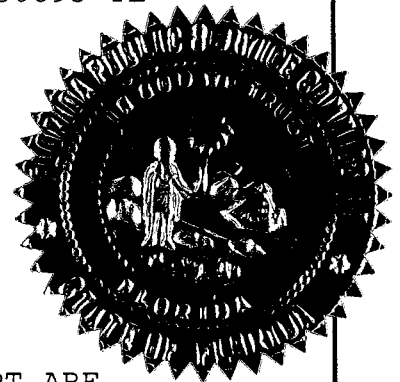


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050693-TL

In the Matter of:

PETITION TO REDUCE INTRASTATE SWITCHED
ACCESS RATES IN REVENUE-NEUTRAL MANNER
PURSUANT TO SECTION 364.164, FLORIDA
STATUTES, BY ALLTEL FLORIDA, INC.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER J. TERRY DEASON
 PREHEARING OFFICER

DATE: Monday, November 21, 2005

TIME: Commenced at 9:35 a.m.
 Concluded at 9:50 a.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

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

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION

11206 NOV 22 8'

FPSC-COMMISSION CLERK

1 APPEARANCES:

2 J. JEFFRY WAHLEN, ESQUIRE, Ausley & McMullen, Post
3 Office Box 391, Tallahassee, Florida 32302, appearing on behalf
4 of Alltel Florida, Inc.

5 CHARLES J. BECK, ESQUIRE, Office of Public Counsel,
6 c/o The Florida Legislature, 111 W. Madison Street, Room 812,
7 Tallahassee, Florida 32399-1400, appearing on behalf of the
8 Citizens of the State of Florida.

9 JEREMY SUSAC, ESQUIRE, and ADAM TEITZMAN, ESQUIRE,
10 FPSC General Counsel's Office, 2540 Shumard Oak Boulevard,
11 Tallahassee, Florida 32399-0850, appearing on behalf of the
12 Florida Public Service Commission Staff.

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2 COMMISSIONER DEASON: Call the Prehearing Conference
3 to order. Could I have the notice read, please.

4 MR. SUSAC: Pursuant to notice published
5 October 26th, 2005, this time and place has been set for a
6 prehearing in Docket Number 050693-TL.

7 COMMISSIONER DEASON: Thank you. Appearances.

8 MR. BECK: Charlie Beck, Office of the Public
9 Counsel, appearing on behalf of Florida's citizens.

10 MR. WAHLEN: Jeff Wahlen of the Ausley & McMullen Law
11 Firm, P. O. Box 391, Tallahassee, Florida, 32302 on behalf of
12 Alltel Florida, Inc.

13 MR. SUSAC: Jeremy Susac and Adam Teitzman on behalf
14 of staff.

15 COMMISSIONER DEASON: Okay. Mr. Susac, do we have
16 any preliminary matters?

17 MR. SUSAC: Yes, we do, Mr. Chair. We have two
18 outstanding motions at this time. OPC filed a motion to
19 request service hearings and a motion to adapt discovery
20 procedures from prior rebalancing dockets. These motions, in
21 staff's opinion, have been rendered moot. It is my
22 understanding that OPC may be willing to withdraw these motions
23 today.

24 MR. BECK: Yes, certainly. I'll withdraw them,
25 Commissioner.

1 COMMISSIONER DEASON: Very well. Show that the
2 motions have been withdrawn.

3 Other matters we need to address before we proceed to
4 the prehearing order?

5 MR. SUSAC: Just a general matter that there are
6 confidentiality requests still outstanding at this time,
7 Mr. Chair. And the information -- it is staff's recommendation
8 that the information should remain confidential until a formal
9 ruling is made.

10 COMMISSIONER DEASON: That's understood by the
11 parties?

12 MR. WAHLEN: That's correct. No objection.

13 MR. BECK: Yes.

14 COMMISSIONER DEASON: Very good. Okay.

15 I think we're prepared to proceed to the draft
16 prehearing order, unless the parties have something they need
17 to present at this time. Mr. Beck?

18 MR. BECK: No, sir.

19 COMMISSIONER DEASON: Mr. Wahlen? Okay.

20 It's my intention to proceed through the draft
21 prehearing order section by section, and we'll proceed in
22 rather rapid fashion unless there needs to be some discussion,
23 a correction or clarification or whatever may be the case. I
24 may have a question or two myself as we proceed.

25 Having said that, we will begin with Section I,

1 conduct of proceedings. Section II, case background. Section
2 III, procedure for handling confidential information. Section
3 IV, posthearing procedures.

4 MR. WAHLEN: Commissioner Deason, we've had a
5 discussion this morning about the advisability of filing
6 briefs. I'm not sure we reached a conclusion on it. Unlike
7 the large LEC case, there's a little bit more time between the
8 final hearing and the Special Agenda on this one. And if it
9 would be helpful to the Commission and the staff, I think
10 Alltel would be willing to file a short posthearing statement
11 maybe by Tuesday or Wednesday of the following week.

12 We'd also like to have an opportunity for a closing
13 argument at some point, either at the close of the hearing or
14 at the beginning of the Special Agenda, but I also don't want
15 to create too much work or overload the staff or the Commission
16 with information that won't be helpful.

17 COMMISSIONER DEASON: Okay. Mr. Beck, your thoughts?

18 MR. BECK: Certainly I have no objection to the
19 closing statements. I think that's what we did in the cases
20 involving the three large ILECs.

21 With regard to the brief, Commissioner, I don't see
22 where we have time. The hearing, as I recall, is on a
23 Thursday. You know, there would have to be transcripts, and by
24 the time you did briefs, I don't see the time there. And then
25 the staff, as I understand it, is not going to make a written

1 recommendation in any event. So it would seem to me that the,
2 the arguments would be it's what we did last time and I assumed
3 that's what we were going to do this time.

4 COMMISSIONER DEASON: When you say argument, are you
5 talking about in the form of a closing statement or --

6 MR. BECK: Yes.

7 COMMISSIONER DEASON: Okay.

8 MR. BECK: Yes. After the evidence is in.

9 COMMISSIONER DEASON: And the timing of that would be
10 at the conclusion of the evidentiary hearing; is that your --

11 MR. BECK: That's what we did last time. I
12 understand Alltel may want to do it a little differently, but
13 I'm certainly okay with at the end of the evidence.

14 COMMISSIONER DEASON: Staff, your thoughts?

15 MR. SUSAC: Well, to address the transcript issue,
16 transcripts are due Friday, the next day. So to the extent the
17 Commission did want to receive briefs, that would give Alltel
18 the weekend and including Monday and up until their filing on
19 Tuesday to, to file short briefs. Staff really doesn't have a
20 position one way or the other. It is helpful to have a short
21 maybe bulletproof -- or bullet point brief that --

22 COMMISSIONER DEASON: A bulletproof brief would be
23 helpful too, wouldn't it?

24 MR. SUSAC: And that could only make it a neater,
25 tighter package. However, in the event that the parties are

1 pressed for time and staff would be then more pressed for time
2 with filing of briefs, really we're at the will of the
3 Commission, whatever, whatever you would prefer.

4 COMMISSIONER DEASON: Mr. Wahlen, you started this.
5 I'll let you conclude. Any concluding remarks, thoughts?

6 MR. WAHLEN: Well, we want to do what is most helpful
7 to the Commission. I think that this is an unusual case. The
8 only testimony that we have here is Alltel testimony. There is
9 no, you know, testimony from any other party. So a lot of what
10 we have to say is already said, and the staff and Public
11 Counsel and Alltel know what the evidence is. I understand
12 that staff is going to put the discovery that they've taken
13 into the record also or move that into the record. So much of
14 this will already be there and could be briefed almost before
15 the hearing, if we need to. So we are happy to file a brief by
16 Tuesday or Wednesday, Tuesday the 6th or Wednesday the 7th.

17 I happen to think it would be most helpful to the
18 Commissioners who are making the decision to hear an oral
19 statement from the parties at some point. I think that would
20 be most helpful, and I think we could do a better job if we had
21 a chance to do it at the beginning of the Special Agenda. But
22 if that's not acceptable to the parties, we'd like to have an
23 opportunity to do that at the close of the evidentiary hearing
24 on December 1st.

25 COMMISSIONER DEASON: Mr. Beck, I know that you

1 indicated that the last rate rebalancing case for the large
2 LECs, we had closing argument at the end of the evidentiary
3 hearing. Mr. Wahlen is suggesting maybe doing that before the
4 Special Agenda on the 12th. Do you have a concern on the
5 timing one way or the other?

6 MR. BECK: Not on the closing statement. Either way
7 is all right with me.

8 COMMISSIONER DEASON: Staff, do you have a concern
9 about the timing of the closing statement?

10 MR. SUSAC: We have no concern. I was kind of
11 conferring with the director here and I missed a little bit of
12 the dialogue. But to the extent you wanted to keep the
13 evidentiary hearing open until the Special Agenda and then have
14 closing statements at that time, that may put us somewhat at a
15 disadvantage not hearing that up-front and being able to digest
16 that and make a recommendation after that. Closing statements
17 at the end of the hearing would certainly give us time to
18 digest that and appreciate the arguments more into a
19 recommendation.

20 COMMISSIONER DEASON: Okay. So staff's preference is
21 closing statements at the end of the evidentiary hearing. And
22 it's staff's intent to, at the Special Agenda on the 12th is to
23 make an oral recommendation; is that correct?

24 MR. SUSAC: That is correct, Mr. Chair. And we may
25 augment it with other materials such as a PowerPoint.

1 COMMISSIONER DEASON: Okay. And, Mr. Wahlen, your
2 request was for closing argument and filing of a brief,
3 correct, if the closing argument is going to be at the
4 conclusion of the evidentiary hearing?

5 MR. WAHLEN: Yes.

6 COMMISSIONER DEASON: What length of time do you
7 think would be sufficient for your closing argument?

8 MR. WAHLEN: I would think ten minutes.

9 COMMISSIONER DEASON: Mr. Beck, is that acceptable?

10 MR. BECK: Ten minutes would be fine.

11 COMMISSIONER DEASON: Okay. What I'm inclined to do
12 is, obviously is to allow closing arguments and try to limit it
13 to ten minutes. Obviously there may be some flexibility there,
14 but shoot for that ten-minute time frame. And it would be
15 conducted at the, at the end of the evidentiary hearing, and
16 that will be available for staff's consideration in determining
17 their recommendation.

18 Briefs, I'm going to allow briefs to be filed --
19 there's not a requirement to file a brief. It would be due
20 Tuesday, by the close of business on Tuesday, the 13th. I'm
21 going to put a limitation of 15 pages on that brief.

22 MR. WAHLEN: Okay. The briefs would be Tuesday the
23 6th?

24 COMMISSIONER DEASON: I'm sorry. Tuesday the 6th.
25 That would be the day after the Special Agenda. That would be

1 a little late, wouldn't it?

2 MR. WAHLEN: That would really be a bulletproof brief
3 if it was after the decision.

4 COMMISSIONER DEASON: I'm looking at the wrong week.
5 Yeah. Tuesday the 6th. And it seems to me 15 pages should be
6 adequate to address these issues. If that's totally
7 inadequate, Mr. Wahlen, let me know.

8 MR. WAHLEN: I went to the less is more school.
9 That'll be fine. Thank you.

10 COMMISSIONER DEASON: And, Mr. Beck, obviously you're
11 not obligated to file a brief, but it's certainly, it's
12 available to you, if you wish to avail yourself.

13 MR. BECK: Thank you.

14 COMMISSIONER DEASON: Okay. Anything else concerning
15 posthearing procedures?

16 Staff, you'll just incorporate this, the discussion
17 we've had here into the prehearing order?

18 MR. SUSAC: Certainly, Mr. Chair.

19 COMMISSIONER DEASON: Very good. Section V, prefiled
20 testimony and exhibits. Section VI, order of witnesses.

21 MR. WAHLEN: Commissioner, Alltel would like the
22 order of witnesses to be reversed so that Bettye Willis
23 testifies first, followed by David Blessing.

24 COMMISSIONER DEASON: Any objection to that? Very
25 well. We'll reverse that. That will be reflected in the

1 prehearing order.

2 Section VII, basic positions. Section VIII, issues
3 and positions beginning with Issue 1.

4 MR. WAHLEN: We have no changes to either section on
5 positions for all the issues.

6 COMMISSIONER DEASON: For all the issues. Mr. Beck,
7 do you have any concern with any of the issues?

8 MR. BECK: No. They're all fine with us,
9 Commissioner.

10 COMMISSIONER DEASON: Staff, I assume you're fine
11 with all of the issues?

12 MR. SUSAC: Yes. Just --

13 COMMISSIONER DEASON: I had one question, a
14 clarification. I think you, perhaps you were going to bring
15 that up, Mr. Susac. When I was reviewing the prehearing order,
16 I had a question concerning staff's position on Issue 6. And
17 about middle ways in that position there's a statement that
18 says, "All IXCs that paid \$1 million or more in intrastate
19 switched access charges within the most recent 12-month period
20 should include in their tariff filings," and then there's three
21 items listed.

22 My question had to do with the \$1 million threshold.
23 I had a discussion with staff this morning, and it was verified
24 that it was their understanding that that \$1 million threshold
25 was a statewide threshold, not an Alltel-specific threshold.

1 And I wanted to clarify with the parties or at least have
2 parties understand that that is staff's position and maybe it
3 was already understood.

4 MR. WAHLEN: We have no objection to that.

5 MR. BECK: Right. I understand that, Commissioner.

6 COMMISSIONER DEASON: Very good. Okay. Well, since
7 there are no concerns with any of the other issues in that
8 section, we can then proceed to Section IX, the exhibit list.

9 MR. WAHLEN: Commissioner Deason, I have, I think,
10 talked with staff counsel, and they have conducted extensive
11 discovery in this case. I just wanted to make sure or
12 understand whether or not all that discovery was going to come
13 in as cross-examination exhibits, all or most of it. Is that
14 correct?

15 MR. SUSAC: Staff will be preparing a stipulated list
16 of exhibits that if the parties agree -- to the extent the
17 parties agree to it, it will come in.

18 MR. WAHLEN: Okay.

19 COMMISSIONER DEASON: When do you anticipate having
20 that available to, to the parties to review?

21 MR. SUSAC: I could get it to them probably by
22 tomorrow.

23 MR. WAHLEN: That's fine.

24 COMMISSIONER DEASON: And to the extent, to the
25 extent the parties can stipulate, then we can just incorporate

1 that into the record at the appropriate time.

2 MR. WAHLEN: That's fine. I would just point out
3 that answers to staff's fourth and fifth set of interrogatories
4 are due Monday, and we'll be filing those Monday. And if you
5 want to include those in there, we won't object.

6 COMMISSIONER DEASON: Public Counsel may object.
7 They haven't even seen those yet. But I guess through the --
8 you say Monday; you're talking about a week from today?

9 MR. WAHLEN: 28th. Yes, sir.

10 COMMISSIONER DEASON: Okay. Well, I'm sure staff
11 will try to accommodate the trying to get information and
12 trying to -- I know that staff has been very successful in
13 previous hearings about trying to put together stipulated
14 exhibits and it has expedited the hearing process greatly, and
15 I'm sure that process will continue in this case as well.

16 Section X, proposed stipulations. Section XI,
17 pending motions. We've already addressed Public Counsel's
18 motions. And then, Mr. Wahlen, there's several outstanding
19 motions for temporary protective order. Those will just be
20 dealt with in due course?

21 MR. WAHLEN: Right. Those are part of the processing
22 of the confidential stuff. That covers the confidential
23 materials in the hands of Office of Public Counsel.

24 COMMISSIONER DEASON: Very good. And then that's the
25 same thing that's within Section XII, pending confidentiality

1 matters.

2 Section XIII, there are no decisions listed. Section
3 XIV, rulings. To the extent there have been any rulings made
4 today that need to be listed there, I'm sure staff will
5 incorporate that into the prehearing order.

6 Is there anything else concerning the prehearing
7 order that we need to review at this time? Very good.

8 Staff, I believe we were going to review some, some
9 dates at this point.

10 MR. SUSAC: Certainly. I'd just like to remind the
11 parties that at 11:00 a.m. today depositions will begin in Room
12 362. Staff will try to get the prehearing order out as soon as
13 possible. We will try to at least meet the November 30th
14 deadline, if not before. And to remind the parties that there
15 are service hearings in Alachua and Live Oak on November 28th,
16 that's next Monday, and a hearing on December 1st, Special
17 Agenda and oral recommendation on December 12th.

18 The last date for an order to go out in this docket
19 is December 28th, 2005. That's 90 days from the date of
20 Alltel's petition, which was September 29th, 2005.

21 COMMISSIONER DEASON: And if briefs are going to be
22 filed, they're due December the 6th.

23 MR. WAHLEN: That's correct.

24 MR. SUSAC: That is correct.

25 COMMISSIONER DEASON: Okay. And we have a one-day

1 hearing set for December the 12th, we have two witnesses, and I
2 would think that a one-day hearing would be sufficient. Do the
3 parties have any reason to believe that it's going to be more
4 than one day?

5 MR. WAHLEN: I think that will be adequate.

6 COMMISSIONER DEASON: That will be adequate. Very
7 good.

8 Okay. Is there anything else to come before the
9 prehearing officer at this time? Hearing nothing, thank you
10 all. The prehearing conference is adjourned.

11 (Prehearing Conference adjourned at 9:50 a.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER


3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, LINDA BOLES, RPR, CRR, 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 22ND DAY OF NOVEMBER, 2005.


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