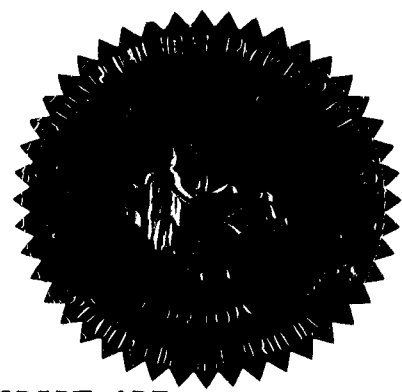


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 011119-TP

In the Matter of

PETITION BY XO FLORIDA, INC.
FOR ARBITRATION OF UNRESOLVED
ISSUES WITH BELLSOUTH
TELECOMMUNICATIONS, INC.



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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER RUDOLPH "RUDY" BRADLEY
 Prehearing Officer

DATE: Monday, May 6, 2002

TIME: Commenced at 1:32 p.m.
 Concluded at 1:50 p.m.

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

REPORTED BY: LINDA BOLES, RPR
 Official FPSC Reporter
 (850) 413-6734

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CI FRK

1 APPEARANCES:

2 DANA SHAFFER, Vice President, Regulatory Counsel, XO
3 Communications, Inc., 105 Molloy Street, Suite 300, Nashville,
4 Tennessee 37215, participating telephonically; and JOHN A.
5 DOYLE, JR, Parker, Poe, Adams & Bernstein, Post Office Box
6 389, 1400 First Union Capital Center, Raleigh, North Carolina
7 27602-0389, participating telephonically; and VICKI GORDON
8 KAUFMAN, McWhirter, Reeves, McGlothlin, Davidson, Dekker,
9 Kaufman, Arnold & Steen, P.A., 117 South Gadsden Street,
10 Tallahassee, Florida 32301, appearing on behalf of XO Florida,
11 Inc.

12 JAMES MEZA, III, c/o Nancy H. Sims, 150 South Monroe
13 Street, Suite 400, Tallahassee, Florida 32301; and PATRICK W.
14 TURNER, 675 West Peachtree Street, Suite 4300, Atlanta, Georgia
15 30375, participating telephonically, appearing on behalf of
16 BellSouth Telecommunications, Inc.

17 JASON FUDGE, Florida Public Service Commission,
18 Office of the General Counsel, 2540 Shumard Oak Boulevard,
19 Tallahassee, Florida 32399-0870, appearing on behalf of the
20 Commission Staff.

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P R O C E E D I N G S

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COMMISSIONER BRADLEY: This prehearing conference is now called to order. Counsel will read the notice.

MR. FUDGE: Pursuant to a notice issued April 26th, 2002, this time and place was set for a prehearing conference in Docket 011119-TP, In Re: Petition by XO Florida, Incorporated, for Arbitration of Unresolved Issues with BellSouth Telecommunications, Inc.

MS. SHAFFER: Hello.

COMMISSIONER BRADLEY: Thank you. We would now take appearances beginning with --

MS. SHAFFER: Hello.

COMMISSIONER BRADLEY: Yes.

MS. KAUFMAN: That's probably Ms. Shaffer, Commissioner.

MS. SHAFFER: Hello.

COMMISSIONER BRADLEY: Yes.

MS. SHAFFER: It's Dana Shaffer.

COMMISSIONER BRADLEY: Okay.

MS. KAUFMAN: She is on behalf of XO, Commissioner, when you take appearances.

COMMISSIONER BRADLEY: We're taking appearances, so I'm taking it for granted that she is letting it be known that she is here and able to appear. Is that correct, Ms. Shaffer?

MS. SHAFFER: Yes, Commissioner.

1 COMMISSIONER BRADLEY: Okay. Thank you. I need for
2 the lawyers to state their name and address and who you're
3 representing.

4 Ms. Shaffer, why don't you go first.

5 MS. SHAFFER: My name is Dana Shaffer on behalf of XO
6 Florida, Inc. My address is 105 Molloy Street, Suite 300,
7 Nashville, Tennessee 37215.

8 COMMISSIONER BRADLEY: Thank you. Is there anyone
9 else who is appearing but not physically here today, also?

10 MR. DOYLE: Yes. This is John Doyle, also on behalf
11 of XO. My address is -- the law firm is Parker, Poe, Adams &
12 Bernstein, 1400 First Union Capital Center, Raleigh, North
13 Carolina 27602.

14 COMMISSIONER BRADLEY: Anyone else?

15 MR. TURNER: Yes, sir. This is Patrick Turner
16 representing BellSouth. My address is 675 West Peachtree
17 Street, Suite 4300, Atlanta, Georgia 30375.

18 COMMISSIONER BRADLEY: Would you repeat your name
19 again? Patrick Turner; is that correct?

20 MR. TURNER: Yes, sir. That's right.

21 COMMISSIONER BRADLEY: Okay. Thank you, Mr. Turner.
22 Anyone else?

23 Okay. What about those who are physically here to
24 make appearances today that we need to officially log in?

25 MS. KAUFMAN: Vicki Gordon Kaufman with the

1 McWhirter, Reeves Law Firm, 117 South Gadsden Street,
2 Tallahassee, Florida 32301. I'm appearing with Mr. Doyle and
3 Ms. Shaffer on behalf of X0 Florida, Inc.

4 COMMISSIONER BRADLEY: Okay.

5 MR. MEZA: And this is Jim Meza on behalf of
6 BellSouth. My address is 150 West Flagler, Suite 1910, Miami,
7 Florida 33130, and I'm appearing with Patrick Turner.

8 COMMISSIONER BRADLEY: Thank you. Anyone else?

9 MR. FUDGE: Jason Fudge on behalf of the Commission.

10 COMMISSIONER BRADLEY: Anyone else? Thank you. That
11 takes care of that business.

12 Are there any preliminary matters? None? Does
13 everyone have a copy of the draft prehearing order?

14 MS. KAUFMAN: Yes, sir.

15 MR. MEZA: Yes, sir.

16 COMMISSIONER BRADLEY: Okay. I think for the record,
17 since we have some folks who are appearing in absentia, I think
18 that we need to have you all also state that you do have a copy
19 of the prehearing order.

20 What about you, Ms. Shaffer?

21 MS. SHAFFER: Yes, I do.

22 COMMISSIONER BRADLEY: Mr. Doyle, do you have a copy?

23 MR. DOYLE: I do. Thank you.

24 COMMISSIONER BRADLEY: Mr. Turner, do you have a
25 copy?

1 MR. TURNER: No, sir, I've not received one. But if
2 Mr. Meza has one, that will suffice.

3 COMMISSIONER BRADLEY: Is that agreed to, Mr. Meza?

4 MR. MEZA: Yeah. Yes, sir. That's fine.

5 COMMISSIONER BRADLEY: Vicki Kaufman, do you have
6 one?

7 MS. KAUFMAN: Yes, sir.

8 COMMISSIONER BRADLEY: Okay. And I know that Jim
9 Meza has one and our attorney Jason has, Jason Fudge has one.
10 Okay. We'll go over the draft prehearing order item
11 by item. As I go along, unless you hear an objection or a
12 concern, I'll take it that you have no objection to each item
13 or any item. So if you've got a problem with any item, please
14 speak up.

15 Okay. The first item is the order of witnesses and
16 issues to be addressed by each party. Are there any
17 corrections?

18 MS. KAUFMAN: Commissioner, I don't have any
19 corrections to that. But prior to that section, Section 3
20 talks about the procedure for handling confidential
21 information.

22 COMMISSIONER BRADLEY: Okay.

23 MS. KAUFMAN: And on Page 3 it requires the parties
24 to let you know if we're intending to use confidential
25 information at the hearing. And so I just wanted to go on the

1 record and let you know that X0 does intend to use confidential
2 information, and some of the exhibits to some of our witnesses'
3 testimony contains such information and has been appropriately
4 filed under the Commission's rules and regulations.

5 COMMISSIONER BRADLEY: Okay. What about BellSouth?

6 MR. MEZA: Yes, sir. We also intend to use
7 confidential information at the hearing.

8 COMMISSIONER BRADLEY: Okay. What about post-hearing
9 procedures? Any issues related to the post-hearing procedures?

10 MS. KAUFMAN: No, sir.

11 MR. MEZA: No, sir.

12 COMMISSIONER BRADLEY: Okay. Thank you, Ms. Kaufman.

13 The next item on the, the next piece of business that
14 we need to attend to is the order of witnesses and issues to be
15 addressed by each. Are there any corrections?

16 MS. KAUFMAN: Well, this is not a correction, but if
17 you look at Mr. Knowles' testimony, he's the first witness
18 listed for X0 on Page 5 at the bottom, you will see that he has
19 supplemental testimony listed. And I think later on in the
20 draft prehearing order you'll see that there was a motion
21 seeking leave to file that testimony. But since that time
22 we've discussed it with BellSouth and with Mr. Fudge and we are
23 willing to withdraw the supplemental testimony with the
24 understanding that the exhibit that is attached thereto, which
25 happens to be confidential, will be listed in the exhibit list

1 as a stipulated exhibit.

2 COMMISSIONER BRADLEY: Is that agreed to, Mr. Meza?

3 MR. MEZA: That's correct.

4 COMMISSIONER BRADLEY: Okay. BellSouth agrees?

5 MR. MEZA: Yes, sir.

6 COMMISSIONER BRADLEY: Okay. Excuse me just a
7 minute.

8 (Pause.)

9 MR. MEZA: Commissioner Bradley, I'd just like to
10 point out one caveat to the agreement that Ms. Kaufman pointed
11 out, and that is BellSouth would like to reserve the right to
12 cross-examine Mr. Knowles about the information contained in
13 the stipulated exhibit.

14 COMMISSIONER BRADLEY: Would you, would you repeat
15 that, please?

16 MR. MEZA: Yes, sir. One caveat to the agreement
17 Ms. Kaufman described to you is that BellSouth intends to
18 cross-examine Mr. Knowles about the information contained in
19 the stipulated exhibit.

20 COMMISSIONER BRADLEY: Okay. Is that agreed to?

21 MS. KAUFMAN: Yes. We have no objection.

22 COMMISSIONER BRADLEY: Okay.

23 MS. KAUFMAN: So --

24 COMMISSIONER BRADLEY: Go ahead.

25 MS. KAUFMAN: Excuse me. So I was just going to say

1 that, therefore, Mr. Knowles would only have direct and
2 rebuttal testimony listed under his name.

3 COMMISSIONER BRADLEY: Okay. That's fine. Is that
4 agreed to?

5 MR. MEZA: That's fine.

6 COMMISSIONER BRADLEY: I need to back up and deal
7 with appearances.

8 According to my draft of my prehearing order, we have
9 a Dana Shaffer, a Nancy B. White and Jason Fudge who are going
10 to appear at this hearing; is that correct?

11 MS. KAUFMAN: Well, Commissioner, on behalf of X0, I
12 think the three counsel that are listed, Ms. Shaffer, Mr. Doyle
13 and myself, will be appearing. Mr. Henry Campen, who is at the
14 same firm as Mr. Doyle, may or may not appear depending on
15 Mr. Doyle's availability.

16 COMMISSIONER BRADLEY: Okay. Now let me see if I
17 understand this. Okay. Ms. Dana Shaffer is going to appear.

18 MS. KAUFMAN: Yes, sir.

19 COMMISSIONER BRADLEY: And who else is going to
20 appear for X0?

21 MS. KAUFMAN: Myself.

22 MR. DOYLE: This is John Doyle. It will either be
23 myself or Henry Campen, who is in the same law firm as I am,
24 one of the two of us. We won't both be there. And then Vicki
25 will also be there on behalf of X0.

1 COMMISSIONER BRADLEY: Let the record reflect that
2 either John Doyle or Vicki Kaufman or Dana Shaffer will appear
3 on behalf of XO; is that correct?

4 MS. KAUFMAN: All three of us.

5 COMMISSIONER BRADLEY: All three of you will appear.

6 MS. KAUFMAN: Yes, sir.

7 COMMISSIONER BRADLEY: And on behalf of BellSouth we
8 will have Nancy White and James Meza.

9 MR. MEZA: Probably, Commissioner, the attorneys
10 representing BellSouth will be myself, James Meza and Patrick
11 Turner. Neither Ms. White nor Mr. Lackey will probably appear.

12 COMMISSIONER BRADLEY: Okay. Let the record reflect
13 that.

14 And on behalf of the Public Service, on behalf of the
15 Commission we would have Jason Fudge; is that correct, Jason?

16 MR. FUDGE: Yes, sir.

17 COMMISSIONER BRADLEY: Okay. Also, conduct of
18 proceedings, are there any statements or comments as it relates
19 to the conduct of the proceedings? Any questions?

20 MS. KAUFMAN: Commissioner, I don't know if this, if
21 this is what you meant by that inquiry, but in some proceedings
22 I know that there have been provisions made for opening
23 statements.

24 COMMISSIONER BRADLEY: Uh-huh.

25 MS. KAUFMAN: And if that's what you're referring to,

1 XO would request the opportunity to make a very brief opening
2 statement at the beginning of the hearing. Five minutes should
3 be more than sufficient.

4 COMMISSIONER BRADLEY: That would be appropriate.
5 What about BellSouth?

6 MR. MEZA: BellSouth would agree to a five-minute
7 opening.

8 COMMISSIONER BRADLEY: Okay. Let the record reflect
9 that we've agreed to a five-minute opening presentation by each
10 party.

11 Any comments as it relates to the case background,
12 XO? BellSouth?

13 MR. MEZA: No. BellSouth has no comments.

14 COMMISSIONER BRADLEY: Let the record reflect then
15 that there are no comments as it relates to the case
16 background.

17 Jason, Jason Fudge, any comments?

18 MR. FUDGE: No, Commissioner.

19 COMMISSIONER BRADLEY: Okay. Okay. I may have
20 gotten a little ahead of myself. Did we cover the order of
21 witnesses and the issues to be addressed by each?

22 Okay. The next item is the order of witnesses and
23 issues to be addressed by each. Are there any corrections to
24 that particular item?

25 MR. MEZA: No.

1 COMMISSIONER BRADLEY: X0?

2 MS. KAUFMAN: No. Just what we've already talked
3 about, the withdrawal of the supplemental testimony of
4 Mr. Knowles.

5 COMMISSIONER BRADLEY: Okay.

6 MR. MEZA: And BellSouth has no changes.

7 COMMISSIONER BRADLEY: Okay. Mr. Fudge?

8 MR. FUDGE: No changes.

9 COMMISSIONER BRADLEY: Okay. What -- how about basic
10 positions?

11 MS. KAUFMAN: No changes.

12 MR. MEZA: No changes.

13 MR. FUDGE: No changes.

14 COMMISSIONER BRADLEY: No changes. Okay. Let the
15 record reflect so.

16 Any corrections to issues or positions? Just
17 reasking the question. X0?

18 MS. KAUFMAN: No, sir.

19 MR. MEZA: No, sir.

20 MR. FUDGE: No, sir.

21 COMMISSIONER BRADLEY: Any changes to the exhibits?
22 X0?

23 MS. KAUFMAN: Well, I guess the only change would be
24 the addition of another exhibit which would be reflected as
25 stipulated, and it's already been identified on Page 12 as

1 RK-4.

2 COMMISSIONER BRADLEY: Okay. Mr. Meza?

3 MR. MEZA: That would be consistent with our
4 agreement.

5 COMMISSIONER BRADLEY: Okay. Let the record reflect
6 those statements. Mr. Fudge?

7 MR. FUDGE: There's no change. I just want to make
8 it clear, I guess we'll just leave it as RK-4.

9 MS. KAUFMAN: That would be fine, fine with me. I
10 mean, the title -- and it would be Mr. Knowles' exhibit, so I
11 think that'd be appropriate.

12 COMMISSIONER BRADLEY: And I, I know that the next
13 item is in the stipulations and we do have a stipulation, but
14 just for the sake of order and for this portion of the record,
15 would you repeat what the stipulations are? And I would like
16 for BellSouth to also repeat that for the record just so that
17 we, just to ensure that we have consistency of agreement.

18 MS. KAUFMAN: It's my understanding that we have
19 agreed that what is currently denominated RK-4 in the draft
20 prehearing order will be reflected as a stipulated exhibit. X0
21 will withdraw its motion to file supplemental testimony and
22 BellSouth reserves the right to cross-examine Mr. Knowles on
23 the stipulated exhibit.

24 MR. MEZA: That's correct.

25 COMMISSIONER BRADLEY: Would you just for the record

1 repeat what you understand the agreement is?

2 MR. MEZA: Yes, sir. BellSouth understands and has
3 agreed to stipulating the information contained in Mr. or XO's
4 motion to supplement testimony, the actual exhibit to
5 Interrogatory Number 19 as a stipulated Exhibit RK-4 in return
6 for XO withdrawing its motion to file supplemental testimony
7 and BellSouth reserving the right to cross-examine Mr. Knowles
8 at the hearing regarding said exhibit.

9 COMMISSIONER BRADLEY: Okay. Thank you, Mr. Meza.
10 Mr. Fudge?

11 MR. FUDGE: Yes, sir.

12 COMMISSIONER BRADLEY: Any comments from you?

13 MR. FUDGE: No. That's fine. The order will reflect
14 the proposed stipulation.

15 COMMISSIONER BRADLEY: Are there any pending motions?

16 MR. FUDGE: I believe the stipulation resolved the
17 pending motion, so we'll delete that item from the prehearing
18 order.

19 COMMISSIONER BRADLEY: Okay. Maybe I should have
20 asked are there any additional pending motions?

21 And we have dealt with the issue of confidentiality
22 as a pending request. Is the record accurate as it relates to
23 that particular item, XO?

24 MS. KAUFMAN: It is accurate. All the pending
25 requests have been granted. There will be some additional

1 requests for confidentiality filed, but they're not ripe for
2 your decision yet.

3 COMMISSIONER BRADLEY: Okay. BellSouth?

4 MR. MEZA: That's the same for BellSouth.

5 COMMISSIONER BRADLEY: Okay. Mr. Fudge?

6 MR. FUDGE: That's correct.

7 COMMISSIONER BRADLEY: Okay. Well, that pretty much
8 gets us to the bottom of our agenda. I would request though --
9 you all mentioned five minutes. I will say this though, that
10 just as a, as a policy, I will request that we hold opening
11 statements to no longer than ten minutes.

12 I think we're ready to go. Ms. Shaffer, do you have
13 any additional comments or Mr. Doyle or Mr. Turner?

14 MS. SHAFFER: No, sir.

15 MR. DOYLE: No, I don't. Thank you.

16 MR. TURNER: No thank you.

17 COMMISSIONER BRADLEY: Mr. Turner?

18 MR. TURNER: No, sir. Thank you.

19 COMMISSIONER BRADLEY: Okay. Any additional comments
20 from any other parties who are present today?

21 MR. FUDGE: No, sir.

22 MR. MEZA: No, sir.

23 MS. KAUFMAN: No, sir. Thank you.

24 COMMISSIONER BRADLEY: Okay. Well, that brings us to
25 the end of our agenda. That being so, this prehearing is

1 adjourned.

2 (Prehearing Conference concluded at 1:50 p.m.)

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STATE OF FLORIDA)
:
COUNTY OF LEON)

CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, Official Commission Reporter, 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 8TH DAY OF MAY, 2002.


LINDA BOLES, RPR
FPSC Official Commissioner Reporter
(850) 413-6734