

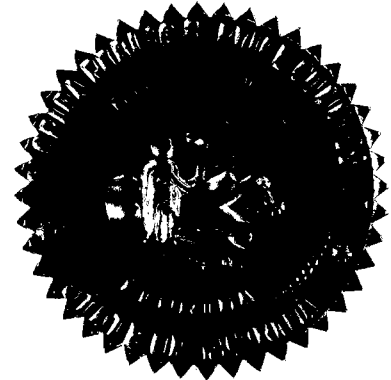
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP (Phase IIA)

In the Matter of

INVESTIGATION INTO APPROPRIATE  
METHODS TO COMPENSATE CARRIERS  
FOR EXCHANGE OF TRAFFIC SUBJECT  
TO SECTION 251 OF THE  
TELECOMMUNICATIONS ACT OF 1966.

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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: CHAIRMAN LILA A. JABER  
Prehearing Officer

DATE: Friday, April 19, 2002

TIME: Commenced at 9:30 a.m.  
Concluded at 10:15 a.m.

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

REPORTED BY: JANE FAUROT, RPR  
Chief, Office of Hearing Reporter Services  
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4 32301, appearing on behalf of BellSouth  
5 Telecommunications, Inc, participating  
6 electronically.

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9 Tallahassee, Florida 32301, appearing on behalf of  
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11 KENNETH A. HOFFMAN and MARTIN P.  
12 McDONNELL, Rutledge, Ecenia, Underwood, Purnell &  
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15 appearing on behalf of Level 3 Communications, LLC,  
16 and US LEC of Florida, Inc., AT&T Communications of  
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20 Tallahassee, Florida 32316-2214, appearing on behalf  
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3 KIMBERLY CASWELL and DAVID CHRISTIAN, P.  
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6 RICHARD D. MELSON and GARY PERKO, Hopping  
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9 appearing on behalf of MCI WorldCom and Intermedia  
10 Communications, Inc.

11 MICHAEL GROSS, 246 East Sixth Avenue, Suite 100,  
12 Tallahassee, Florida 32303, appearing on behalf of Florida  
13 Cable Telecommunications Association, Inc.

14 J. JEFFRY WAHLEN, Ausley & McMullen, P.O. Box 391,  
15 Tallahassee, Florida 32303 and STEPHEN T. REFSELL, appearing  
16 on behalf of ALLTEL Florida, Inc.

17 MATTHEW FEIL, 390 North Orange Avenue, Suite 2000,  
18 Orlando, Florida 32801-1640, appearing on behalf of Florida  
19 Digital Network, Inc.

20 FELICIA BANKS, LINDA DODSON, and BETH  
21 KEATING, Florida Public Service Commission, Division  
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23 Tallahassee, Florida 32399-0870, appearing on behalf  
24 of the Commission Staff.

25

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

1  
2 CHAIRMAN JABER: All right. Let's go ahead and get  
3 started.

4 Ms. Banks, the notice.

5 MS. BANKS: Pursuant to notice issued April 8th,  
6 2002, this time and place has been set for a prehearing in  
7 Docket Number 000075-TP for Phase IIA, which is investigation  
8 to appropriate methods to compensate carriers for exchange of  
9 traffic subject to Section 251 of the Telecommunications Act of  
10 1996.

11 CHAIRMAN JABER: Let's take appearance. And I  
12 understand we have someone on the telephone.

13 MR. EDENFIELD: Yes, Madam Chairman. This is Kip  
14 Edenfield from BellSouth. I appreciate your understanding and  
15 indulgence. Mr. Meza was en route to Tallahassee and  
16 apparently because the airport was fogged in could not land, so  
17 he had to go back to Miami. But I appreciate you letting me  
18 attend by phone.

19 CHAIRMAN JABER: No problem.

20 MS. CAMECHIS: Karen Camechis on behalf of Time  
21 Warner Telecom of Florida, LP.

22 MR. GROSS: Michael Gross on behalf of the Florida  
23 Cable Telecommunications Association.

24 MS. MASTERTON: Susan Masterton on behalf of Sprint.

25 MR. WAHLEN: Jeff Wahlen of the Ausley McMullen law

1 firm on behalf of ALLTEL Florida, Inc. Also appearing in the  
2 case with me will be Stephen Refsell of ALLTEL Corporate  
3 Services in Little Rock.

4 MR. McDONNELL: Marty McDonnell from the law firm of  
5 Rutledge, Ecenia, Purnell and Hoffman on behalf of AT&T, US LEC  
6 of Florida, Inc. and Level 3.

7 MR. PERKO: Gary Perko of Hopping Green & Sams, P.A.,  
8 with Rick Melson of the same firm, and Donna McNulty of MCI  
9 Communications on behalf of MCImetro Access Transmission  
10 Services, MCI WorldCom Communications, and Intermedia  
11 Communications.

12 MR. MOYLE: John Moyle, Junior on behalf of Global  
13 NAPs with the Moyle Flanigan law firm.

14 MR. FEIL: Matthew Feil on behalf of Florida Digital  
15 Network.

16 MR. CHRISTIAN: Madam Chairman, David Christian with  
17 Verizon. Kim Caswell is in a similar situation with a flight  
18 being delayed. She should be here shortly.

19 THE COURT: Did you know about that, Staff?

20 MS. BANKS: Yes. And Felicia Banks, Linda Dodson,  
21 and Beth Keating on behalf of the Commission.

22 CHAIRMAN JABER: All right. Let's see, there are  
23 preliminary matters, Ms. Banks. I need officially excuse  
24 e.spire Communications from the prehearing conference?

25 MS. BANKS: That is correct, Madam Chair.

1 CHAIRMAN JABER: That request is granted. And have  
2 there been any other requests?

3 MS. BANKS: Yes, Madam Chair. There have been  
4 several requests for confidential classification filed in this  
5 docket. On April 16th, 2002, Sprint filed a request for  
6 confidential classification of its response to Staff's First  
7 Request for Production of Document Number 1, and that document  
8 number is referenced as 04253-02.

9 CHAIRMAN JABER: Mr. Christian, was there a request  
10 from Verizon for us to wait until she gets here?

11 MS. BANKS: No, Madam Chair, we are to proceed.

12 CHAIRMAN JABER: With respect to the confidential  
13 classification requests, do you propose to handle that by  
14 separate order?

15 MS. BANKS: Yes, Madam Chair. I think that would  
16 probably be the most efficient way of addressing those.  
17 Verizon also on April 18th, 2002, filed a request for  
18 confidential classification for its responses to Staff's First  
19 Request for Production of Document Numbers 4, 5, 6, and 7, and  
20 that document number reference is 04303-02. And staff would  
21 also note that on April 16th, 2002, BellSouth filed a notice of  
22 intent to request confidential classification of its responses  
23 to Staff's First Request for Production of Documents Numbers 1,  
24 3, and 4. And that document reference number is 04251-02.

25 CHAIRMAN JABER: When is the hearing?

1 MS. BANKS: The hearing of Phase IIA is set for May  
2 8th.

3 CHAIRMAN JABER: Will we have an order issued prior  
4 to May 8th?

5 MS. BANKS: Regarding the confidential requests?  
6 Yes, Madam Chair. It is Staff's intent to have an order issued  
7 prior to the hearing.

8 CHAIRMAN JABER: Are there any objections to just  
9 waiting and doing this by separate order? Great. That's what  
10 we will do, Felicia.

11 What's next?

12 MS. BANKS: I believe parties had been e-mailed a  
13 copy of the draft prehearing order. I got a number of  
14 responses, and so with those responses I incorporated those  
15 changes that were forwarded to me. However there were a couple  
16 that I received late yesterday and this morning. I think that  
17 if I could just make this suggestion, Madam Chair, of maybe  
18 working through the draft prehearing order and addressing those  
19 at the appropriate time.

20 CHAIRMAN JABER: Sure, no problem. Mr. Christian,  
21 your counsel is not here, and you didn't request for us to wait  
22 on her, so let the record reflect that we are moving forward  
23 because I don't have that request.

24 MR. CHRISTIAN: That's correct.

25 CHAIRMAN JABER: Any changes to the case background?

1 Seeing none --

2 MS. BANKS: Madam Chair, if I could interject. In  
3 the section on appearances --

4 CHAIRMAN JABER: Yes.

5 MS. BANKS: -- it is my understanding that the record  
6 should reflect or the order should reflect that Ken Hoffman,  
7 Marsha Rule, and Marty McDonnell are making appearances also on  
8 behalf of US LEC of Florida, Inc.

9 MR. McDONNELL: That is correct, Madam Chairman, as  
10 well as Level 3 Communications, LLC.

11 CHAIRMAN JABER: Thank you.

12 MR. McDONNELL: Thank you.

13 CHAIRMAN JABER: Ms. Banks, what about -- okay.  
14 Mr. Gross, you made appearance for Time Warner -- no, Karen  
15 Camechis did. Okay.

16 Ms. Banks, what is next?

17 MS. BANKS: I don't know if we want to, I guess, go  
18 by section or --

19 CHAIRMAN JABER: Is there any concern with respect to  
20 the post-hearing filing page limit?

21 MR. FEIL: Madam Chairman --

22 CHAIRMAN JABER: With two issues we should be able to  
23 shorten the page limit.

24 MR. FEIL: I don't have a problem with the page  
25 limit. I was going ask for clarification, though, with regard



1 to the post-hearing positions, no more than 50 words. I wanted  
2 to make sure that that pertained to subissues rather than  
3 issues, because the issues have several subparts.

4 CHAIRMAN JABER: Yes, I think that is correct, Mr.  
5 Feil.

6 MR. FEIL: Thank you.

7 CHAIRMAN JABER: On testimony and exhibits, has there  
8 been a request to combine direct and rebuttal?

9 MS. BANKS: There hasn't been a formal request, Madam  
10 Chair, but in past times that has been the approach that we  
11 have taken in this docket for hearing.

12 CHAIRMAN JABER: Now, remind me, parties, you have  
13 refiled testimony for the purposes of information. That  
14 testimony is already in the record, so we won't be reinserting  
15 it into the record, Felicia.

16 MS. BANKS: That is my understanding, Madam Chair.  
17 However, there has been some testimony that was refiled, and I  
18 think the notation indicates for information purposes only  
19 because it already has gone to hearing. It is staff's  
20 understanding, and I think the parties' understanding that it  
21 would just be used as a reference, but it is a part of the  
22 record.

23 CHAIRMAN JABER: All right.

24 Ms. Masterton, are you bothered by the same thing I'm  
25 bothered by?

1 MS. MASTERTON: I just want to make sure. I had  
2 understood -- and we had this discussion, I think, when we had  
3 the meeting identifying the issues, that the record from the  
4 previous hearing on those issues is going to be part of the  
5 record going forward. I think we refiled the testimony at the  
6 request of staff, but I just wanted to make clear that it  
7 doesn't change the status.

8 CHAIRMAN JABER: That is my question, that the record  
9 from the initial proceeding is still open.

10 MS. BANKS: That is correct, Madam Chair.

11 CHAIRMAN JABER: All right.

12 MR. McDONNELL: I'm sorry, Madam Chair, but I think  
13 the words for informational purposes only just kind of set the  
14 parties aside a little bit. I don't know if that is referring  
15 to the refiled testimony or the testimony, per se.

16 CHAIRMAN JABER: Let me take a stab at it, and staff  
17 needs to correct all of us if we are wrong, but I think that  
18 they have asked you to refile it because it is the only way the  
19 Commissioners' offices get a copy of that testimony. So, when  
20 we receive our file we will have copies of the original  
21 testimony now. I think that's why. Staff.

22 MS. BANKS: Yes, Madam Chair, that was a part of  
23 staff's consideration in making the request to refile the  
24 testimony. And for administrative ease, as well, have the  
25 information to be able to reference it easily. However, as I

1 just indicated, not all parties refiled the testimony. So  
2 there is some that was refiled and some that was not, but that  
3 was --

4 CHAIRMAN JABER: Here is what you should make sure  
5 you have done for the Commissioners. Make sure to go back to  
6 the original prehearing order and that we have all the copies  
7 of the testimony in this case, including the new testimony.  
8 And I think the distinction between informational purposes and  
9 inserting the testimony in the record is that there should be  
10 an understanding by the parties that you will not go back and  
11 cross-examine on the testimony that was previously filed. If  
12 that's not correct you all need to say something.

13 MR. EDENFIELD: That is BellSouth's understanding of  
14 the agreement.

15 MR. GROSS: Michael Gross on behalf of FCTA, and we  
16 are not concerned about additional cross examination of those  
17 witnesses, but just the choice of terminology information  
18 purposes only raised a concern for us about whether that  
19 testimony being in the record could be considered evidence and  
20 considered by the Commission in making its decision in this  
21 case. And there was a little bit of ambiguity we found in the  
22 choice of terms, so we just wanted some clarification as to  
23 what the status of that testimony exactly is. Is it evidence  
24 that could be considered by the Commission?

25 CHAIRMAN JABER: Let's take Mr. Hunsucker for

1 example. Ms. Masterton, did he file testimony related to the  
2 two issues in this case?

3 MS. MASTERTON: Yes, he did in the Issue 17. We had  
4 another witness for Issue 13, so he doesn't have testimony in  
5 this case on Issue 13.

6 CHAIRMAN JABER: So, Staff, did you all contemplate  
7 that we would put Mr. Hunsucker on the stand and ask questions  
8 related to Issue 17, for example?

9 MS. BANKS: Only as relates to his additional or new  
10 testimony, but not his refiled testimony.

11 CHAIRMAN JABER: But does the refiled testimony have  
12 testimony related to Issue 17?

13 MS. MASTERTON: I mean, what it is is what he put in  
14 the record in the previous portion of the hearing on Issue 17,  
15 yes, and Issue 13. So he does have testimony related to that  
16 issue. But it was my understanding -- I mean, I agree with  
17 BellSouth that the cross examination and all would be on the  
18 new testimony that was filed. And I was going to suggest  
19 perhaps that we just don't move the refiled testimony into the  
20 record at the hearing and that might address the problem. We  
21 would just move in the new testimony, and then the refiled  
22 testimony will be a part of the old record and not a part of  
23 the -- do you think that would --

24 MS. BANKS: I think, Madam Chair, that probably would  
25 be a good approach, given the fact that all the parties did not

1 refile testimony on those respective issues. For consistency  
2 sake I think that probably -- and to reduce or minimize any  
3 confusion that might result from it, it probably would be best  
4 to address it that way.

5 MR. EDENFIELD: But, Madam Chair -- I'm sorry to  
6 interrupt.

7 CHAIRMAN JABER: Go ahead.

8 MR. EDENFIELD: The only issue I see with that is  
9 some parties, at least BellSouth, we just filed one set of  
10 testimony, and within that testimony the first section is  
11 basically a regurgitation of what was filed in the previous  
12 docket. And then there is a section in the testimony that says  
13 additional testimony, and that is the new testimony. So if you  
14 are not going to move in the prefiled, for the parties that  
15 incorporated the old and the new into one document that could  
16 become an issue.

17 CHAIRMAN JABER: It is not easily separable.

18 MR. EDENFIELD: Well, it is, but I just want to make  
19 sure that everybody understands that for some parties, at least  
20 BellSouth, we just filed one set of testimony that incorporated  
21 the old and the new, that there is not two separate pieces of  
22 testimony. And I thought that was what staff had asked us to  
23 do was to incorporate it all into one document.

24 MS. BANKS: Mr. Edenfield, you are correct, that was  
25 staff's, I guess, initial intent is to have it compiled

1 together. But as I had just mentioned, because all parties did  
2 not address it in that manner, I think Ms. Masterton's approach  
3 might be workable, as I think Madam Chair just said if it is  
4 severable or if it is clearly marked as such as to the  
5 distinction with what the respective filing is or what it  
6 relates to.

7 MR. EDENFIELD: And I have no objection to the  
8 approach, I just wanted to make sure that everybody understood  
9 that at least for BellSouth we only have one set of testimony,  
10 so we will have to make sure we separate it out.

11 CHAIRMAN JABER: I think when you ask for the  
12 testimony to be inserted into the record, if you could just  
13 give us page numbers and line numbers.

14 MR. EDENFIELD: We would be happy to do that, Madam  
15 Chairman.

16 CHAIRMAN JABER: We will do it that way. But, Ms.  
17 Masterton, it was always the parties' intent to call all of  
18 these witnesses and recognize which ones had their testimony  
19 already inserted into the record.

20 MS. MASTERTON: When you ask that, I'm not sure that  
21 I understood how the refiled testimony was going to be handled  
22 at the hearing. I mean, it was certainly our intent to call  
23 the witnesses for the additional testimony that they filed at  
24 this hearing. I did not know what was supposed to happen for  
25 the rest of it.

1 CHAIRMAN JABER: So let's establish that right now.  
2 BellSouth, Ms. Shiroishi, she filed testimony in the  
3 first part of the proceeding, correct?

4 MR. EDENFIELD: Yes, ma'am. What she did is another  
5 witness did, but she has adopted that testimony.

6 CHAIRMAN JABER: Right. So there will be parts of  
7 her testimony that are original pages and there will be parts  
8 that are new?

9 MR. EDENFIELD: That is correct.

10 CHAIRMAN JABER: So when you call her make clear, be  
11 able to make clear which pages, which lines will need to be  
12 inserted into the record.

13 MR. EDENFIELD: Yes, Madam Chairman, we will do that.

14 CHAIRMAN JABER: Okay. And share that with the  
15 parties so that there is no confusion at the hearing.

16 MR. EDENFIELD: I will do that. There should not be  
17 any because we have clearly delineated what was from the prior  
18 proceeding and what was new.

19 CHAIRMAN JABER: All right.

20 Verizon, you will able to do the same thing with Mr.  
21 Trimble and Ms. Ward?

22 MS. MASTERTON: Ms. Ward, she is a new testimony, so  
23 her testimony is all to the new issues.

24 CHAIRMAN JABER: All right. Mr. Hunsucker, you will  
25 just call him to the stand.

1 MS. MASTERTON: Right.

2 CHAIRMAN JABER: Does that make it clear for  
3 everyone? I don't need to go witness-by-witness, you  
4 understand what I'm trying to accomplish, right?

5 MR. EDENFIELD: Yes, Madam Chairman.

6 CHAIRMAN JABER: All right. Staff, do you understand  
7 what we are going to do?

8 MS. BANKS: Yes, I believe I understand. If I could  
9 just interject, on Witness Trimble, Mr. Trimble had an exhibit,  
10 I think it is DBT-2, and that particular exhibit actually  
11 included -- I'm sorry, it is DBT-1. It actually included  
12 excerpts of the refiled testimony for Witnesses Haynes and  
13 Beauvais, so that would be a similar situation. It is just an  
14 exhibit, and there is a footnote that is referenced on Page 31  
15 of the draft prehearing order.

16 CHAIRMAN JABER: Well, since Ms. Caswell is not here,  
17 why don't you communicate with her off record and come up with  
18 the best approach for handling that exhibit that will not  
19 create confusion for the parties or for the Commissioners.

20 Go ahead, Mr. McDonnell.

21 MR. McDONNELL: Thank you, Madam Chairman. We filed  
22 testimony -- refiled testimony on behalf of Witness Follensbee,  
23 Witness Gates, and Witness Selwyn. None of that is new  
24 testimony, we just refiled what they previously filed, and they  
25 were previously available for cross examination. We did not



1 intend to bring them back.

2 MR. EDENFIELD: Since Mr. Follensbee now works for  
3 BellSouth, that might be interesting anyway.

4 CHAIRMAN JABER: He does?

5 MR. EDENFIELD: He does.

6 CHAIRMAN JABER: Well, let's talk about that because  
7 I thought they were listed here because they must have filed  
8 testimony related to the two issues.

9 MR. EDENFIELD: They did. I believe, Madam Chairman,  
10 what happened was those witnesses in the last phase had filed  
11 testimony on Issues 13 and/or 17, and what AT&T has done is  
12 just at the request of staff refiled that testimony as being  
13 the prior testimony. And it would not be BellSouth's intent to  
14 do any kind of cross examination on that because it was our  
15 understanding it was being admitted just for informational  
16 purposes. I'm not sure if that answers the issue.

17 MS. BANKS: Madam Chair, if I could just interject.  
18 Those respective witnesses that Mr. McDonnell referenced are  
19 actually in the footnotes indicating that that was refiled  
20 testimony and serving as we had indicated for informational  
21 purposes only, therefore not subject to cross examination.

22 CHAIRMAN JABER: And they are also not listed as  
23 witnesses to be called.

24 MS. BANKS: That is correct.

25 CHAIRMAN JABER: So to prevent confusion, can't we

1 just take any references to them out? Isn't that the most --  
2 see, the Commissioners use this as a document to guide them  
3 through the hearing. I don't care that staff asked and I  
4 really don't know why you asked for it to be refiled for  
5 informational purposes, and the Commissioners won't care. They  
6 just want to know which witnesses will be called up on the  
7 stand. So is it correct that for BellSouth it will just be Ms.  
8 Shiroishi?

9 MR. EDENFIELD: Yes, Madam Chairman.

10 CHAIRMAN JABER: And is it correct, Verizon, that  
11 your only witness will be Mr. Trimble?

12 MS. BANKS: Madam Chair --

13 CHAIRMAN JABER: Hang on, Ms. Banks.

14 MR. CHRISTIAN: Correct.

15 CHAIRMAN JABER: Sprint, you are not calling any  
16 other witnesses except Ward and Hunsucker?

17 MS. MASTERTON: Correct.

18 CHAIRMAN JABER: Alltel?

19 MR. WAHLEN: Just Mr. Busbee.

20 CHAIRMAN JABER: AT&T?

21 MR. McDONNELL: Paul Cain.

22 CHAIRMAN JABER: FCTA?

23 MR. GROSS: William Barta.

24 CHAIRMAN JABER: WorldCom?

25 MR. PERKO: Joseph Gillan.

1 CHAIRMAN JABER: FDN?

2 MR. FEIL: Just Mr. McCluskey.

3 CHAIRMAN JABER: So, Ms. Banks, I think the rest of  
4 the references aren't necessary. They may just confuse the  
5 matter, unless I'm missing something.

6 MS. BANKS: I believe that probably would be best,  
7 Madam Chair.

8 CHAIRMAN JABER: Okay. Does that satisfy everyone's  
9 concern?

10 MR. EDENFIELD: It is acceptable to BellSouth, Madam  
11 Chair. And to the extent no one has asked to combine direct  
12 and rebuttal, if this would be the appropriate time to request  
13 that, BellSouth would make that request.

14 CHAIRMAN JABER: I will grant that request.  
15 Mr. Moyle.

16 MR. MOYLE: I just wanted to make sure, I think I  
17 understood it, that the footnote in here that references the  
18 Mr. Selwyn testimony and the others, that while that was  
19 refiled or whatnot, that will be part of the record upon which  
20 this case will be decided. So in post-hearing briefs even  
21 though it was officially introduced in an earlier phase, it can  
22 be cited to, relied on, et cetera, et cetera. I think at least  
23 in my mind that is where some of the confusion lies in that it  
24 will be afforded full evidentiary weight as if it was  
25 introduced in this proceeding.

1           CHAIRMAN JABER: Right. I don't want you to put too  
2 much emphasis on the fact that you have refiled it, because  
3 that is all you have done if you have given another copy of it  
4 to our clerk. What is in the record is what counts, so that's  
5 why I don't want to confuse the Commissioners by even  
6 referencing the fact that you have refiled it.

7           Staff will base its recommendation on what is in the  
8 record, and we will base our decision on what is in the record.  
9 How many times you file the testimony isn't going to give it  
10 more weight. So are you okay with my deleting these  
11 references?

12           MR. MOYLE: Yes.

13           MS. MASTERTON: Commissioner, can I just ask one more  
14 question for clarification? I'm sorry. So then what I think  
15 you're saying is though when we cite to the previous testimony  
16 it will be to the transcript from the previous hearing.

17           CHAIRMAN JABER: That's right. Mr. Wahlen, did you  
18 have a question?

19           MR. WAHLEN: I don't have a question, I guess I  
20 wanted to broach the subject of whether anybody intends to  
21 cross-examine Mr. Busbee and whether he needs to come to town.  
22 I know people may not be prepared to answer those questions  
23 today, but we still have a pretty long witness list and a  
24 one-day hearing.

25           And Mr. Busbee would love to come to Tallahassee, but

1 if there is a way for us to trim this down, I'm sure for the  
2 team he would be willing to have his testimony stipulated into  
3 the record and not come to Tallahassee.

4 CHAIRMAN JABER: Thank you, Mr. Wahlen. I think that  
5 is true about all the witnesses. Let's come back to that. Do  
6 not let me forget because I actually have an announcement to  
7 make about this hearing.

8 MR. WAHLEN: Okay. Thank you.

9 CHAIRMAN JABER: All right. Ms. Banks, so you are  
10 going to take out some of those references about refileing  
11 testimony.

12 Are there any changes to the basic positions?

13 MR. FEIL: Madam Chair, if I could go back to the  
14 witnesses quickly for one matter. Mr. McCluskey left FDN a  
15 little bit more than a week ago to take a job in another state,  
16 Minnesota of all places. I am going to have to file a notice  
17 of substitution of witness. I intend on doing that next week.  
18 I notified the parties yesterday of this problem. Whoever the  
19 substitute witness is will just be adopted Mr. McCluskey's  
20 testimony and there won't be any changes to the testimony. It  
21 will just be a different voice.

22 CHAIRMAN JABER: All right. Is there any objection  
23 or concern about that? We will go ahead and acknowledge that  
24 you will be filing a notice for adoption.

25 MR. FEIL: Thank you.

1 CHAIRMAN JABER: Any other changes to the witness  
2 list or to the basic position?

3 MS. BANKS: Madam Chair, I think there was an  
4 additional, I guess, change -- if Mr. Feil could help me out --  
5 reference he made regarding McCluskey's exhibit.

6 CHAIRMAN JABER: Let's wait until we get to the  
7 exhibits.

8 MS. BANKS: Okay. I'm sorry, I thought you were at  
9 the end.

10 CHAIRMAN JABER: On Page 14, Issue 13. Any changes  
11 to the positions on that issue? On Issue 17, are there any  
12 changes to the position? FCTA, I noticed there is no position  
13 stated?

14 MR. GROSS: FCTA is not taking a position on 13, but  
15 is on 17.

16 CHAIRMAN JABER: All right. So we will change that  
17 statement to no position. Alltel.

18 MR. GROSS: That is correct. That's fine.

19 MR. WAHLEN: On Issue 17, our position can be changed  
20 to no position. We will not be taking a position at all on  
21 Issue 17.

22 MR. EDENFIELD: I'm sorry, who was that, Madam Chair?

23 CHAIRMAN JABER: That was Jeff Wahlen.

24 MR. WAHLEN: Alltel.

25 CHAIRMAN JABER: All right. Before we take up

1 exhibits, let me take a look at my notes, Ms. Banks, and make  
2 sure I didn't leave anything out.

3 MS. BANKS: I believe all the concerns that were  
4 directed to me have been addressed.

5 CHAIRMAN JABER: Great. Exhibits. You had a  
6 question?

7 MS. BANKS: There was one, I guess, modification to  
8 the exhibit for John McCluskey, which is Page 32 in the draft  
9 prehearing order. And the description which says, "Segment  
10 LATA 60 ILEC retail calling areas," it should read "460," not  
11 "60" LATA.

12 CHAIRMAN JABER: So noted. Any other changes? You  
13 had a question for Mr. Feil, didn't you?

14 MR. FEIL: That was it.

15 MS. BANKS: That was it. That was the change.

16 CHAIRMAN JABER: On Page 31 there is a reference to  
17 an exhibit that was refiled. For the sake of consistency, any  
18 refiled exhibits you should delete those references, as well,  
19 right?

20 MS. BANKS: I think that would be appropriate, Madam  
21 Chair, and I would advise Ms. Caswell.

22 CHAIRMAN JABER: Great. Proposed stipulations? None  
23 yet? There are only two issues. This is a good time to  
24 reference what Mr. Wahlen brought up earlier. The  
25 Commissioners have a special agenda the morning of this

1 hearing. We don't expect a delay in this hearing necessarily,  
2 but you never know. So that will take yet more time from your  
3 one-day hearing. My request is that you all keep meeting on  
4 stipulation of issues and stipulation of witnesses because you  
5 need to recognize we will be done in one day. And you need to  
6 also recognize that the Commissioners have already heard  
7 testimony on this issue generally, and this proceeding was very  
8 refined and focused to the two issues identified here. So  
9 don't feel like you have to go back and re-educate us on  
10 reciprocal comp. And Mr. Wahlen's good point about witness and  
11 travel and efficiencies to be gained by stipulations, I think  
12 he is right on the mark, so I encourage you to keep  
13 negotiating.

14 MR. WAHLEN: Chairman, I wonder if we could try to  
15 set an informal date, maybe a week before the hearing where we  
16 could all sort of get back together and have a discussion. I'm  
17 not sure that you would necessarily need to be involved in  
18 that, but just sort of raise this question again after people  
19 have had plenty of time to think through this. And I don't  
20 know what the date is, but that would just be a way to sort of  
21 bring it to a point.

22 CHAIRMAN JABER: I think that is an excellent idea.  
23 And you're right, it doesn't need to rise to the level of a  
24 status conference or a second prehearing conference. But,  
25 Staff, certainly you could organize and facilitate a meeting a



1 week before the hearing to streamline some of these issues and  
2 see if there are witnesses that could be stipulated.

3 MS. BANKS: One thing that I was going to add, Madam  
4 Chair, potentially it could be before a week prior. Staff just  
5 needs an opportunity to go through the discovery. We've got a  
6 good number of responses back this week, and once we go through  
7 that we will have a better understanding of at least our  
8 position on witnesses we feel we would be able to stipulate or  
9 join a stipulation.

10 CHAIRMAN JABER: Is there outstanding discovery or do  
11 you all have your responses to discovery?

12 MS. BANKS: I believe for most of what we sent out we  
13 have received. I have not done a checklist of it, but from  
14 what I gather in review of the file I believe we have all that  
15 we have requested.

16 CHAIRMAN JABER: Wonderful.

17 MR. McDONNELL: Madam Chairman, there is still a  
18 little bit outstanding. AT&T sent some discovery requests to  
19 BellSouth that have not been answered, but I think pursuant to  
20 the prehearing order April 24th is the cutoff.

21 CHAIRMAN JABER: Mr. Edenfield, if you expedite some  
22 of those responses you may be able to reach agreement on some  
23 of the issues and some of the witnesses.

24 MR. EDENFIELD: That is fine, Madam Chairman. In  
25 fact, I think our responses are due Monday, so I will either

1 get them out today or Monday.

2 CHAIRMAN JABER: Thank you. Any other requests?

3 MR. FEIL: Madam Chair, if I may, with regard to the  
4 question of openings, the draft indicates it was going to be  
5 limited to 15 minutes per side. In light of what you have said  
6 regarding the hearing perhaps starting late on the 8th, and  
7 actually the question as I originally had in my mind when I  
8 looked at the draft prehearing order is the sides aren't  
9 exactly strictly organized by party, there are multiple facets,  
10 and I guess what I'm leading up to is to the extent the parties  
11 deem openings necessary, I would like to ask whether or not  
12 that is the case; and if it is the case, I would also suggest  
13 that we coordinate on the multiple facets of the sides in this  
14 case.

15 CHAIRMAN JABER: And, of course, you could make it  
16 completely easy by waiving opening statements.

17 MR. EDENFIELD: BellSouth would certainly be willing  
18 to entertain that if the other parties would, Madam Chairman.  
19 I don't know see what the Commission is going to gain from two  
20 issues having to listen to the lawyers drone on for awhile.

21 CHAIRMAN JABER: Well, let the record reflect I saw  
22 some nodding of heads. Is that a yes, you all waive opening  
23 statements?

24 MR. MOYLE: I would like to visit with my client on  
25 it, but I sure wouldn't object to taking it from 15 minutes to

1 five minutes.

2 CHAIRMAN JABER: Ms. Caswell.

3 MS. CASWELL: I'm sorry, I'm late. Kim Caswell with  
4 Verizon. As to the matter of opening statements, I don't think  
5 we want to waive it.

6 CHAIRMAN JABER: I think you lost that opportunity  
7 because you were late.

8 MS. CASWELL: Okay.

9 CHAIRMAN JABER: Go ahead.

10 MS. CASWELL: We could limit it to five minutes. I'm  
11 not sure, I saw that it said 15 minutes per side in the  
12 prehearing order, I'm not sure what a side is here because our  
13 position is not entirely consistent with BellSouth's. So if we  
14 could have five of the 15 minutes we would be happy.

15 CHAIRMAN JABER: What Mr. Feil was just saying as you  
16 were walking in is that it is not so easy to determine the  
17 sides. Talk about waiving opening statements and how much is  
18 really necessary. To the degree the parties do not reach an  
19 agreement on the waiver of opening statements, it sounds like  
20 they do have -- there is consensus on five minutes, but  
21 obviously it is not going to be per side, it will be per party.  
22 And maybe the statement that a party makes is I agree with  
23 Verizon.

24 MS. CASWELL: That would be a good statement.

25 (Laughter.)

1 CHAIRMAN JABER: All of your issues were stipulated  
2 in your absence. I just wanted --

3 (Laughter.)

4 CHAIRMAN JABER: The rulings are as set forth in the  
5 transcript. The pending confidentiality matters are the ones  
6 we discussed. And there are no pending motions, Felicia?

7 MS. BANKS: That is correct, Madam Chair.

8 CHAIRMAN JABER: BellSouth, anything else?

9 MR. EDENFIELD: Nothing from BellSouth, Madam  
10 Chairman. But I would thank you again for letting me attend by  
11 phone.

12 CHAIRMAN JABER: No problem. Verizon?

13 MS. CASWELL: No. The only thing I had to point out  
14 on decisions that may impact Commission's resolution of issues,  
15 I think our statement may have been left out, and the only  
16 thing we wanted to put in there is the notice of proposed  
17 rulemaking on the unified intercompensation mechanism. So we  
18 can just copy that Number 2 from Sprint and we would be fine.  
19 Thank you.

20 CHAIRMAN JABER: Mr. Gross?

21 MR. GROSS: We're fine.

22 CHAIRMAN JABER: Ms. Masterton?

23 MS. MASTERTON: Sprint has nothing.

24 CHAIRMAN JABER: Mr. Wahlen?

25 MR. WAHLEN: Nothing further.

1 CHAIRMAN JABER: Mr. McDonnell?

2 MR. McDONNELL: Nothing further.

3 CHAIRMAN JABER: Mr. Moyle?

4 MR. MOYLE: We're fine.

5 MR. PERKO: Nothing further.

6 MR. FEIL: And on Page 34, Commissioner, I would  
7 cross out, "at the time of serving this filing," and other than  
8 that I don't have anything else.

9 CHAIRMAN JABER: You would cross out what?

10 MR. FEIL: At the time of serving this filing. But I  
11 have nothing further.

12 CHAIRMAN JABER: Staff?

13 MS. BANKS: Staff has nothing further.

14 CHAIRMAN JABER: This prehearing is adjourned. Thank  
15 you.

16 (The prehearing conference concluded at 10:15 a.m.)  
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STATE OF FLORIDA )

: CERTIFICATE OF REPORTER

COUNTY OF LEON )

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard 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 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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 24TH DAY OF APRIL, 2002.

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