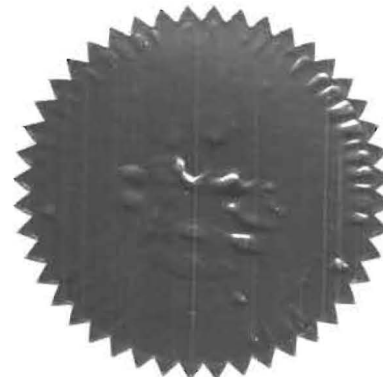


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020919-TP

In the Matter of

REQUEST FOR ARBITRATION CONCERNING
COMPLAINT OF AT&T COMMUNICATIONS OF
THE SOUTHERN STATES, LLC, TELEPORT
COMMUNICATIONS GROUP, INC., AND TCG
SOUTH FLORIDA FOR ENFORCEMENT
OF INTERCONNECTION AGREEMENTS WITH
BELLSOUTH TELECOMMUNICATIONS, INC.



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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER J. TERRY DEASON
PREHEARING OFFICER

DATE: Monday, April 21, 2003

TIME: Commenced at 9:30 a.m.
Concluded at 9:59 a.m.

PLACE: Room 152
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0850

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

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER - DATE

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1 APPEARANCES:

2 TRACY HATCH, Esquire, AT&T Communications of the
3 Southern States, Inc., 101 North Monroe Street, Tallahassee,
4 Florida 32301, appearing on behalf of AT&T Communications of
5 the Southern States and TCG South Florida.

6 ANDREW SHORE and JAMES MEZA, III, c/o Nancy Sims, 150
7 South Monroe Street, Suite 400, Tallahassee, Florida 32301,
8 appearing on behalf of BellSouth Telecommunications, Inc.

9 PATRICIA A. CHRISTENSEN, Esquire, FPSC General
10 Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee,
11 Florida 32399-0850, appearing on behalf of the Commission
12 Staff.

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P R O C E E D I N G S

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2 COMMISSIONER DEASON: Call the prehearing conference
3 to order. Could I have the notice read, please.

4 MS. CHRISTENSEN: By notice issued April 9, 2003,
5 this time and place have been set for a prehearing conference
6 in Docket Number 020919, request for arbitration concerning
7 complaint of AT&T Communications of the Southern States, LLC,
8 Teleport Communications Group, Inc., and TCG South Florida for
9 enforcement of interconnection agreements with BellSouth
10 Telecommunications, Inc. The purpose of this prehearing
11 conference is as set forth in the notice.

12 COMMISSIONER DEASON: Let's take appearances.

13 MR. SHORE: This is Andrew Shore appearing on behalf
14 of BellSouth.

15 MR. MEZA: This is Jim Meza appearing on behalf of
16 BellSouth.

17 MR. HATCH: I'm Tracy Hatch appearing on AT&T
18 Communications of the Southern States, Inc.

19 MS. CHRISTENSEN: Patricia Christensen appearing on
20 behalf of the Commission along with Anne Marsh for staff.
21 Thank you.

22 COMMISSIONER DEASON: Very well. Ms. Christensen,
23 are there any preliminary matters we need to address?

24 MS. CHRISTENSEN: Commissioner, staff notes that the
25 parties have agreed to stipulate Issue 1B. However, the

1 parties have not agreed to the exact wording of that
2 stipulation. Staff has included a draft language in the
3 prehearing order of the proposed stipulation. And at the
4 Commissioner's discretion we can either address that now or we
5 can address that when we get to that section of the draft
6 prehearing order.

7 COMMISSIONER DEASON: We will address it when we get
8 to that section, then. Thanks for that heads-up.

9 MS. CHRISTENSEN: Staff is not aware of any other
10 preliminary matters.

11 COMMISSIONER DEASON: Mr. Hatch, do you have any
12 preliminary matters?

13 MR. HATCH: No, Commissioner Deason.

14 COMMISSIONER DEASON: Mr. Shore or Mr. Meza?

15 MR. MEZA: Just a couple of proposed revisions to
16 the -- or additions, I guess, that would be considered to the
17 prehearing order.

18 COMMISSIONER DEASON: Okay. I think we can address
19 that when we get to that particular section.

20 MR. SHORE: Nothing preliminarily.

21 COMMISSIONER DEASON: Okay. Well, if there is
22 nothing else of a preliminary nature, it is my intention then
23 to proceed through the draft prehearing order. We will go
24 section-by-section and issue-by-issue when we get to the
25 issues. If there are any changes, or corrections, or

1 clarifications, please let me know as we proceed. Having said
2 that, we will proceed with Section I of the draft prehearing
3 order, conduct of proceedings. Section II, case background.
4 Section III -- I'm sorry?

5 MR. SHORE: I've got one proposal on Section II.

6 COMMISSIONER DEASON: Okay. Please proceed.

7 MR. SHORE: In the first paragraph there where it
8 sets out AT&T has filed this complaint and then elaborates a
9 little bit and summarizes AT&T's allegations, then goes on to
10 say BellSouth filed its response. I would propose adding a
11 sentence, or two, or three at the most sort of just paralleling
12 AT&T's allegations and setting forth what BellSouth's position
13 was just to balance that paragraph out there. I understand
14 that is not material, but just to balance it out with my
15 reasoning.

16 COMMISSIONER DEASON: Staff, any problem with that?

17 MS. CHRISTENSEN: No, Commissioner, we can go ahead
18 and add a few sentences that encapsulates what BellSouth's
19 response is and their position.

20 COMMISSIONER DEASON: Mr. Hatch, any problem?

21 MR. HATCH: That would be fine with me.

22 COMMISSIONER DEASON: Very well. We will make that
23 change.

24 MR. SHORE: Thank you.

25 COMMISSIONER DEASON: Okay. Section III,

1 confidential information. Section IV, post-hearing procedures.
2 Section V, prefiled testimony and exhibits. Section VI, order
3 of witnesses. Any changes or corrections to this order? This
4 order, I assume, is satisfactory, Mr. Hatch?

5 MR. HATCH: Yes, sir.

6 COMMISSIONER DEASON: BellSouth?

7 MR. SHORE: It's fine with us. We only have one
8 witness.

9 COMMISSIONER DEASON: Okay. Very well. Section VII,
10 basic positions.

11 MR. HATCH: Commissioner Deason, I don't have any
12 changes to announce now subject to review and minor
13 typographical corrections and so forth, I will submit those to
14 staff after review.

15 COMMISSIONER DEASON: Very well. Section VIII,
16 issues and positions. Issue A. Issue 1A. Issue 1B. I
17 understand Issue 1B is the issue where there has been a
18 stipulation, but there has not been agreement on specific
19 language?

20 MS. CHRISTENSEN: That is correct. I left the
21 parties' positions in this section, but under the stipulation
22 section I added the draft proposed stipulated language. I
23 think although the parties have agreed in essence as to what
24 basically the position should be, which is that the reciprocal
25 compensation rates for local traffic are from July 1st, 2001

1 forward.

2 COMMISSIONER DEASON: I guess I'm at a loss. What is
3 the -- if that is the essence of the agreement, what is the
4 nature of the disagreement, if any, with the language?

5 MR. SHORE: I think maybe we had both worded it a
6 little bit differently in our initial positions, and Patty had
7 suggested language, I think exactly what she just stated, and
8 BellSouth is fine with that.

9 COMMISSIONER DEASON: Mr. Hatch?

10 MR. HATCH: I think that is correct.

11 COMMISSIONER DEASON: Okay. Ms. Christensen, your
12 language is satisfactory, so we can just utilize it.

13 MS. CHRISTENSEN: Okay. Thank you.

14 COMMISSIONER DEASON: Issue 2. Issue 3. Issue 4.
15 Issue 5. I believe Issue 5 is the last issue. We will proceed
16 then to Section IX, the exhibit list. Any changes or
17 corrections to the list as shown on the draft prehearing order?

18 MR. SHORE: The only other changes we had to that,
19 and that ties into also what we had stipulated to in Section X,
20 counsel for AT&T, we had agreed that they could use a couple of
21 demonstrative type exhibits, one being a LATA map of Florida,
22 and two, a matrix of some contract language as they proceeded
23 through the negotiations. And we had also agreed that in order
24 to streamline the discovery in this case and the hearing, we
25 had tried this case, this exact case earlier this year in North

1 Carolina, that the parties would agree to admit into evidence
2 the depositions of the four witnesses from the North Carolina
3 case as well as the hearing transcript. So if we are going to
4 do that, it seems we may need to mark those as exhibits.

5 COMMISSIONER DEASON: Staff, how do you plan to
6 address those exhibits?

7 MS. CHRISTENSEN: Well, there are several exhibits
8 that were listed by AT&T that are not sponsored by a particular
9 witness, that we would like to identify the witness that those
10 would be put in through. But it looks like a couple of those
11 that were just mentioned, the depositions from the North
12 Carolina proceeding and the hearing exhibit from the North
13 Carolina proceeding are listed, included in that as well as
14 some additional documentation by that. If the parties agree to
15 it, staff has no objection to making that a stipulated exhibit
16 and entering it as either a composite exhibit or individually
17 as stipulated exhibits, and we would not need to identify a
18 witness, those could just be moved in at the beginning of the
19 hearing.

20 COMMISSIONER DEASON: So you are agreeable to having
21 those exhibits included into the exhibits you normally identify
22 at the beginning of a hearing as stipulated exhibits?

23 MS. CHRISTENSEN: Staff is agreeable to going ahead
24 and having those identified as stipulated exhibits to the
25 extent that they can agree. I know at least two of those

1 exhibits it sounds like they are agreeable to. There is a
2 couple of other exhibits that are listed by AT&T that may also
3 be included and it would be preferable if we can get
4 clarification on it now. If the parties are agreeing to that
5 then we can just have it as a stipulated exhibit and that would
6 be the North Carolina public staff proposed order.

7 MR. SHORE: They did not, in fact, file a proposed
8 order, so that document doesn't exist. I think AT&T was
9 anticipating that perhaps the public staff would file a
10 proposed order on April 4th. They did not.

11 COMMISSIONER DEASON: So that can just be deleted
12 from this prehearing order, correct?

13 MR. SHORE: It doesn't exist. I don't want to speak
14 for AT&T, but there is no such thing.

15 COMMISSIONER DEASON: Mr. Hatch?

16 MR. HATCH: I apologize for any confusion that gets
17 rendered here. I don't know whether that order won't exist in
18 the future. I don't know if it is delayed in its issuance or
19 not. Whether it will exist in the future prior to this
20 hearing, I don't know. So I would reserve the right at least
21 at the time of the hearing to bring it up at that point as an
22 exhibit.

23 COMMISSIONER DEASON: Very well. It will not be
24 included in the list of exhibits. Mr. Hatch, if the North
25 Carolina public staff does indeed issue a proposed order you

1 will be allowed to address that at the time of hearing.

2 MS. CHRISTENSEN: Commissioner, there is also the
3 North Carolina Utility Commission orders in the docket, and I'm
4 not sure the same case doesn't exist for those that they
5 haven't been issued yet.

6 MR. SHORE: If you are talking about any final orders
7 or orders dealing with the merits in any way, there is no order
8 yet, and I don't believe there will be one certainly before the
9 time this case is tried. We can leave that as an open exhibit.
10 Certainly to the extent those are official exhibits, official
11 orders which they would be of the North Carolina Commission,
12 and our position would be that the Florida Commission can take
13 judicial notice of those. I don't know that it is necessary to
14 have those identified as an exhibit and leave an exhibit blank
15 for those, but if AT&T feels strongly I wouldn't object to
16 that.

17 MR. HATCH: I agree with Mr. Shore. I don't think
18 that these have to be numbered as an exhibit at this point. If
19 at the time we go to trial in this case they exist, then the
20 Commission can take official recognition of them.

21 COMMISSIONER DEASON: Sounds like a workable plan to
22 me.

23 MS. CHRISTENSEN: Commissioner, I would like to go
24 back to Page 22 at the bottom. It starts the exhibits that
25 AT&T lists that don't have a particular witness that is

1 sponsoring them that we have not yet addressed, and see if we
2 can either have AT&T identify a witness that may be able to
3 sponsor that or let me know if they can get back with me with
4 that. Some of these also appear that they may have been
5 addressed in other testimony. Specifically the first one, the
6 relevant provisions from the first and second interconnection
7 agreements, I believe that has been addressed through testimony
8 that was attached to certain witnesses.

9 MR. HATCH: I expect that is true. But to the extent
10 that we need further clarification, I will be glad to get that
11 and supply that to the staff.

12 COMMISSIONER DEASON: Very well.

13 MS. CHRISTENSEN: Okay. And then you have the
14 current interconnection agreement for the State of Mississippi
15 that we --

16 MR. SHORE: I think that -- I mean, I don't mind --
17 the relevant language, I think, for Mississippi is referenced
18 in a couple of folks' testimony, but if AT&T wants to put in
19 the whole document as an exhibit, I don't object to that. I
20 mean, I don't see necessarily the need for it, but I don't
21 object to that.

22 COMMISSIONER DEASON: Mr. Hatch, what is your
23 intention?

24 MR. HATCH: I'm going to have to clarify that. But
25 to the extent that he has no objection to admitting the whole

1 document, that's fine, too.

2 COMMISSIONER DEASON: Just let staff know.

3 MR. HATCH: I will clarify this entire list for staff
4 so that everybody knows what is going on.

5 COMMISSIONER DEASON: Very well.

6 MS. CHRISTENSEN: You have listed any exhibits
7 attached to AT&T's direct and rebuttal testimony.

8 MR. HATCH: This is already taken care of.

9 MS. CHRISTENSEN: Yes, that is redundant. Any
10 discovery responses received by BellSouth in this proceeding,
11 and any exhibits identified in depositions taken in this
12 proceeding which, of course, have not happened yet. And there
13 were a few others on the back page. Any switched access
14 tariffs filed by BellSouth with the state commission or the
15 Federal Communications Commission. Any testimony, pleadings,
16 or summary of ex parte discussions filed by BellSouth with any
17 state commission or the FCC, and the matrix or other summary
18 documents of various red-lined versions of the contract
19 language exchanged between AT&T and BellSouth relative to the
20 interconnection agreements or interconnection negotiations in
21 dispute.

22 MR. HATCH: I will clarify those. Mr. Shore, correct
23 me if I'm wrong. The matrices that are referred to in that
24 last exhibit, are those the matrices that you had discussed
25 with --

1 MR. SHORE: Yes. And I know exactly what those are,
2 there were some matrices that were included in AT&T's brief it
3 just filed in North Carolina. And that's fine with me. I
4 would like some clarification on the testimony, pleadings,
5 ex partes filed anywhere, anytime, anyplace. I think, you
6 know, we need a little bit more clarification on what AT&T
7 intends there.

8 MR. HATCH: And that's fine, I will endeavor to do
9 that for everyone.

10 MR. SHORE: The only thing, Patty, that I would add
11 is to the extent we are going to identify all BellSouth's
12 discovery responses, that we would also identify AT&T's. We
13 have got some outstanding discovery to AT&T.

14 COMMISSIONER DEASON: Just for my clarification,
15 these are listing out potential exhibits, they do not exist as
16 we know now?

17 MR. HATCH: That is correct.

18 COMMISSIONER DEASON: And this is -- go ahead.

19 MR. HATCH: I'm sorry. Staff counsel and I were
20 discussing this a little bit earlier. Basically, if you take
21 the procedural order in its literal fashion, it says identify
22 all exhibits. Well, some exhibits don't exist yet, but you
23 know they are going to or probably will. And so Ms. Cecil in
24 an abundance of caution has listed them all here, even though
25 they won't necessarily exist here. But by the time we get to

1 trial, then we will know the exhibits we are going to have.
2 And as we progress through the trial, then those are identified
3 in the normal way and either entered into the record or not as
4 the case may be. This is just a literal abundance of caution
5 on her part as to everything that might potentially be an
6 exhibit in this proceeding.

7 COMMISSIONER DEASON: And I appreciate that effort.
8 But normal procedure it seems like is we identify all known
9 exhibits at the time, and then parties are free to bring up
10 exhibits and they are just identified and either accepted or
11 not accepted at that particular time.

12 MR. HATCH: Yes, sir, that is correct.

13 MS. CHRISTENSEN: Commissioner, should we go ahead
14 and then delete this section to the extent that they are not
15 sponsored by a witness, except for maybe those two exceptions
16 that we know what they are, the North Carolina exhibits, and
17 that the parties are willing to stipulate to and maybe identify
18 those under the stipulation section.

19 COMMISSIONER DEASON: That is agreeable with me if it
20 is agreeable with Mr. Hatch.

21 MR. HATCH: That would be agreeable.

22 COMMISSIONER DEASON: And I do recognize the language
23 at the end of this section that says parties and staff reserve
24 the right to identify additional exhibits for the purpose of
25 cross-examination. I think that gives you a caveat there to go

1 through what I consider to be normal procedure.

2 MR. HATCH: That is correct.

3 COMMISSIONER DEASON: Very well. Section X, proposed
4 stipulations.

5 MR. SHORE: I'm not sure if we need to include it
6 there. It strikes me that we may very well, the stipulations
7 regarding admitting the depositions and hearing transcript from
8 the North Carolina proceeding in Docket P55 Sub 1376. And I
9 had sent Loretta some language, and I think it was okay with
10 them. They said they agreed to it. They didn't comment on the
11 exact language. Then I can send that to you, Patty, as well.
12 But AT&T agreed to that as a stipulation as well as to the
13 stipulation of their matrices and their LATA map.

14 COMMISSIONER DEASON: Mr. Hatch, do you have any
15 problem with that being included as a stipulation?

16 MR. HATCH: No, I do not subject to discussion with
17 Ms. Cecil about the text of the stipulation, but I think we can
18 work that out. I don't there is an issue with that.

19 MS. CHRISTENSEN: I think that would be beneficial if
20 they could come up with some agreed language and sent it in --
21 by the end of the week?

22 MR. SHORE: Yes. I sent it to them last -- I think
23 it was Wednesday or so. I will send it to you with another
24 copy to AT&T today.

25 MS. CHRISTENSEN: Thank you.

1 COMMISSIONER DEASON: Very well. Section XI, pending
2 motions. There is the second motion to strike additional
3 BellSouth extrinsic testimony. What is the status of that now,
4 is it going to be addressed by the full Commission?

5 MS. CHRISTENSEN: Commissioner, you addressed that at
6 the last agenda conference, so I believe we could actually take
7 this off the pending motions list and just list it as none at
8 this point.

9 COMMISSIONER DEASON: I thought that we had addressed
10 it, but I wasn't sure. I know we had addressed the first one,
11 and I thought we had also addressed the second one. That is
12 the case, we have addressed both?

13 MS. CHRISTENSEN: Correct. And both of those orders
14 shall be issued before we get to hearing.

15 COMMISSIONER DEASON: Very well. Section XII,
16 pending confidentiality matters. It is indicated that none are
17 pending. Section XIII, decisions that may impact Commission's
18 resolution of issues. None have been identified. Section XIV,
19 rulings. It is indicated that opening statements shall not
20 exceed ten minutes per party. Let me ask, do parties -- is it
21 the parties' intentions to engage in opening statements?

22 MR. HATCH: At this point my understanding is yes.
23 If that changes, I will be glad to clarify and work it out with
24 the rest of the folks.

25 MR. SHORE: From BellSouth's perspective, I think we

1 ought to agree ahead of time. But if AT&T is willing to forego
2 an opening statement, BellSouth would be willing to forego an
3 opening statement, as well.

4 COMMISSIONER DEASON: My only request is that when --
5 (Simultaneous conversation.)

6 MR. SHORE: -- would go first, and if they give one I
7 will feel compelled to give one, as well.

8 COMMISSIONER DEASON: My only request is that at the
9 time of hearing that you all be in agreement that either there
10 is going to be opening statements or not, and that one party is
11 not prepared and the other party unprepared.

12 MR. HATCH: That will not be a problem.

13 COMMISSIONER DEASON: Okay. And if there is an
14 opening statement, the ten-minute limitation is acceptable?

15 MR. SHORE: I think that is fine. I mean, I think
16 five would be fine with us, but ten certainly is more than
17 adequate.

18 COMMISSIONER DEASON: Okay. We will just leave it at
19 ten at this point. That is the last section of the draft
20 prehearing order. Are there any other matters which we need to
21 address at this time? BellSouth, anything on your part?

22 MR. SHORE: Nothing from us.

23 COMMISSIONER DEASON: Mr. Hatch?

24 MR. HATCH: I don't believe there is anything
25 additional.

1 COMMISSIONER DEASON: Okay. Staff?

2 MS. CHRISTENSEN: Commissioner, I think we have
3 addressed all staff's concerns.

4 COMMISSIONER DEASON: Very well. Thank you all for
5 your participation, and this prehearing conference is
6 concluded.

7 MR. SHORE: Thank you.

8 MR. MEZA: Thank you very much, Commissioner Deason,
9 for allowing BellSouth to participate via phone.

10 COMMISSIONER DEASON: Very well. You are quite
11 welcome.

12 (The hearing concluded at 9:59 a.m.)
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STATE OF FLORIDA)

COUNTY OF LEON)

CERTIFICATE OF REPORTER

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 22nd day of April, 2003.



JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
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