam Chairman.

5 CHAIRMAN JABER: Now, I understand that there are  
6 some positions that are not yet put into the draft because  
7 there is some on-going discovery. You need to point that out  
8 to me as we go along, but I intend to give you all a time  
9 certain, date certain to have those positions to staff so that  
10 the prehearing order can be issued in time to benefit the  
11 Commissioners and the parties.

12 All right. Let's start with -- I am assuming there  
13 are no changes to the case background and to the section on  
14 confidential information.

15 Any changes to Page 6? No changes to the  
16 post-hearing procedure section? All right. Any changes to the  
17 order of witnesses?

18 MS. WHITE: Yes, ma'am. I would assume -- or maybe  
19 I'm asking if we are going to do direct and surrebuttal at the  
20 same time? I assume that's what the parties would like to do.  
21 I'm not sure about -- it seems to be more efficient for the  
22 Commission, as well.

23 CHAIRMAN JABER: It does seem more efficient. There  
24 are two surrebuttal witnesses that have not filed direct,  
25 right?

1 MS. WHITE: That is correct. If we are going to do  
2 it that way, then I do want to change the order of my witnesses  
3 as they appear in the prehearing order.

4 CHAIRMAN JABER: All right. Parties, do you have a  
5 preference? Do you care?

6 MR. MELSON: No objection.

7 CHAIRMAN JABER: For the sake of efficiency, why  
8 don't we do direct and surrebuttal at the same time.

9 Ms. White, how does that change the order of your  
10 witnesses?

11 MS. WHITE: Mr. Ruscilli would be number one;  
12 Mr. Kephart would be number two; Mr. Stegeman would be number  
13 three; Ms. Caldwell would be number four; and Mr. Williams  
14 would be number five.

15 CHAIRMAN JABER: Mr. Knight, do you have that?

16 MR. KNIGHT: Yes, ma'am.

17 CHAIRMAN JABER: Any changes to the order of rebuttal  
18 witnesses?

19 MR. MELSON: Madam Chairman, AT&T and WorldCom would  
20 like to change the order of their witnesses for the first four.  
21 The next witness following BellSouth would be Mr. Darnell,  
22 followed by Mr. Pitkin, followed by Mr. Donovan, followed by  
23 Mr. Gillan.

24 CHAIRMAN JABER: All right. You know, this is  
25 probably a good opportunity to remind all of counsel to prepare

1 your witnesses to give the yes or no answer first and then  
2 elaborate. We will not interrupt witnesses unless there is an  
3 appropriate objection to be made. Please, please remind your  
4 witnesses that their goal is not to have an oral thesis at the  
5 hearing. Their goal is to educate the Commission so that we  
6 are making the best decision that we can make. And I bring  
7 that up because I also want to avoid counsel bickering at the  
8 hearing, too. Do not lose your focus. Please make sure you  
9 understand why you are there. All right.

10 MR. McGLOTHLIN: Before you go further, if I may, on  
11 the post-hearing procedures I had intended to ask that the  
12 limitation of 50 words be expanded. It has been my experience  
13 that 50 words is very difficult to work with, and if you could  
14 see fit to give us 75 or 80, I think that would communicate  
15 more without really imposing on the reader.

16 CHAIRMAN JABER: Would you promise to leave the  
17 acronyms out? Do you have a preference? Parties, do you want  
18 75 or 80? You can have 80.

19 MR. McGLOTHLIN: Thank you.

20 CHAIRMAN JABER: Does that affect the post-hearing  
21 filing requirement?

22 MS. WHITE: The number of pages?

23 CHAIRMAN JABER: Right.

24 MS. WHITE: It could very well, so I guess I would  
25 ask maybe 10.

1 CHAIRMAN JABER: What is it now, 40?

2 MR. KNIGHT: It's 40, Commissioner.

3 CHAIRMAN JABER: 50 pages for the briefs, 80 words in  
4 your post-hearing position. Any changes to basic positions?

5 MR. FEIL: Chairman, on Page 7 I did have one  
6 correction, I'm sorry. At the bottom, Mr. Gallagher, he is not  
7 testifying on Issues 2 and 4, he is testifying on Issues 1 and  
8 5, however. I'm sorry I didn't catch that earlier.

9 CHAIRMAN JABER: Thank you. Any other changes?

10 MS. WHITE: Yes, ma'am. Mr. Ruscilli on Page 8, in  
11 addition to Issue 1B and 5A, he is also testifying to Issues 2A  
12 and 2B.

13 CHAIRMAN JABER: Thank you. Any other changes? All  
14 right. Any changes to basic positions? Mr. Gross, you don't  
15 have a basic position on BellSouth's 120-day filing at this  
16 time. What does that mean, you are waiting on discovery or --

17 MR. GROSS: Chairman Jaber, I would like to take this  
18 opportunity to briefly explain FCTA's position in this phase of  
19 the UNE docket. In the initial BellSouth phase of this docket,  
20 the FCTA was very actively involved and we had our own witness  
21 and filed testimony. But we are for the most part monitoring  
22 this docket closely in order to respond to any potential issues  
23 that might impact our members.

24 Over the course of time, FCTA's certificated ALEC  
25 affiliates have become more and more facilities-based, although

1 they still rely on UNEs to a certain extent, but rely less on  
2 UNEs than many other ALECs. And this has resulted in the FCTA  
3 reaching the point of the filing date for prehearing statements  
4 and today's prehearing conference being neutral as to the  
5 issues that have been raised. And our only purpose in  
6 continuing to remain a party in this proceeding is to continue  
7 to monitor the proceedings, and to be able to respond to any  
8 new issues that might be generated by the evidence at the  
9 hearing or raised properly by the Commission or any party. We  
10 do not intent to attempt to raise any new issues or state any  
11 positions that have not already been stated by other parties.

12 CHAIRMAN JABER: Well, let me clarify that you are  
13 not allowed to raise new issues that haven't been identified by  
14 today. But with respect to your position, a Commissioner not  
15 familiar with this case would not understand what your basic  
16 position attempts to accomplish. So why don't you just restate  
17 your position and submit it to staff. And in line with what  
18 you said to me, that you continue to monitor this case, and may  
19 respond accordingly later. I am assuming you are reserving  
20 your right to file a brief.

21 MR. GROSS: That is correct.

22 CHAIRMAN JABER: Let's be clear in our position.

23 MR. GROSS: And I apologize for that, and I prepared  
24 a paragraph and I will give it to Ms. Keating if that is all  
25 right.

1 CHAIRMAN JABER: Thank you, that's perfect.

2 MR. GROSS: Thank you.

3 CHAIRMAN JABER: Issue 1. Actually, staff, you need  
4 to do the same for Alltel. All parties in this docket need to  
5 have a basic position and all parties need to be reflected in  
6 the appearance section.

7 Issue 1. Changes to Issue 2?

8 MR. FONTS: Madam Chairman, with respect to Issue 2,  
9 Sprint is changing its from no position at this time to no  
10 position. In fact, Sprint will not have a position on any  
11 issue other than Issues 1A and B and the basic position.

12 CHAIRMAN JABER: Thank you, Mr. Fons, for that  
13 clarification.

14 Mr. Gross, I am assuming you will have revised  
15 positions on all of those issues to correspond with your basic  
16 position. You can submit that to staff later.

17 MR. GROSS: Thank you, ma'am.

18 CHAIRMAN JABER: At the end of the prehearing, Mr.  
19 Knight, remind me to establish a date for revised positions.  
20 All right. Issue 3?

21 MR. MELSON: Madam Chairman, AT&T and MCI would like  
22 to change their position on Issue 3A to no, and we have a  
23 position on Issue 3B that we E-mailed to the staff yesterday.  
24 Would you like me to read it for the record?

25 CHAIRMAN JABER: Staff, do you have it? As long as



1 you have it, you can give a copy to -- why don't you read into  
2 the record, Mr. Melson.

3 MR. MELSON: "As stated in Issue 1B, the Commission  
4 should require BellSouth to rerun its cost model using  
5 forward-looking inputs and the single most efficient network  
6 design. The results of this additional modeling should be used  
7 to set the rates for the UCL-ND rate element."

8 CHAIRMAN JABER: Mr. Feil, you agree with that  
9 position?

10 MR. FEIL: Yes, ma'am.

11 CHAIRMAN JABER: All right. Any other changes to  
12 that issue? Issue 4.

13 MR. MELSON: AT&T and MCI, again, have a slight  
14 change to the position on Issue 4. On 4A we would like to add  
15 at the beginning of the answer, "No position. However," and  
16 then continue with the rest of the statement as it appears.  
17 And then on Issue 4B, we would simply have no position.

18 CHAIRMAN JABER: Mr. Knight, do you have that?

19 MR. KNIGHT: Yes.

20 CHAIRMAN JABER: And, again, Mr. Feil, where it says  
21 agree with AT&T, I am assuming you have no change unless you  
22 tell me.

23 MR. FEIL: Yes, ma'am, that is correct.

24 CHAIRMAN JABER: Any changes to Issue 5?

25 MR. FEIL: Madam Chairman, as to Issue 5, I didn't

1 have any changes, per se, but I did want to make one statement.  
2 In effect, the discovery and the testimony on this issue  
3 overlaps an issue that was considered in the FDN/BellSouth  
4 arbitration. Although I recognize that the parties are  
5 different in this case, the context is somewhat different in  
6 this case. The panel of Commissioners is the same and the  
7 underlying issue is the same. The BellSouth/FDN arbitration  
8 case hasn't been decided yet.

9 As far as administrative efficiency goes, I guess  
10 it's not an ideal situation, but FDN will do its part to make  
11 sure that the hearing goes smoothly and yet informs the  
12 Commissioners as you have requested.

13 In the way of a word of caution, I just wanted to  
14 make it clear for the record that as far as due process  
15 considerations are concerned, in the event that there is  
16 disparate results or disparate treatment in one case to the  
17 next, given the proximity of time and the similarity of the  
18 issues, it may become a problem. I don't anticipate that right  
19 now, but in the event that it does, I will make that clear  
20 through an objection at the appropriate time.

21 CHAIRMAN JABER: What problem are you worried about?

22

23 MR. FEIL: In the event that there is in any  
24 disparate treatment between one case and the next or any other  
25 fairness issues that may otherwise come up.

1 CHAIRMAN JABER: After we vote on your arbitration?

2 MR. FEIL: Either through the vote or during the  
3 hearing process or what have you. Again, you haven't decided  
4 the arbitration hearing, yet, so I understand that. As I'm  
5 sitting here right now any objections I may have on due process  
6 grounds are probably not ripe anyway.

7 CHAIRMAN JABER: I was just thinking that, but I'm  
8 trying to understand what your concern is. We don't know how  
9 the vote will be, obviously. And I really don't know what you  
10 are -- you're not asking for anything, are you?

11 MR. FEIL: No, ma'am. I am just expressing a word of  
12 concern.

13 CHAIRMAN JABER: Issue 6. Issue 7.

14 MR. MELSON: Madam Chairman, AT&T and MCI would  
15 change to simply no position.

16 MR. McGLOTHLIN: As will Z-Tel.

17 CHAIRMAN JABER: All right. Sprint is no position.  
18 I think Mr. Fons already stated that. Mr. Feil, I want to go  
19 back to your concern. Something you just said. I'm really  
20 trying to understand what you said. You believe this issue is  
21 similar to the issues that will be decided in your arbitration  
22 docket?

23 MR. FEIL: Correct. There is definitely some overlap  
24 between the two.

25 CHAIRMAN JABER: Well, have you all engaged in the

1 idea of stipulating or agreeing to whatever decision comes out  
2 of that docket? I mean, if your concern is efficiency and, you  
3 know, lack of confusion on behalf of the Commissioners, it  
4 seems to me we don't want to relitigate a case that is pending.

5 MR. FEIL: I have not discussed that with BellSouth.

6 CHAIRMAN JABER: Well, I will leave it up to you and  
7 Ms. White to talk about that.

8 MR. FEIL: Yes, ma'am.

9 CHAIRMAN JABER: Ms. White, it sounds like a good  
10 idea. To the degree those issues are the same, Commissioners  
11 will not want to relitigate an issue and waste everyone else's  
12 time. If you are trying to make this issue applicable to all  
13 ALECs, I suppose that is different.

14 MR. FEIL: That is another concern. As I said, the  
15 context is somewhat different than it was in the arbitration  
16 case and the parties are different, also.

17 MS. WHITE: I'm not sure whether -- I mean, you have  
18 got a lot of parties in here that were not members or party to  
19 the arbitration that have positions that they want to put  
20 forward. And even through there is some overlap, I'm not sure  
21 it is the exact same issue. I mean, at least we do not view it  
22 as the exact same issue, other parties might in their  
23 arguments. So, I'm just not sure it's as clean cut as  
24 everybody might like it to be.

25 CHAIRMAN JABER: Well, you all can talk about it

1 further. Okay. Any other changes to the draft prehearing  
2 order? Any changes to the exhibit list? Mr. Hatch, we have  
3 the change you have made. Any proposed stipulations? All  
4 right.

5 Mr. Knight, do you have any matters that need to come  
6 before us at the prehearing conference before we adjourn?

7 MR. KNIGHT: We just need to establish a date for the  
8 revised positions.

9 CHAIRMAN JABER: Today is Thursday. Let me get a  
10 feel from the parties on -- are you done with your depositions?  
11 When is your last deposition?

12 MR. HATCH: The 23rd.

13 CHAIRMAN JABER: Which is what, next Wednesday.

14 MR. HATCH: Wednesday.

15 CHAIRMAN JABER: There is depositions this afternoon,  
16 and all day tomorrow, and the 23rd. And the hearing is the  
17 week after that?

18 MR. HATCH: The 30th and the 31st.

19 CHAIRMAN JABER: All right. How about, staff, if we  
20 say all the revised positions are due to you by next Friday  
21 morning, does that give you an opportunity to turn this around  
22 and issue it the same day so that the Commissioners have --

23 When do you need to issue the prehearing order?

24 MS. KEATING: I think we can turn it around pretty  
25 quickly. But in the interest of ensuring that it does get

1 issued on Friday, because I know Records has some concerns  
2 about issuances on Friday, if maybe we could get those  
3 positions by say 4:00 on that Thursday, 4:00 p.m.

4 CHAIRMAN JABER: Close of business on Thursday.

5 MS. KEATING: That would be great. Thank you.

6 CHAIRMAN JABER: What time is the deposition on  
7 Thursday? Wednesday.

8 MR. HATCH: 9:30, I think.

9 CHAIRMAN JABER: All right. Let's make sure all of  
10 the revised positions come to staff by the close of business  
11 next Thursday.

12 Staff, make sure that the prehearing order is issued  
13 by Friday. The hearing dates are January 30th and January  
14 31st. All right. Anything else?

15 MS. WHITE: Chairman Jaber, I'm not quite sure what  
16 I'm asking for here, maybe it's a note of concern like  
17 Mr. Feil. We have two days to hear this case, we have to get  
18 it done in those two days. We have eleven witnesses, five are  
19 BellSouth and six from the other parties. And, again, as I  
20 said I'm not quite sure what I'm asking for, but I just don't  
21 want it to be four o'clock on the second day and BellSouth  
22 expected to cross six witnesses.

23 So I guess I'm trying to say equal time -- equal time  
24 here. I don't know if there is a way to split up, you know,  
25 time of the hearing for each side or what, but I just want to

1 make you aware of it, I want to make the other parties aware of  
2 it. We have been in a couple of situations, maybe not quite  
3 that bad, but similar, and I'm just trying to avoid it in this  
4 one.

5 CHAIRMAN JABER: It sounds like you and Mr. Feil need  
6 to sit down and talk about your concerns. We are going to  
7 finish this hearing in two days, but you reminded me of  
8 something. Opening statements. I mean, there are ways. You  
9 are in charge of expediting this process. You are. And if it  
10 means that your witnesses don't go on for ten minutes to  
11 summarize ten-page testimony, perhaps that's the way to go. Or  
12 you don't do ten-minute opening statements or twenty-minute  
13 opening statements. Use your time efficiently. What are the  
14 issues the Commissioners have not heard yet? What are the  
15 issues the Commission is tired of hearing about? Don't sell  
16 your Commissioners short. We have heard this stuff over and  
17 over. Use your time efficiently.

18 We are finishing this hearing in two days. You two  
19 need to talk about your concerns. Opening statements. I was  
20 prepared to give you 20 minutes per side. Do you all need 20  
21 minutes per side?

22 MS. WHITE: I don't think we need opening statements.

23 CHAIRMAN JABER: Well, there you go.

24 MS. WHITE: But I don't know what the other parties  
25 feel like..

1 MR. MELSON: We see no particular need for opening  
2 statements.

3 CHAIRMAN JABER: And it sounds like you have two days  
4 to stipulate exhibits in, you have two days to stipulate  
5 issues, subissues. I mean, maybe it's too much to ask for to  
6 think that you could stipulate the entire issue, but there have  
7 to be statement of facts that you all can sit down and agree  
8 to. Two days. This prehearing is adjourned.

9 (The prehearing concluded at 2:00 p.m.)

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1 STATE OF FLORIDA )

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON )

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5 I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter  
6 Services, FPSC Division of Commission Clerk and Administrative  
7 Services, do hereby certify that the foregoing proceeding was  
8 heard at the time and place herein stated.

9

10 IT IS FURTHER CERTIFIED that I stenographically  
11 reported the said proceedings; that the same has been  
12 transcribed under my direct supervision; and that this  
13 transcript constitutes a true transcription of my notes of said  
14 proceedings.

15

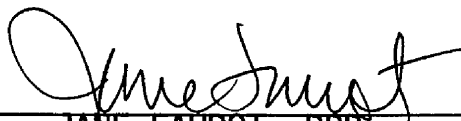
16 I FURTHER CERTIFY that I am not a relative, employee,  
17 attorney or counsel of any of the parties, nor am I a relative  
18 or employee of any of the parties' attorney or counsel  
19 connected with the action, nor am I financially interested in  
20 the action.

21

22 DATED THIS 23RD DAY OF JANUARY, 2002.

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