

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

PETITION FOR EXPEDITED REVIEW AND DOCKET NO. 020119-TP  
CANCELLATION OF BELLSOUTH  
TELECOMMUNICATIONS, INC.'S KEY  
CUSTOMER PROMOTIONAL TARIFFS AND  
FOR INVESTIGATION OF BELLSOUTH'S  
PROMOTIONAL PRICING AND MARKETING  
PRACTICES, BY FLORIDA DIGITAL  
NETWORK, INC.

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PETITION FOR EXPEDITED REVIEW AND DOCKET NO. 020578-TP  
CANCELLATION OF BELLSOUTH  
TELECOMMUNICATIONS, INC.'S KEY  
CUSTOMER PROMOTIONAL TARIFFS BY  
FLORIDA COMPETITIVE CARRIERS  
ASSOCIATION.

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PROCEEDINGS: PREHEARING CONFERENCE  
BEFORE: COMMISSIONER BRAULIO L. BAEZ  
Prehearing Officer  
DATE: Monday, December 16, 2002  
TIME: Commenced at 1:30 p.m.  
Concluded at 2:00 p.m.  
PLACE: Betty Easley Conference Center  
Room 152  
4075 Esplanade Way  
Tallahassee, Florida  
REPORTED BY: TRICIA DeMARTE, RPR  
Official FPSC Reporter  
(850) 413-6736



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## 1 APPEARANCES:

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3 Miami, Florida 33130; and MEREDITH E. MAYS, 675 West Peachtree  
4 Street, Northeast, Suite 4300, Atlanta, Georgia 30375,  
5 appearing on behalf of BellSouth Telecommunications, Inc.

6 MATTHEW J. FEIL, 390 North Orange Avenue, Suite 2000,  
7 Orlando, Florida 32801-1640, appearing on behalf of Florida  
8 Digital Network, Inc.

9 JOSEPH A. McGLOTHLIN and VICKI GORDON KAUFMAN,  
10 McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman,  
11 Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee,  
12 Florida 32301, appearing on behalf of Florida Competitive  
13 Carriers Association.

14 MARTIN P. McDONNELL, Rutledge, Ecenia, Purnell &  
15 Hoffman, P. O. Box 511, Tallahassee, Florida 32302, appearing  
16 on behalf of US LEC of Florida, Inc., XO Florida, Inc., and  
17 Time Warner Telecom of Florida, L.P.

18 KAREN M. CAMECHIS, Pennington, Moore, Wilkinson, Bell  
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20 appearing on behalf of Time Warner Telecom of Florida, L.P.

21 FELICIA R. BANKS and LINDA H. DODSON, FPSC General  
22 Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee,  
23 Florida 32399-0850, appearing on behalf of the Commission  
24 Staff.

25

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

1  
2 COMMISSIONER BAEZ: We'll call the prehearing to  
3 order. Counsel, read the notice.

4 MS. BANKS: Pursuant to notice issued December 2nd,  
5 2002, this time and place has been set for a prehearing in  
6 Docket Numbers 020119-TP and 020578-TP.

7 COMMISSIONER BAEZ: Let's take appearances.

8 MS. WHITE: Nancy White for BellSouth  
9 Telecommunications, Inc.

10 MR. McDONNELL: Marty McDonnell of the Rutledge Law  
11 Firm. I'm here on behalf of XO Florida, US LEC of Florida, and  
12 Time Warner. Also, with me on behalf of Time Warner is  
13 Karen Camechis from the Pennington Law Firm.

14 MR. McGLOTHLIN: Joe McGlothlin on behalf of the  
15 Florida Competitive Carriers Association. I'd like to make an  
16 appearance for Vicki Kaufman of our firm also.

17 MR. FEIL: Matthew Feil on behalf of Florida Digital  
18 Network, Inc.

19 COMMISSIONER BAEZ: All right. Staff.

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

22 COMMISSIONER BAEZ: You all have to excuse me, I'm  
23 working the second week of a cold today. We've got some  
24 preliminary matters here. I'm showing a withdrawal of a  
25 motion --

1 MS. BANKS: Yes, Commissioner.

2 COMMISSIONER BAEZ: -- and a stipulation, I guess.

3 MS. BANKS: Yes, Commissioner.

4 COMMISSIONER BAEZ: What do we need to do there?

5 Now, the stipulation gets entered or accepted at hearing, so  
6 what are my responsibilities to that?

7 MS. BANKS: Since staff had not been afforded the  
8 privilege to discuss the modifying stipulation that was  
9 proffered by FDN and BellSouth, staff just wanted to confirm  
10 the parties' position on the stipulation that was reached  
11 between FDN and BellSouth.

12 COMMISSIONER BAEZ: And would Ms. White and Mr. Feil  
13 want to take a crack at it for staff, or have you already had  
14 that conversation?

15 MS. WHITE: Well, we've already agreed to language,  
16 and I think Mr. Feil had submitted that language to the staff.

17 MR. FEIL: Via e-mail, yes, sir.

18 COMMISSIONER BAEZ: Okay. You know, staff, I'm not  
19 sure. It's not reflected in this draft, is it, or it is?

20 MS. WHITE: It is.

21 MS. BANKS: Yes, it is. It is.

22 COMMISSIONER BAEZ: Okay.

23 MR. FEIL: The stipulation language itself,  
24 Commissioner, is on Page 33.

25 COMMISSIONER BAEZ: Thank you, Mr. Feil.

1 MS. BANKS: Commissioner, if I could just add --

2 COMMISSIONER BAEZ: Uh-huh.

3 MS. BANKS: One of the things that staff wanted to do  
4 is just to confirm other parties' -- whether there was any  
5 opposition to the stipulation as it appears to potentially  
6 impact other proceedings.

7 COMMISSIONER BAEZ: You know, I'm sorry. Mr. Feil,  
8 you pointed me -- oh, here we go. I'm sorry, you said Page 33.  
9 I'm showing Page 31. Okay. So let's hear from the other  
10 parties. Mr. McGlothlin. Mr. McDonnell.

11 MR. MCGLOTHLIN: Commissioner, the FCCA does not  
12 object to this language. I would like to place on the record  
13 the clarification that I discussed with Mr. Feil, who's in  
14 agreement with it. There are two aspects to the possible  
15 impact of a separate discount, and the needed tariffing is one  
16 of them. We have also asserted as part of a position response  
17 to another issue that -- with respect to the applicable  
18 threshold that discount must meet. BellSouth should be  
19 prohibited from applying -- from circumventing or undermining  
20 that threshold by application of a separate discount. And no  
21 matter how many discounts come to bear, the floor of a price  
22 has to be met, in other words. And I'm told by Mr. Feil that  
23 there is no intent of this stipulation to do anything different  
24 from that, and I wanted to make sure that that was understood  
25 by all.

1 COMMISSIONER BAEZ: Mr. Feil.

2 MR. FEIL: I agree with what Mr. McGlothlin said.

3 The intent of the stipulation language is to address just the  
4 tariff aspects so that if there's a discount, rebate, points,  
5 cash-back coupons applicable to regulated services, then there  
6 would be a tariff filed for that. It doesn't address the issue  
7 of whether or not the accumulation of discounts by one customer  
8 at all. It does not address that question.

9 COMMISSIONER BAEZ: Ms. White, is that --

10 MS. WHITE: I agree, I don't think a price floor is  
11 relevant to this stipulation.

12 COMMISSIONER BAEZ: Mr. McDonnell.

13 MR. McDONNELL: Commissioner Baez, I have not had an  
14 opportunity to talk to my clients about this stipulation.  
15 There's nothing in it that offends me personally, but without  
16 talking to my clients, I can't make a representation.

17 COMMISSIONER BAEZ: You know, that counts for a lot.  
18 (Laughter.)

19 COMMISSIONER BAEZ: Ms. Banks, correct me if I'm  
20 wrong, we don't -- I mean, he's free to -- Mr. McDonnell does  
21 have leave to confer with his client and raise any objections  
22 prior to hearing at the time we're going to take it up?

23 MS. BANKS: Yes, Commissioner, if you deem that  
24 that's appropriate. Yes.

25 COMMISSIONER BAEZ: Okay. All right. Next, we've

1 got a motion for continuance.

2 MS. BANKS: Yes, Commissioner. On December 13th,  
3 2002, FCCA, US LEC, Time Warner, and XO filed a motion to  
4 continue the hearing and hold case activities in abeyance. In  
5 their motion, movants assert that additional time is needed to  
6 seek a possible settlement in this proceeding. Movants further  
7 request that all case activities be held in abeyance for 45  
8 days, including discovery and motions. The movants have  
9 indicated that FDN supports the motion; however, it is  
10 indicated that BellSouth opposes the motion.

11 COMMISSIONER BAEZ: This was filed on the 13th, and  
12 we don't have any response filed as of yet?

13 MS. BANKS: Yes, Commissioner, that is correct.

14 COMMISSIONER BAEZ: Ms. White, do you have a  
15 response?

16 MS. WHITE: Yes. BellSouth does object to the  
17 continuance. We believe it's going to be less likely to reach  
18 a compromise or a settlement if there's a continuance in this  
19 case. FCCA has continually asked for expedited discovery and  
20 expedited treatment of this case. BellSouth wants to continue  
21 that, because as you're aware, during the argument at the  
22 agenda conference where we were arguing whether these tariffs  
23 should be suspended or canceled, we pretty much made a  
24 commitment to the Commission that we would not file any tariffs  
25 that were different from these. So it is hindering our

1 flexibility to go out there and file things that we believe the  
2 customers want. So the longer this goes on, I think the more  
3 we're hamstrung. So we are not in agreement with a continuance  
4 on this matter.

5 COMMISSIONER BAEZ: That's it for you?

6 MS. WHITE: That's it for me.

7 COMMISSIONER BAEZ: That's it for you.

8 Mr. McGlothlin, you know, BellSouth raises a good point. This  
9 is something that you all have asked for expedited treatment  
10 of. I think I also heard BellSouth mention how they have at  
11 least voluntarily made a commitment to the Commission not to  
12 file these, because as we all recall, we did have some -- a  
13 fairly long conversation on whether they should have been  
14 prohibited from filing so that not to repeat this -- not to  
15 have the overlap on these filings.

16 How do you respond to those realities at least, and  
17 what do you think the fair impact should be?

18 MR. MCGLOTHLIN: Well, the trade-off is this,  
19 Commissioner. We think that this case does lend itself to the  
20 possibility of either a settlement or at least a streamlining  
21 of issues. And what we find ourselves in today is a situation  
22 which I think the parties are somewhat hamstrung by the fact  
23 that there's this active motion practice, that there's the  
24 holidays coming up, and that the hearing is scheduled for early  
25 January, and it's a resource kind of problem. It's a time --



1 problem of timing, and we think that if we had a standstill of  
2 a modest period that the parties could focus on the possibility  
3 of a settlement in a way that it's impossible under the current  
4 conditions.

5 COMMISSIONER BAEZ: Am I correct in assuming that  
6 you'd be of the opinion that BellSouth should continue its  
7 voluntary moratorium, for a lack of a better word, on filing  
8 these types of promotions?

9 MR. McGLOTHLIN: Well, that would be my hope, but  
10 certainly we can't dictate that.

11 COMMISSIONER BAEZ: You do understand that we can't  
12 dictate that, and certainly I as one couldn't in good  
13 conscience put something off without expecting them or at least  
14 hoping for their best most responsible judgment but not --  
15 certainly no -- I think all bets are off, I guess, in short  
16 order. I don't think they'd have any shame in not abiding what  
17 their commitment has been thus far, given -- if something like  
18 this were to be granted. I mean, do you at least -- do you  
19 understand that?

20 MR. McGLOTHLIN: I do. And --

21 COMMISSIONER BAEZ: There are trade-offs, after all,  
22 you said.

23 MR. McGLOTHLIN: Yes, sir. My hope is that if we  
24 have a standstill, it would be for all purposes. But again, I  
25 understand that we can't control what BellSouth does

1 voluntarily or in that respect.

2 COMMISSIONER BAEZ: Here's --

3 MR. McGLOTHLIN: I want to mention, too, that  
4 Mr. McDonnell's clients are co-movants with FCCA on this, so  
5 they may have some --

6 COMMISSIONER BAEZ: Mr. McDonnell, do you have any  
7 comments to add?

8 MR. McDONNELL: No, sir.

9 COMMISSIONER BAEZ: I'm inclined to go ahead with the  
10 continuance, but I think -- and the reason I asked you that  
11 question is to sort of send a message to Ms. White and make it  
12 clear that at least as far as I'm concerned, as far as this  
13 Prehearing Officer is concerned, I think that the responsible  
14 and reasonable commitment that you all made at the agenda,  
15 which I certainly appreciated, you don't have to feel guilty  
16 about doing whatever you think is right, notwithstanding that  
17 commitment.

18 I'm hoping that that understanding kind of puts you  
19 both under pressure. I don't think it's a great idea. You see  
20 what kind of position it puts the Commission in if you go back  
21 to that practice, but I'm hoping that it puts you both under  
22 some kind of pressure to work this out.

23 I would also ask you that to the extent that you are  
24 at an impasse, that you maintain staff apprised of the  
25 situation as much as possible.

1           As to the 45 days, Mr. McGlothlin, I think that for  
2 scheduling purposes, we've tried to honor both the expedited  
3 nature of this and our own scheduling limitations. And I think  
4 the best that we've been able to come up with and still try and  
5 stay close to your number is 40 days. Is it the 19th and the  
6 20th that we've identified as open for hearing?

7           MS. BANKS: Yes, Commissioner. That's February 19th  
8 and 20th.

9           COMMISSIONER BAEZ: It's not 45 days, and I think in  
10 some respects perhaps you won't need as many. All the  
11 corresponding procedural dates, I'm assuming, need to be  
12 changed. I don't know how much staff has been able to work on  
13 those dates. I'd like to get them cleared up as far as this  
14 prehearing order. So if you can take the time, and we'll  
15 double back and clarify those dates at the end of the day.

16           MS. BANKS: We have a skeletal proposal that we'd  
17 like to share with the parties, if that's appropriate at this  
18 time.

19           COMMISSIONER BAEZ: Offer them up.

20           MS. BANKS: Keeping in mind what Commissioner Baez  
21 just indicated with new proposed hearing dates of February 19th  
22 and 20th, staff would then be proposing a schedule that the  
23 briefs would be due April the 1st with a May 22nd agenda  
24 conference -- I'm sorry, May 20th agenda conference which would  
25 mean a May 8th recommendation filing. And this is, as I

1 mentioned, just a staff's proposed schedule. And I'm not sure  
2 if parties would have any comments regarding that schedule or  
3 not.

4 COMMISSIONER BAEZ: No, Ms. Banks, those are  
5 post-hearing dates. I'm under the impression that there are  
6 some discovery deadlines that are still in place now, and those  
7 would have to be restated.

8 MS. WHITE: I guess I would ask on behalf of  
9 BellSouth that they not be. We've gone through a lot of  
10 discovery in this case. If we're going to continue to go  
11 through a lot more, then I think that's going to make us less  
12 likely to be able to talk settlement because we'll have to be  
13 dealing with continuing discovery.

14 If the staff wants to or the parties want to maybe  
15 move that date until after the holidays, I think that would be  
16 fine, but I'd hate to move it all the way to -- a new discovery  
17 cutoff deadline of February and then have to be dealing with  
18 discovery all the way up to then.

19 COMMISSIONER BAEZ: Well, I guess what I had  
20 contemplated was, by virtue of moving or restating the  
21 discovery dates, that whatever space was created would be  
22 dedicated towards negotiations so that you could pick up where  
23 you left off.

24 Now, if you're suggesting to me that that wouldn't be  
25 the case, I'm sure I'm not trying to hold you to something --

1 to some ungodly schedule that's going to --

2 MS. WHITE: No. There's been a lot of discovery --

3 COMMISSIONER BAEZ: I hear you.

4 MS. WHITE: -- in this case. I think probably most  
5 of those binders are discovery, and it's on all sides. There's  
6 no doubt about that. And I would hope that because we are so  
7 close to hearing that pretty much everybody's discovery is  
8 done. I think we do have some motions to compel outstanding,  
9 so some will have to go as a result of that. But if the pace  
10 is going to keep up, I think that could be an issue because, I  
11 mean, we'll have to be dealing with or focussing on making sure  
12 we get that answered on a timely basis.

13 MR. McGLOTHLIN: Commissioner, perhaps I can give  
14 Nancy some comfort on that. By this motion, we certainly do  
15 not intend with any additional time to either add to or  
16 accelerate any discovery we had in mind. Our thought was that  
17 in conjunction with the continuing of the hearing, we would  
18 have something of an order holding the parties where they are,  
19 holding them in place with respect to discovery at this point,  
20 and --

21 COMMISSIONER BAEZ: Right. Essentially prohibiting  
22 you from propounding discovery during the time -- during  
23 whatever the time certain.

24 MR. FEIL: And, Commissioner, if I may on behalf of  
25 FDN. I don't have a problem with Ms. White's alternative

1 proposal which was to put the new discovery deadline at the end  
2 of the holidays, and actually, I don't know that I have a  
3 problem if you just post it at the January 8th or 9th which was  
4 the original hearing date anyway.

5 COMMISSIONER BAEZ: We've got three sets of dates now  
6 that we're talking about. Please keep it simple for me.  
7 You're going to lose me real quick.

8 MS. WHITE: Any of those I think would work.

9 COMMISSIONER BAEZ: And I guess, just to stay  
10 conceptually true here, I think that whatever period the  
11 continuance would encompass shouldn't create any new  
12 opportunities for discovery. I think we're going to try and  
13 keep -- what my intention in granting a continuance would be  
14 certainly is that it keeps everyone in the same position it was  
15 at the moment it was granted so that at some point you're not  
16 going to have any more -- any more of those 40 days has got to  
17 be dedicated to discovery or other process. Is that clear  
18 enough for everyone's understanding?

19 And, Mr. Feil, I understand that you have a -- I  
20 mean, are you okay with that, or is there an issue?

21 MR. FEIL: If you say that's the ruling, I have to  
22 live with it, sir.

23 COMMISSIONER BAEZ: That's going to be my ruling. I  
24 just want to see you smile about it, that's all. I want you to  
25 like it.

1 MR. FEIL: Thank you. May I have another?

2 (Laughter.)

3 COMMISSIONER BAEZ: You catch on fast. All right.  
4 Do we have anything else preliminarily?

5 I guess we should -- let's get some procedural  
6 matters out of just a two -- two garden variety -- the opening  
7 statements to the parties, staff, you're recommending how long?

8 MS. BANKS: Ten minutes per party.

9 COMMISSIONER BAEZ: Ten minutes per party. Don't  
10 feel like you have to use all of it, but that's what it's going  
11 to be.

12 And secondly, are there any inconveniences with  
13 taking direct and rebuttal up together? I see some nods or  
14 some shaking of the head.

15 MR. McDONNELL: We're okay with that.

16 MR. FEIL: No objection.

17 COMMISSIONER BAEZ: Great. Okay. And then let the  
18 order reflect those procedural matters.

19 Moving along. All right. Do you all have a  
20 recent -- the most recent copy of the draft order? All right.  
21 Then up to Section VI. Are there any changes?

22 MR. McDONNELL: Yes, Commissioner. On Page 2, the  
23 draft order reflects that Ken Hoffman, myself, and Marsha Rule  
24 are here on behalf of US LEC and XO Florida.

25 COMMISSIONER BAEZ: Uh-huh.

1 MR. McDONNELL: We're also here on behalf of Time  
2 Warner Telecom of Florida, L.P.

3 COMMISSIONER BAEZ: I guess that's sort of like a  
4 voucher; right?

5 MR. McDONNELL: Yes, sir.

6 COMMISSIONER BAEZ: Proof of -- okay.

7 MR. FEIL: Commissioner, may I ask one question?

8 COMMISSIONER BAEZ: Yes, sir.

9 MR. FEIL: On Friday, staff circulated a draft late  
10 on Friday, and I just was wondering to what degree or where the  
11 draft handed out this morning is different from the draft  
12 Friday.

13 MS. BANKS: It should be the same. The draft that  
14 was sent late Friday was -- incorporated suggested changes and  
15 suggestions by parties.

16 MR. FEIL: Okay. Thank you.

17 COMMISSIONER BAEZ: Any other changes that need  
18 pointing out?

19 MS. WHITE: Up to VI?

20 COMMISSIONER BAEZ: Up to VI. All right.

21 Order of witnesses, Ms. White.

22 MS. WHITE: Yes. I think there would be a little  
23 change in that only because of putting direct and rebuttal  
24 together.

25 COMMISSIONER BAEZ: Do you have those handy?



1 MS. WHITE: Yes. I mean, I can read them off for  
2 BellSouth.

3 COMMISSIONER BAEZ: Okay.

4 MS. WHITE: The first witness would be Ruscilli,  
5 second would be Casey, third would be Garcia, fourth would be  
6 Pitofsky, fifth would be Shell, six would be Bigelow, seventh  
7 would be Massey, and eighth would be Taylor.

8 COMMISSIONER BAEZ: Okay. I have Ruscilli, Casey,  
9 Garcia, Pitofsky, Shell, Bigelow, Massey, and Taylor; is  
10 that --

11 MS. WHITE: That's correct.

12 COMMISSIONER BAEZ: Okay. Mr. McGlothlin.

13 MR. MCGLOTHLIN: The order is -- the draft order is  
14 correct with respect to our witnesses.

15 COMMISSIONER BAEZ: And Mr. Feil.

16 MR. FEIL: I only have one guy, so he's fine where he  
17 is.

18 COMMISSIONER BAEZ: Correct; right?

19 MS. WHITE: He's batting cleanup.

20 COMMISSIONER BAEZ: He's batting cleanup. All right.  
21 Moving along to the basic positions. Ms. White, do you have  
22 any changes?

23 MS. WHITE: No, sir, no changes in that.

24 COMMISSIONER BAEZ: Okay. Mr. McGlothlin.

25 MR. MCGLOTHLIN: No changes to the basic position.

1 COMMISSIONER BAEZ: Mr. Feil.

2 MR. FEIL: None, sir.

3 COMMISSIONER BAEZ: Okay. All right. Issue A.

4 Issue 1. You stop me when you get to something --

5 MR. McGLOTHLIN: On A, the FCCA's position is not  
6 there, an oversight on my part. I'd like to give the staff a  
7 sentence on that afterwards, if I may.

8 COMMISSIONER BAEZ: Okay.

9 MR. McDONNELL: Also, Commissioner Baez, on Issue A,  
10 Joint ALECs, which is the bottom of Page 11, for the most part,  
11 we adopted the responses of Florida Digital Network. However,  
12 I think they have evolved since the prehearing statements were  
13 filed in November. So what I'd like to do is just revise our  
14 position to be, "Joint ALECs adopt the position of Florida  
15 Digital Network." And that would be throughout Section VII.

16 COMMISSIONER BAEZ: Okay. You got that change?

17 MS. BANKS: Yes, Commissioner.

18 COMMISSIONER BAEZ: Okay.

19 MR. McDONNELL: Thank you.

20 COMMISSIONER BAEZ: All right. Section VIII, Issue  
21 A. And we'll note Mr. McDonnell's comments for the balance --

22 MR. McDONNELL: Yes, sir.

23 COMMISSIONER BAEZ: -- of Section VIII?

24 Okay. Issue 1. Issue 2. Issue 3A. 3B. 3C. 3D.

25 3E. 4A. 4B. 5A. 5B. Issue 6.

1 MR. McDONNELL: On Issue 6, Commissioner --

2 COMMISSIONER BAEZ: Yes.

3 MR. McDONNELL: -- there's a blank after "Joint  
4 ALECs." I'm looking at Page 28. The Joint ALECs have no  
5 position at this time. I would just rather put it in that way  
6 than leave it blank.

7 COMMISSIONER BAEZ: Okay.

8 MR. McDONNELL: Thank you.

9 COMMISSIONER BAEZ: And now Issue 7 is -- okay. It's  
10 the one with the stipulation. All right. Section IX, the  
11 exhibit list.

12 MS. WHITE: Commissioner, the exhibits of three of  
13 BellSouth's witnesses are missing from the prehearing order, so  
14 they would need to be added in.

15 COMMISSIONER BAEZ: Okay.

16 MS. WHITE: I met with staff before the prehearing  
17 and made them aware of it. It's the exhibits of Mr. Shell,  
18 Mr. Massey, and Dr. Taylor.

19 COMMISSIONER BAEZ: Okay. Ms. Banks, you have all  
20 that information?

21 MS. BANKS: Yes, Commissioner.

22 COMMISSIONER BAEZ: All right. Mr. McGlothlin.

23 MR. MCGLOTHLIN: No change.

24 COMMISSIONER BAEZ: Mr. Feil.

25 MR. FEIL: No changes.

1 COMMISSIONER BAEZ: Okay. Is the language of the  
2 proposed stipulation correct? I think we already went over  
3 that; right? Okay.

4 We've got -- the motions to compel are going to stay  
5 pending. And the confidentiality matters were already taken  
6 care of; right, Ms. Banks?

7 MS. BANKS: All accept one, Commissioner, and that's  
8 reflected in Section XII. On December the 12th, FDN had filed  
9 a request for confidential classification of Document Number  
10 12955-02 --

11 COMMISSIONER BAEZ: Right.

12 MS. BANKS: -- which is the exhibits to BellSouth  
13 witness Ruscilli, and a ruling is pending on that one.

14 COMMISSIONER BAEZ: Okay. Section XIII, there's no  
15 decisions to be added at this point? All right.

16 MS. WHITE: Commissioner, I need to go back to  
17 Section VI, Page 6. I apologize.

18 COMMISSIONER BAEZ: That's all right.

19 MS. WHITE: Section VI, the order of witnesses, it  
20 just hit me that this is a complaint of FDN and FCCA, so  
21 actually their witnesses should go first before BellSouth's  
22 witnesses.

23 COMMISSIONER BAEZ: I think you're correct.

24 MS. WHITE: I'm just used to being in the other  
25 position, so --

1 COMMISSIONER BAEZ: I think more than just you was  
2 used to you being in this certain position. Yeah, Ms. Banks,  
3 can you see that that's inverted?

4 MS. BANKS: Yes, Commissioner.

5 COMMISSIONER BAEZ: All right. What's next,  
6 Ms. Banks?

7 MS. BANKS: Commissioner, that is all that staff has.

8 COMMISSIONER BAEZ: Do the parties have anything else  
9 that they need to raise?

10 MR. McDONNELL: One thing, Commissioner. I'm not  
11 sure if you are issuing an order today regarding discovery  
12 or --

13 COMMISSIONER BAEZ: Now, we don't have -- I mean.  
14 we've had some conversation on that now and to what the effect  
15 of the continuance should be. Is that enough for you all to  
16 make -- enough for you all to incorporate the necessary dates  
17 and the necessary changes to the CASR as part of the prehearing  
18 order?

19 MS. BANKS: Yes, Commissioner, I think that would be  
20 sufficient.

21 COMMISSIONER BAEZ: Mr. McDonnell, does that take  
22 care of your concern?

23 MR. McDONNELL: Yes, sir. I just -- if there was a  
24 ruling from the Bench, I wasn't sure I got all of it, but I'll  
25 just wait to see what --

1           COMMISSIONER BAEZ: Well, I think based on our  
2 discussion what we've done is, we've created a dead spot here  
3 so that you all can get down to business on it. So at whatever  
4 point we are in the procedural -- with the procedural  
5 deadlines, we'll pick them up at the end of 40 days; right?

6           MS. BANKS: That's correct, Commissioner.

7           COMMISSIONER BAEZ: Ms. White.

8           MS. WHITE: Just one other thing. I'd like to ask  
9 that you introduce Meredith Mays to everyone. She's in  
10 Atlanta, but she's new to Florida work, and she will be working  
11 on this case with Mr. Lackey and myself.

12           COMMISSIONER BAEZ: Welcome to the monkey house,  
13 Ms. Mays.

14           MS. MAYS: Thank you.

15           COMMISSIONER BAEZ: All right. If there is nothing  
16 else, we stand adjourned. Thank you all.

17           (Prehearing conference concluded at 2:00 p.m.)

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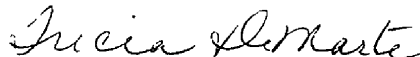
1 STATE OF FLORIDA )  
2 : CERTIFICATE OF REPORTER  
3 COUNTY OF LEON )

4  
5 I, TRICIA DeMARTE, RPR, Official Commission Reporter, do  
6 hereby certify that the foregoing proceeding was heard at the  
7 time and place herein stated.

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

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

18 DATED THIS 18th DAY OF DECEMBER, 2002.

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