

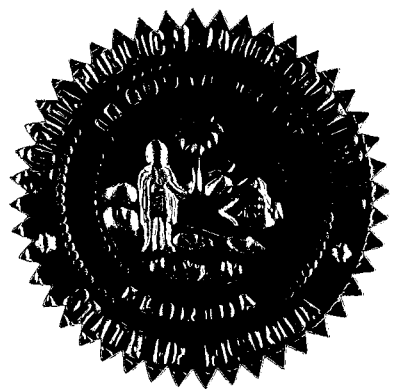
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the Matter of:

JOINT PETITION BY TDS TELECOM DOCKET NO. 050119-TP
D/B/A TDS TELECOM/QUINCY TELEPHONE;
ALLTEL FLORIDA, INC.; NORTHEAST
FLORIDA TELEPHONE COMPANY D/B/A
NEFCOM; GTC, INC. D/B/A GT COM;
SMART CITY TELECOMMUNICATIONS, LLC
D/B/A SMART CITY TELECOM; ITS
TELECOMMUNICATIONS SYSTEMS, INC.; AND
FRONTIER COMMUNICATIONS OF THE SOUTH,
LLC ["JOINT PETITIONERS"] OBJECTING
TO AND REQUESTING SUSPENSION AND
CANCELLATION OF PROPOSED TRANSIT
TRAFFIC SERVICE TARIFF FILED BY
BELLSOUTH TELECOMMUNICATIONS,
INC.

PETITION AND COMPLAINT FOR SUSPENSION DOCKET NO. 050125-TP
AND CANCELLATION OF TRANSIT TRAFFIC
SERVICE TARIFF NO. FL2004-284 FILED
BY BELLSOUTH TELECOMMUNICATIONS, INC.,
BY AT&T COMMUNICATIONS OF THE SOUTHERN
STATES, LLC.



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
BEFORE: COMMISSIONER KATRINA J. TEW
PREHEARING OFFICER

1 DATE: Wednesday, March 15, 2006
2 TIME: Commenced at 9:35 a.m.
3 Concluded at 10:31 a.m.
4 PLACE: Betty Easley Conference Center
5 Room 148
6 4075 Esplanade Way
7 Tallahassee, Florida
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

6 REPORTED BY: LINDA BOLES, RPR, CRR
7 Official FPSC Reporter
8 (850) 413-6734

1 PARTICIPATING:

2 MICHAEL A. GROSS, Florida Cable Telecommunications
3 Association, Inc., 246 E. 6th Avenue, Suite 100, Tallahassee,
4 Florida 32303, appearing on behalf of Florida Cable
5 Telecommunications Association, Inc.

6 MANUEL A. GURDIAN, ESQUIRE; ROBERT CULPEPPER,
7 ESQUIRE, participating telephonically, and JOHN T. TYLER,
8 ESQUIRE, participating telephonically, BellSouth
9 Telecommunications, Inc., 150 West Flagler Street, Suite 1910,
10 Miami, Florida 33130, appearing on behalf of BellSouth.

11 TRACY HATCH, ESQUIRE, AT&T Communications of the
12 Southern States, LLC (05), 101 North Monroe Street, Suite 700,
13 Tallahassee, Florida 32301, appearing on behalf of AT&T
14 Communications of the Southern States, LLC.

15 J. JEFFRY WAHLEN, ESQUIRE, Ausley Law Firm, Post
16 Office Box 391, Tallahassee, Florida 32302, appearing on behalf
17 of Alltel Florida, Inc.

18 KENNETH HOFFMAN, ESQUIRE, and MARTIN MCDONNELL,
19 ESQUIRE, Rutledge Law Firm, Post Office Box 551, Tallahassee,
20 Florida 32302-0551, appearing on behalf of TDS Telecom d/b/a
21 TDS Telecom/Quincy Telephone; Alltel Florida, Inc.; Northeast
22 Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com;
23 Smart City Telecommunications, LLC d/b/a Smart City Telecom;
24 ITS Telecommunications Systems, Inc.; and Frontier
25 Communications of the South LLC.

1 APPEARANCES CONTINUED:

2 CHARLES F. PALMER, ESQUIRE, Troutman Sanders, LLP,
3 Bank of America Plaza, Suite 5200, 600 Peachtree Street, N.E.,
4 Atlanta, Georgia 30308-2216, appearing on behalf of Verizon
5 Wireless.

6 WILLIAM R. ATKINSON, ESQUIRE, 3065 Cumberland Circle,
7 Atlanta, Georgia 30339, appearing on behalf of Sprint Nextel.

8 JOSEPH M. CHIARELLI, ESQUIRE, participating
9 telephonically, 6450 Sprint Parkway, Mailstop KSOPHN0212-2A411,
10 Overland Park, Kansas 66251, appearing on behalf of Sprint
11 Nextel.

12 VICKI GORDON KAUFMAN, ESQUIRE, Moyle, Flanigan Law
13 Firm, 118 North Gadsden Street, Tallahassee, Florida 32301,
14 appearing on behalf of the Competitive Carriers of the South,
15 Inc.; NuVox Communications, Inc.; MetroPCS and Sprint Nextel.

16 FLOYD R. SELF, ESQUIRE, Messer Law Firm, Post Office
17 Box 1876, Tallahassee, Florida 32302-1876, appearing on behalf
18 of T-Mobile USA, Inc.

19 MICHELE THOMAS, ESQUIRE, T-Mobile USA, Inc., 60 Wells
20 Avenue, Newton, Massachusetts 02459, appearing on behalf of
21 T-Mobile USA, Inc.

22 LEIGH HYER, ESQUIRE, Post Office Box 110, FLTC0717,
23 Tampa, Florida 33601-0110, appearing on behalf of Verizon
24 Access.

25

1 APPEARANCES CONTINUED:

2 SUSAN J. BERLIN, ESQUIRE, participating
3 telephonically, Two North Main Street, Greenville, South
4 Carolina 29601, appearing on behalf of NuVox Communications,
5 Inc.

6 CHARLES V. GERKIN, JR., ESQUIRE, participating
7 telephonically, Friend Law Firm, Three Ravinia Drive, Suite
8 1450, Atlanta, Georgia 30346, appearing on behalf of MetroPCS
9 California/Florida, Inc.

10 FELICIA BANKS, ESQUIRE and KIRA SCOTT, ESQUIRE, FPSC
11 General Counsel's Office, 2540 Shumard Oak Boulevard,
12 Tallahassee, Florida 32399-0850, appearing on behalf of the
13 Florida Public Service Commission Staff.

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 TEW: This prehearing conference is now
3 called to order.

4 Staff, please read the notice.

5 MS. BANKS: Good morning, Commissioner. Pursuant to
6 the notice issued February the 24th, 2006, this time and place
7 have been set for a prehearing conference in Docket Number
8 050119 and 050125.

9 COMMISSIONER TEW: Let's take appearances. We'll
10 start with staff and then go from left to right, and then we'll
11 get the people on the phone.

12 MS. BANKS: Felicia Banks and Kira Scott on behalf of
13 the Commission.

14 MR. GROSS: Michael Gross on behalf of the FCTA.

15 MR. GURDIAN: Manny Gurdian on behalf of BellSouth.
16 Also on the phone are Robert Culpepper and John Tyler on behalf
17 of BellSouth.

18 MR. HATCH: Tracy Hatch appearing on behalf of AT&T
19 Communications of the Southern States, LLC.

20 MR. WAHLEN: Good morning. I'm Jeff Wahlen of the
21 Ausley & McMullen Law Firm on behalf of Alltel Florida, Inc.

22 MR. McDONNELL: Marty McDonnell of Rutledge, Ecenia,
23 Purnell & Hoffman on behalf of the Joint Petitioners.

24 MR. HOFFMAN: Kenneth A. Hoffman. I'm appearing with
25 Mr. McDonnell on behalf of the small local exchange companies.

1 MR. PALMER: I'm Chuck Palmer with the law firm of
2 Troutman Sanders on behalf of Verizon Wireless.

3 MR. ATKINSON: I'm Bill Atkinson on behalf of Sprint
4 Nextel. Good morning.

5 MS. KAUFMAN: Good morning, Commissioner. Vicki
6 Gordon Kaufman of the Moyle, Flanigan Law Firm. I'm here on
7 behalf of the Competitive Carriers of the South, Inc.; Sprint
8 Nextel; NuVox Communications, Inc.; and MetroPCS. And I know I
9 have some colleagues on the phone that will enter an appearance
10 at the appropriate time.

11 COMMISSIONER TEW: Okay.

12 MR. SELF: Good morning, Commissioner. Floyd Self of
13 the Messer, Caparello & Self Law Firm. I'm appearing on behalf
14 of T-Mobile along with Michele Thomas, who is senior counsel
15 for T-Mobile.

16 MS. HYER: And Leigh Hyer appearing on behalf of
17 Verizon Access.

18 COMMISSIONER TEW: Okay. Anyone else on the phone
19 who would like to enter an appearance?

20 MR. CULPEPPER: Robert Culpepper on behalf of
21 BellSouth.

22 MR. CHIARELLI: Joe Chiarelli on behalf of Sprint
23 Nextel.

24 MS. BERLIN: Susan Berlin on behalf of the
25 Competitive Carriers of the South. I'm sorry?

1 COMMISSIONER TEW: I think we got you. Anyone else?

2 Okay. I guess we'll, we'll move into preliminary
3 matters at this time.

4 Ms. Banks.

5 MS. BANKS: Yes, Commissioner. We have several
6 preliminary matters. The first that I'd like to take up is the
7 MetroPCS motion to compel that was filed on March 1st, 2006.
8 BellSouth has filed a response. I believe there is an update
9 on this pending motion to compel, and I'm going to defer to
10 Ms. Kaufman to provide that update.

11 MS. KAUFMAN: Commissioner, I wanted to ask if Mr.
12 Gerkin is on the phone.

13 (Pause.)

14 Well, I'll do my best to give you an update. I know
15 that Mr. Gerkin and Mr. Culpepper have been discussing this,
16 and I hate to use this old saw, but, subject to check, I
17 believe that the motion to compel has been resolved.

18 MR. CULPEPPER: This is Robert Culpepper on behalf of
19 BellSouth. I believe so. We, yesterday we filed the
20 information with respect to minutes of use that we had stated
21 that we would file in our response to the motion to compel and,
22 as I understand it, that ought to resolve the matter.

23 MS. KAUFMAN: And that's my understanding,
24 Commissioner. And if I find out differently when I catch up
25 with Mr. Gerkin, I will certainly let Ms. Banks know.

1 COMMISSIONER TEW: Okay. Is that all we need or do
2 we need something withdrawn or --

3 MS. BANKS: Commissioner, I suppose at the
4 appropriate time, when Ms. Kaufman has an opportunity to check,
5 that at that time they will withdraw the motion to compel.

6 MS. KAUFMAN: Yes, that would be fine. As soon as I
7 verify that, I will withdraw the motion to compel.

8 COMMISSIONER TEW: Thank you, Ms. Kaufman.

9 MS. BANKS: Next, Commissioner, is BellSouth's motion
10 to strike. On March 9th, 2006, BellSouth filed a motion to
11 strike certain portions of the rebuttal testimony of Don Wood
12 filed by FCTA. The response is actually due on tomorrow,
13 Thursday, March 16th. And as I understand it, speaking with
14 Mr. Gross, they're going to file the response tomorrow.

15 COMMISSIONER TEW: Is that correct, Mr. Gross?

16 MR. GROSS: That's correct. We're going to file a
17 response opposing the motion.

18 COMMISSIONER TEW: Okay. Then I guess, Ms. Banks,
19 the best thing to do is defer ruling on that until after we get
20 the response and either issue a ruling in the prehearing order
21 itself or by separate order.

22 MS. BANKS: That would be my recommendation,
23 Commissioner.

24 The next matter is the small LECs' objection to
25 Verizon's prehearing statements. I spoke with Mr. Palmer and

1 Mr. Hoffman just very briefly before the prehearing conference,
2 and I think there is an update with the letter that Mr. Hoffman
3 filed. And I'll defer to Mr. Hoffman at this time.

4 MR. HOFFMAN: Commissioner Tew, this is Ken Hoffman
5 on behalf of the small local exchange companies. I don't want
6 to make more out of this than it is or isn't.

7 The, the order establishing procedure that you issued
8 in this docket lays out the components of the prehearing
9 statements to be filed in the docket. Included -- as one of
10 the components under (k) on Page 5 of the procedural order is a
11 statement identifying any decision or pending decision of the
12 FCC or any court that has or may either preempt or otherwise
13 impact this Commission's ability to resolve the issues in the
14 case. This is something you typically see in procedural
15 orders.

16 What happened was when Verizon wireless filed their
17 prehearing statement, we noticed that they had, at least in our
18 judgment, cited to certain decisions, including state utility
19 commission decisions which are not included within what's to be
20 filed, as a precedent that may impact this Commission's ability
21 to resolve the issues in the case. But they had filed
22 decisions that at least in our judgment did not really affect
23 the jurisdiction or the ability of this Commission to resolve
24 an issue, but actually went to their position on the
25 substantive issues as to whether they should prevail.

1 Obviously those arguments, those cases will be presented by
2 Verizon Wireless. They have every right to present those
3 either through the hearing or certainly in their posthearing
4 brief. We are by no means attempting to preclude them from
5 doing that. We're just -- the concern that we had was, you
6 know, you're going to sign a prehearing order that would
7 implicitly be saying, we think incorrectly, that there are
8 certain decisions there that impact the Florida Commission's
9 ability to resolve the issues. We don't think they do. And so
10 we were pointing that out, you know, without in any way trying
11 to preclude Verizon from, from making their case, from arguing
12 their case law.

13 The -- on Page 46 of the draft prehearing order the,
14 the four cases that Verizon Wireless cited in their, in their
15 prehearing statement are the Atlas Telephone, Mountain
16 Communications cases, and then the state decisions, the Georgia
17 Public Service Commission decision and the Tennessee Regulatory
18 Authority decision. So that was the concern that we raised.

19 COMMISSIONER TEW: Would you like to respond?

20 MR. PALMER: Yes. Certainly. Thank you very much.
21 Chuck Palmer on behalf of Verizon Wireless. We had filed a
22 letter in response dated March 3rd -- and I don't want to
23 belabor this as well. We had interpreted the instruction given
24 in the, in the order establishing procedure that we had focused
25 on otherwise impact. And we thought that the things that we

1 were bringing to the Commission's decision were issues or
2 rulings that could otherwise impact what the Commission might
3 want to do. We spent about three, three and a half pages in
4 our filing talking about those decisions.

5 I would note that this morning I received, I had an
6 opportunity to receive a copy of what the small LECs had filed,
7 and would note on Page 3 of that that there are, you know,
8 there is -- I don't know whether you want to call it
9 argument -- but there's certainly a listing of a decision
10 issued in an FCC docket and a little bit of explanation there
11 as to the impact that it would have on the ruling, the
12 Commission's ruling in this docket.

13 So we don't think that what we did was, was out of
14 line. We don't think, we certainly don't think it was a brief.
15 We are certainly comfortable with what the Commission staff has
16 prepared as far as a prehearing order in this matter on Pages
17 45 and 46, and we're willing to let it lie as it, as it is
18 currently listed in the prehearing order. And certainly all
19 the parties will have an opportunity to, to cite extensively to
20 decisions and make argument and rhetoric both orally and in
21 writing throughout the remainder of this docket. So we're
22 happy to let it lie where it is now.

23 COMMISSIONER TEW: Well, we've had some discussions
24 about this section, and I don't know where the other
25 Commissioners, what their feelings are about it, but for my

1 purposes I think it's just a listing of cases that parties
2 think may impact the case in some way. That said, I don't
3 think there necessarily needs to be argument in the prehearing
4 statements about those cases. But I can understand where
5 parties might think that they need to explain why they think
6 these decisions may impact the case. But, like I said, I think
7 for the future it may be better just to list cases. And to me
8 it's sort of a notice to all the parties of what arguments you
9 might make about what cases you think impact the case.

10 But do I understand that this issue is, is fairly
11 resolved between the two of you at least because you've amended
12 your prehearing statement, or do you want an actual ruling on
13 this issue?

14 MR. HOFFMAN: Commissioner, this is not a big issue
15 for us -- I mean, from my perspective. I think it really was
16 more an issue for you and what you're comfortable with with the
17 prehearing order that you sign. And if that's how you are
18 interpreting that part of your procedural order to allow a
19 listing of cases that in any way may impact the Commission's
20 ruling as opposed to the Commission's jurisdiction to rule,
21 we're fine with that.

22 COMMISSIONER TEW: Okay. And I guess we can move
23 along to the next item.

24 MR. PALMER: Commissioner, if I may be so bold. And
25 I don't, I don't have the opportunity to appear before the

1 Commission as regularly as many of the other folks here at the
2 table. And if I may be so -- if I may suggest that in the
3 future, and I had this discussion with, with the Commission's
4 lawyer, it may be helpful if you're looking for just a listing
5 to maybe state that in the proposal just to help people who
6 don't appear as regularly as Mr. Hoffman. And I will certainly
7 know going forward myself, but maybe to avoid that in the
8 future.

9 COMMISSIONER TEW: I agree with you. And Ms. Banks
10 and myself had those very discussions about how to make that
11 clearer in the future. Because I could see where, with the
12 language that is there, that it might induce someone to explain
13 why they think those decisions impact the case. And I just
14 don't think that's necessary at this stage. But I think it's
15 also good -- if someone wants to list the cases that they will
16 reference in their arguments, I think that puts all parties on
17 notice and it seems like it's fair to everyone.

18 MR. PALMER: Thank you.

19 COMMISSIONER TEW: I guess I shouldn't leave the
20 other parties out. Do any other parties want to speak on this
21 issue? Does anyone else have an objection?

22 MS. KAUFMAN: Commissioner, I don't have any
23 objection whatsoever. I just want it to be clear that
24 certainly, you know, we're not bound to list every case we
25 think might be applicable. And when we write our posthearing

1 briefs, you know, we're free to utilize whatever authority is
2 appropriate.

3 COMMISSIONER TEW: Absolutely. I agree with that.
4 So we can move along. Thank you.

5 MS. BANKS: Yes, Commissioner. The next item -- and
6 I'm going to defer to Mr. -- I'm sorry. I kind of lost my
7 place here.

8 The next item deals with witness teleconference
9 participation at the hearing. T-Mobile and Sprint has
10 sponsored a witness, Bill Pruitt. And as I understand, he has
11 a medical condition that may impact his attendance at the
12 hearing. It's my understanding from Mr. Self that they really
13 want the witness to participate so that the Commissioners may
14 have an opportunity, and parties as well, to cross-examine the
15 witness. We have kind of talked in very little detail about
16 the logistics of how this might happen. But I do want to defer
17 to Mr. Self to give us further explanation and how he sees
18 Witness Pruitt's participation in the hearing.

19 MR. SELF: Thank you, Commissioner. I appreciate the
20 fact, Commissioner, that normally what happens if you have a
21 witness that can't participate is the parties usually end up
22 stipulating that witness's testimony and deposition and
23 discovery responses.

24 T-Mobile and Sprint, T-Mobile and Sprint Nextel
25 believe it's important for Mr. Pruitt to appear at this hearing

1 and not just be stipulated into the record. It's been, it's
2 been over ten years since we've had a case that has involved a
3 lot of cellular parties, and we think it's important to have
4 him available to give his summary and to be available both for
5 cross-examination by the parties and staff as well as the
6 Commissioners.

7 In talking with Ms. Banks, it appears that the only
8 practical option, given Mr. Pruitt's health situation, would be
9 to have him appear by telephone. I know we've done that
10 sometimes at Agenda Conferences.

11 I sent an email to the parties on Monday asking if
12 any of them had objections, to let me know. No one that's
13 responded has indicated that they have an objection. I have
14 not actually heard from every party, however. And so we would
15 request that Mr. Pruitt be allowed to appear by phone for the
16 hearing. That would probably require establishing a time
17 certain or at least an approximate time certain so that he
18 would be available for when we need to do that.

19 COMMISSIONER TEW: Thank you, Mr. Self. Do any, do
20 any parties have any objections that they care to share today?

21 MR. GURDIAN: Commissioner, I'm Manny Gurdian on
22 behalf of BellSouth. We don't object to Mr. Pruitt appearing
23 via the procedure that Mr. Self has indicated. However, we
24 need to work out some sort of procedure with regard to exhibits
25 that may be used during cross. That was our only concern.

1 MR. SELF: And we would certainly be willing to do
2 that. Mr. Pruitt would probably have Internet access, so
3 perhaps we could email documents to him or, you know, that sort
4 of thing as appropriate. But I'll be happy to talk to
5 BellSouth or any of the other parties to figure out what the
6 most convenient logistical thing to do is. And we do
7 appreciate the fact, Commissioner, that this is a pretty
8 unusual request. Unfortunately, his physical situation is, is
9 very unusual as well.

10 COMMISSIONER TEW: Well, I think the best thing to do
11 at this time is to defer ruling on that basically because I
12 think, because of the issue of trying to come up with a time
13 certain for his appearance and things like that, that it's
14 something that needs to be discussed with the Chairman since
15 she'll be the presiding officer in the case. So that's how I
16 would prefer to handle it at this time. It sounds like no one
17 has any objection with it, and I appreciate that you will be
18 able to work those logistics out. And I think Ms. Banks is
19 talking to some people here about exactly what we can do to
20 accommodate him so the Chairman will have that information when
21 she makes up her mind.

22 MR. SELF: And with your permission, I'll just
23 continue to talk to Ms. Banks about that and then let the
24 parties know as appropriate.

25 COMMISSIONER TEW: Certainly. I'd encourage it.

1 MR. SELF: Thank you very much.

2 COMMISSIONER TEW: Ms. Banks.

3 MS. BANKS: Commissioner, the next item or
4 preliminary matter is MetroPCS's notice of substitution of
5 party. And I wanted to note that on March 9th, 2006, MetroPCS
6 California/Florida, Inc., filed its notice of substitution of
7 party. In its notice, MetroPCS, Inc., states it was granted
8 intervention in this proceeding back in December 2005. And,
9 subsequently, MetroPCS, Inc., states that it was converted to
10 MetroPCS California/Florida, LLC, which was simply a change of
11 corporate form.

12 In essence, MetroPCS has assigned its interconnection
13 agreement to MetroPCS LLC, which, as I understand it, is to
14 become effective April 1st, 2006. And I think we need to do
15 nothing more than just an acknowledgement. As I understand,
16 all parties have been apprised of this notice of substitution
17 of party. And I guess if Ms. Kaufman is aware of any objection
18 to this filing, she can make that notation at this time.

19 MS. KAUFMAN: Commissioner, I am not aware of any
20 objection, and I think Ms. Banks laid out for you the corporate
21 changes that have occurred.

22 MR. CULPEPPER: And this is Robert Culpepper on
23 behalf of BellSouth. And all I will add is we deposed a
24 MetroPCS witness yesterday, and it's just unclear to me as
25 to -- from an interconnection perspective when -- I haven't

1 seen the notice we should have been provided under the
2 interconnection agreement with respect to the assignment, and I
3 just wanted to add that. But as I understand it, it has been
4 sent to us.

5 COMMISSIONER TEW: So are you registering an
6 objection, Mr. Culpepper?

7 MR. CULPEPPER: No, I'm not. I just wanted, I just
8 wanted to clarify Ms. Banks' point about the parties being all
9 on the same page. I believe we're there. We're not, we're not
10 objecting. I just wanted to, you know, clarify that, that
11 piece of it.

12 COMMISSIONER TEW: Okay. Thank you, Mr. Culpepper.
13 As Ms. Banks suggested, I think we'll just acknowledge the
14 notice of substitution.

15 MR. CULPEPPER: That'll work. Thank you.

16 COMMISSIONER TEW: Thank you.

17 Ms. Banks.

18 MS. BANKS: The last item that I'd like to make
19 mention of, Commissioner, is we have two petitions to intervene
20 that have been filed respectively in this docket by Southern
21 Communications and Verizon Access Transmission Services.

22 COMMISSIONER TEW: Do we have any objections to those
23 interventions or are we still within the time frame of allowing
24 objections to be filed? Is it a week; is that right?

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

1 Because it was served electronically it is a week's time frame
2 to respond to those respective petitions to intervene.
3 Southern filed this petition on March 10th, so any objections
4 would be due by March 17th. And Verizon Access filed its
5 petition on March 14th, and any objections would be due by
6 March 21st.

7 COMMISSIONER TEW: Do you recommend that we try to
8 find out if there are any planned objections now and rule on it
9 at this time, or do you think it's better to let the time run
10 for any objections to be filed?

11 MS. BANKS: Given where we are, Commissioner, we're
12 about two weeks from the hearing. I would, if there are any
13 objections today, would like for parties to make note of those.
14 Otherwise -- normally we handle these administratively, and I
15 think that would be appropriate to deal with them
16 administratively. But if there is an objection, I would like
17 to know if the parties have that.

18 COMMISSIONER TEW: Any objections to either petition
19 for intervention so that we're on notice, or any planned
20 objections?

21 Okay. Hearing none.

22 MS. BANKS: Thank you, Commissioner.

23 COMMISSIONER TEW: I guess at this time we'll proceed
24 through the draft prehearing order. I assume everyone has a
25 copy.

1 MR. HOFFMAN: Commissioner Tew, this is Ken Hoffman.
2 I have one preliminary matter; just to put you on notice that
3 the small local exchange companies did file and serve yesterday
4 some amendments to our previously filed prehearing statement,
5 and we have additional copies available here in the hearing
6 room. We filed revisions to our positions on Issues 1, 10 and
7 12, as well as a revision to what we had previously filed that
8 now appears under Section XIII of the draft prehearing order.

9 COMMISSIONER TEW: Thank you, Mr. Hoffman. We'll
10 make sure those changes are in the final prehearing order.

11 But as consistent with our previous discussion, I
12 think we'll just list the cases that you've referenced in
13 Section XIII.

14 MR. HOFFMAN: Yes, ma'am.

15 COMMISSIONER TEW: Okay. Okay. We'll go through the
16 prehearing order section by section essentially. I'll group
17 some together just for efficiency's sake.

18 Are there any changes to Sections I through III on
19 conduct, case background or confidential information
20 procedures? Any corrections?

21 MS. KAUFMAN: Commissioner Tew, on the section
22 regarding the use of confidential information, MetroPCS just
23 wants to put you and the parties on notice that we will be
24 using confidential information during the hearing and we will
25 obviously be following the Commission's procedures to protect

1 that information.

2 COMMISSIONER TEW: Thank you. Any others?

3 Okay. Section IV on posthearing procedures. Are
4 there any proposed changes? I know that the prehearing order
5 lists page limits on posthearing briefs. Are there any
6 suggested changes, any proposals?

7 MS. BANKS: Commissioner Tew, can I just make one
8 insert of a footnote? The draft prehearing order went out on
9 Friday, and I asked parties to respond by close of business on
10 Monday for changes or corrections. And for those that
11 submitted those changes to me by close of business Monday, I
12 actually inserted them into the draft prehearing order, what
13 you have before you. I have received some additional changes
14 and corrections, and I guess for purposes of time, if parties
15 have sent those to me, they can just acknowledge at that time
16 and I can acknowledge that I am in receipt of it. Because we
17 had to get the draft prehearing to print, time didn't allow to
18 get all of the changes. And so for those that were sent to me
19 via email or by conversation, just note they have been noted
20 and they will be incorporated.

21 COMMISSIONER TEW: Thank you, Ms. Banks. I guess
22 hearing no issues with Section IV, we'll move along to
23 Section V, V and VI, with the order of witnesses. Any proposed
24 changes to the order of witnesses? I will go ahead and let you
25 know that we have -- I have talked with staff about the order

1 that's shown in the prehearing order and we've proposed some
2 changes to it: Basically following the Commission's general
3 practice of beginning with the witnesses who are the
4 Petitioners' and then ending with the witnesses who are the
5 Respondent's, which will be BellSouth in this case. And
6 basically all the other parties would essentially follow the
7 order there, although we may group them together for similar,
8 similarly situated parties. Do I have any suggestions or
9 proposals?

10 MR. HOFFMAN: Commissioner, this is Ken Hoffman. I
11 would like to make a suggestion.

12 COMMISSIONER TEW: Okay.

13 MR. HOFFMAN: I would say, Commissioner,
14 respectfully, that I think that the way that the order of
15 witnesses has been revised has it backwards, and let me explain
16 why.

17 In my judgment really the purpose of an order of
18 witness presentation is to provide the most logical and
19 meaningful presentation for the Commissioners and to not give
20 any party an advantage one way or the other or that type of
21 thing. And without regard to legal issues like burden of proof
22 or the validity or presumptive validity or invalidity of a
23 tariff, to me this is not unlike the presentation that you
24 might want to see in a rate case where, for example, in a rate
25 case, and this is a rate, this is a proposed rate, the

1 Commission would hear from the utility and the utility would
2 explain its filing, it would explain what it's proposing. And
3 then the Commission would after that hear from other parties
4 including intervenors who have problems or concerns with
5 certain aspects of the filing.

6 The way that this is now presented as revised would
7 have the parties who have concerns with the filing coming in
8 first and then the party who presented the filing coming in
9 last. And I would just respectfully submit to you,
10 Commissioner Tew, that the most logical order of presentation
11 would be for BellSouth to go first and to allow BellSouth to
12 first present and explain their proposed tariff, and then to
13 allow the other parties to come in. And different parties have
14 different concerns and issues with the tariff. But after
15 BellSouth, let the other parties come in and present their
16 testimony and their concerns with the particular tariff.

17 I guess the last thing that I would suggest is that
18 because the small local exchange companies sort of stand alone
19 from not only BellSouth but the intervenors in terms of who
20 would bear the financial responsibility for any transit tariff
21 rate approved by the Commission, that it would be appropriate
22 to have the small LECs go last. But, in any case, to me what's
23 of paramount importance in terms of a logical and orderly
24 presentation is to have the party that filed the tariff go
25 first and explain their tariff.

1 MR. GURDIAN: Commissioner, Manny Gurdian on behalf
2 of BellSouth. We disagree with that. We believe the general
3 procedure should be followed in this case. The Joint
4 Petitioners have challenged BellSouth's presumptively valid
5 tariff in this case, and BellSouth believes that its witnesses
6 should go last in defense of that tariff.

7 Robert, do you have anything else?

8 MR. CULPEPPER: Yes. This is Robert Culpepper. I
9 think, Chairman, that you got it right. I mean, we have a
10 presumptively valid tariff here. The Petitioners are
11 challenging that. I don't believe we can set aside burdens of
12 proof and so forth. And this is not a rate case. I don't
13 think the tariff is that complicated. The Joint Petitioners
14 raised issues and concerns about it, and they should be, they
15 should be heard and addressed. But I believe that the
16 appropriate order for witnesses is how the Commission has set
17 forth here: The challengers go first and the respondents go
18 last.

19 COMMISSIONER TEW: Staff, do you have a
20 recommendation, or would you like time to think about it and us
21 discuss this later and --

22 MS. KAUFMAN: Commissioner, excuse me.

23 COMMISSIONER TEW: I'm sorry. I didn't mean to
24 exclude anyone.

25 MS. KAUFMAN: I didn't mean to interrupt, but if you

1 wouldn't mind hearing from the other parties.

2 COMMISSIONER TEW: I would. I would. I'm sorry. I
3 apologize for that.

4 MS. KAUFMAN: Thank you.

5 MR. ATKINSON: Thank you, Commissioner. Bill
6 Atkinson on behalf of Sprint Nextel. The way Sprint Nextel
7 sees this matter is that the Petitioners or the parties of
8 record such as Sprint Nextel and the other CMRS carriers have
9 the burden of going forward because a BellSouth tariff had been
10 filed. But we see BellSouth as definitely having the ultimate
11 burden of proof in this proceeding and, therefore, it is
12 appropriate that their witnesses should go first. We think
13 that the Commission indirectly approved of this position when
14 it held that the money would be subject to refund. BellSouth's
15 tariff may be presumptively valid, but the money is in check
16 right now and is held subject to refund. Therefore, we think
17 it's appropriate that the party that has the ultimate burden of
18 proof, that their witnesses, BellSouth witnesses should go
19 first in the order. Thank you.

20 MS. KAUFMAN: Commissioner, Vicki Kaufman. I wanted
21 to agree that -- and I won't repeat what the other parties have
22 said about BellSouth going first. We think that they should.
23 We think they should then be followed by the small LECs because
24 we've got two consolidated dockets here, and we think that's
25 appropriate.

1 And I have two other changes that I would request.
2 One of them has to do with Ms. Bishop, who is the witness for
3 MetroPCS. Regardless of how the witness order is ultimately
4 decided, we would ask that the Commission provide that
5 Ms. Bishop take the stand on Wednesday afternoon. Ms. Bishop,
6 I think in contrast to, I think, all the other witnesses, is an
7 employee of MetroPCS and has operational duties in Texas and
8 she needs to get back to Texas on Wednesday. So if she could
9 be accommodated in that way, MetroPCS would appreciate it. Her
10 testimony is very brief and she has only rebuttal.

11 And, finally, again on the other witness for the
12 competitive carriers, who is Mr. Gates, we would ask that he be
13 moved in the order to the end to follow the cable association's
14 witness, Mr. Wood.

15 MR. GURDIAN: Commissioner, may I respond?

16 COMMISSIONER TEW: Certainly.

17 MR. GURDIAN: As indicated by Mr. Culpepper and
18 myself, the tariff is presumptively valid and the Joint
19 Petitioners have the burden of proof in this case, and I don't
20 want the Commission, Commissioner to lose sight of that. Thank
21 you.

22 COMMISSIONER TEW: Thank you. Any other parties?
23 Mr. Self?

24 MR. SELF: Thank you, Commissioner. Without respect
25 to burden of proof issues and presumptive validity of the

1 tariff, when I look at the order of witnesses, what makes the
2 most sense to me is what's the story in the case? And the
3 story begins with the tariff, which is why I think it's
4 appropriate for BellSouth to go first. The small LECs, with
5 respect to their complaint and the issues they have with the
6 tariff, are different, I think, than the, certainly the issues
7 that the wireless carriers and the CLECs have. So if I just
8 look at it in terms of a story, what makes the most sense to me
9 is BellSouth, the small LECs and then the other parties.

10 COMMISSIONER TEW: Anyone else? Ms. Banks, do you
11 want to give some input? I will tell you that my preference is
12 to do some research on burden of proof before making a
13 decision, so -- but with that, I'll let you give your
14 recommendation.

15 MS. BANKS: Commissioner, prior to the prehearing
16 conference this morning staff circulated a handout of a
17 proposed witness assignment order. In, in thinking about this
18 proposed witness assignment order that was gathered by staff,
19 we looked at what the Commission has traditionally done, that
20 being the Petitioner going first and the Respondent going last.

21 In hearing the concerns today, I think it would be in
22 good order and appropriate for staff to have some time to
23 reflect on what has been stated today and digest some of the
24 concerns that have been advocated by the parties. But
25 traditionally if we were going to use -- what we would do,

1 generally the Petitioner would go first, the Respondent would
2 go last. I'm not saying this may not, this case may not
3 warrant us deviating from tradition, but that's traditionally
4 what we have done.

5 Staff's recommendation would be maybe have staff and
6 parties consult and see if we can't work out something that may
7 be amenable to go forward with this case.

8 Having said that -- and looking more, as you just
9 indicated, at what the burden of proof would require and the
10 thoughts considered in that going forward with the case.

11 COMMISSIONER TEW: Well, I think the best thing to do
12 at this point, like Ms. Banks suggested, is for everyone to
13 work on this. I have to say I'm not optimistic for it being
14 worked out, hearing the arguments of the parties today. But I
15 would like to take it under advisement and do a little research
16 on the issue before we make a decision. But I would like to
17 have a decision finalized by the time of the final prehearing
18 order. And then that would give the parties a chance to take
19 whatever action they see as appropriate beyond that.

20 Are there any other comments?

21 MR. PALMER: Chuck Palmer on behalf of Verizon
22 Wireless. With respect to Mr. Sterling in the rebuttal
23 portion, he does not intend to address Issues 10 and 11.
24 They've been removed up in the, in the direct portion. But I
25 would also request that they be removed in the rebuttal portion

1 as well. That would be 10 and 11.

2 COMMISSIONER TEW: Thank you. We'll take care of
3 that. Any other changes?

4 MR. HATCH: One item with respect to the order of
5 witnesses, Commissioner. I had polled the parties, I'm not
6 asking for any commitments today, about stipulating the
7 testimony of Richard Guepe. Nobody thus far has taken a whole
8 lot of interest in it. He was not deposed or noticed for
9 deposition. I haven't had any objections to that yet, but a
10 number of folks are considering it. So I just wanted to put
11 that out there for you.

12 COMMISSIONER TEW: Thank you, Mr. Hatch. Anything
13 else before we move ahead?

14 And that leads us to Section VII, I believe, VII and
15 VIII on positions. And as Ms. Banks noted, I think we have
16 several changes to issues, well, not to the issues, but to the
17 positions of the parties, and that she will make sure that
18 those are reflected in the final prehearing order.

19 But if anyone is concerned about whether Ms. Banks
20 has received their information or if you're planning to amend
21 your positions today, I will open it up for any parties to
22 instruct us.

23 Anyone have changes to their positions that aren't
24 otherwise noted with Ms. Banks?

25 Okay. We'll move along to Section IX, exhibits. Any

1 corrections to this section?

2 Hearing none, we'll move along to Section X on
3 proposed stipulations. Are there any proposed stipulations or
4 any expected by the time the prehearing order is to be signed?
5 I know that Ms. Banks has contacted each of you about Issue 13.
6 It's suggested that that may be a stipulated issue. So I'll
7 open it up for any comments regarding that or any other
8 proposed stipulation.

9 MR. HOFFMAN: Commissioner Tew, this is Ken Hoffman.
10 I will suggest that perhaps the parties could think about a
11 stipulation on Issue 12. Issue 12 is pretty straightforward:
12 "Have the parties to this docket paid BellSouth for transit
13 service that BellSouth provided on or after February 11 of
14 2005?" The small LECs have filed a revised position which
15 indicates that BellSouth has billed two of the small LECs,
16 Smart City and Frontier, and they have, those two companies
17 have paid for transit service billed on or after February 11,
18 2005.

19 So from our perspective, you know, we believe that,
20 that this issue could be stipulated. But I'm certainly aware
21 that other parties may, may or may not have concerns.

22 COMMISSIONER TEW: Are there other parties' response
23 to that or do you need additional time to take that into
24 consideration and let Ms. Banks know?

25 MR. PALMER: Chuck Palmer on behalf of Verizon

1 Wireless. We don't have an objection to that. We'd be fine
2 with stipulating 12 and 13.

3 MR. GURDIAN: Commissioner, Manny Gurdian on behalf
4 of BellSouth. I believe that we should be able to stipulate to
5 these issues. However, we'd like some additional time to work
6 out the language, if possible.

7 COMMISSIONER TEW: Okay. We want to hear from the
8 other parties, I suppose.

9 MR. ATKINSON: Thank you, Commissioner. Bill
10 Atkinson on behalf of Sprint Nextel. Initially Sprint Nextel
11 does not have any objection to stipulating Issue 12. However,
12 we would like more time to consider the issue and get back to
13 the staff on that as you had suggested. Thank you.

14 COMMISSIONER TEW: I think we'll just go ahead and
15 give until Thursday. I think we're going to try to finalize
16 the prehearing order by Friday. If not, I think at least by
17 Monday to try to get this done in plenty of time before the
18 prehearing.

19 So, Ms. Banks, if that's okay with you, Thursday --
20 do you want to do Thursday close of business or Thursday noon?

21 MS. BANKS: I don't have a preference on time. I'm
22 going to say maybe by noon, if that's possible.

23 MR. SELF: Commissioner Tew, it's unclear to me
24 whether the staff or BellSouth or someone else is going to
25 propose language for Issues 12 and 13. If we could nail that

1 down, that might help the process a little bit.

2 MR. HATCH: That would help. The question I had is I
3 probably don't have an objection, but I would like to know what
4 it is that I'm stipulating to.

5 COMMISSIONER TEW: Mr. Hoffman, were you proposing
6 your position on Issue 12?

7 MR. HOFFMAN: I was not precisely proposing that, but
8 I certainly would be happy to take a crack at some language and
9 distribute it.

10 MR. SELF: Commissioner, may I offer a suggestion?
11 But I need to ask BellSouth a question first since really these
12 two issues pertain to payments to BellSouth.

13 I think the fundamental question is do we need
14 stipulated language for these positions or can we simply
15 withdraw these two issues from the case? I mean, if BellSouth
16 believes that the obligations have been fulfilled, I don't know
17 that we even need the issues in the case. But I'll defer to
18 BellSouth.

19 MR. GURDIAN: Excuse me. Sorry.

20 MR. CULPEPPER: This is Robert Culpepper on behalf of
21 BellSouth. I would tend to agree with the latter point that
22 was just made, and that is it sounds like these issues could be
23 withdrawn. Certainly we're not opposed to stipulating, but it
24 may not be necessary. So as Mr. Hatch mentioned earlier, I
25 mean, we'll take a look at a stipulation and we may or may not

1 have an issue with it. But it seems another course of action
2 to at least consider would be simply, you know, having these
3 issues either withdrawn or just considered moot.

4 COMMISSIONER TEW: Mr. Hoffman, do you agree with
5 that?

6 MR. HOFFMAN: That could be right. This is Ken
7 Hoffman. I think particularly with respect to Issue 12 that
8 could be a good way to go, a withdrawal of the issue. I'd want
9 to think about it a little bit more.

10 With Issue 13 it could as well, but the only
11 lingering concern I would have is that Issue, what is now Issue
12 13 was an issue raised by BellSouth in their issues list that
13 was incorporated in your procedural order. That issue asks if
14 parties have paid BellSouth for transit service before
15 February 11, 2005, and, if not, should they? And, you know,
16 we've gone to the time and expense of addressing that issue.
17 We're happy to withdraw it. But we don't want to end up in a
18 situation where BellSouth withdraws their issue in this case
19 and then we see this teed up in some different docket a year
20 from now or two years from now. So we would just want some
21 sort of assurance that we're done forever, so to speak, with
22 this particular issue.

23 COMMISSIONER TEW: I think we'll follow the initial
24 recommendation and give some time for the parties to discuss
25 this amongst yourselves and get with Ms. Banks by noon on

1 Thursday. Do you think you all can come to some conclusion by
2 that time?

3 MR. SELF: Commissioner, Floyd Self again. If we
4 could just establish who's going to take the first shot at
5 circulating something, I think that would help.

6 COMMISSIONER TEW: Any volunteers?

7 MR. SELF: It would seem to me if it's -- if these
8 were BellSouth's issues originally, that perhaps they can
9 either propose language or propose a basis for --

10 MR. CULPEPPER: As a clarification, I thought Issue
11 13 was, but not 12. It's a BellSouth initially proposed issue,
12 if I heard Mr. Hoffman correctly.

13 COMMISSIONER TEW: Mr. Culpepper, can you repeat
14 that? I think some parties had trouble hearing you.

15 MR. CULPEPPER: I don't know. I mean, I just -- I'll
16 express ignorance. I don't know whether BellSouth initially
17 proposed the Issue 12. I understood that we had proposed the
18 Issue 13.

19 MR. HOFFMAN: That's correct. 13.

20 MR. CULPEPPER: All right. Well, perhaps we'll
21 propose a stipulation with respect to 13 and Mr. Hoffman could
22 do, propose a stipulation with respect to Issue 12.

23 MR. GURDIAN: This is Manny Gurdian on behalf of
24 BellSouth. Robert, I think we'll both -- we'll provide
25 language to both and see what the parties come up with.

1 COMMISSIONER TEW: A nodding of heads. I see
2 agreement there.

3 MR. GURDIAN: If it's okay with Mr. Hoffman.

4 MR. HOFFMAN: That's fine with the small LECs.

5 MR. SELF: I think that works.

6 COMMISSIONER TEW: And just everyone -- after that's
7 circulated, if everyone can let Ms. Banks know promptly if you
8 have concerns with that so we can try to get this reflected in
9 the prehearing order, whether it's language or withdrawing
10 issues.

11 MR. WAHLEN: Commissioner Tew, could I just weigh in
12 on Issue 12?

13 COMMISSIONER TEW: Sure.

14 MR. WAHLEN: Probably everybody in the room has
15 thought about this more than I have, but the Commission has
16 issued orders holding revenue subject for refund. And it seems
17 to me that just as a matter of tidiness there needs to be some
18 resolution of that revenue in the final order in this case.
19 And it strikes me that Issue 12 is really the placeholder for
20 the Commission to decide how to resolve the revenue being
21 subject, held subject to refund. So it may be that a
22 stipulation is appropriate there. But if the issue goes away,
23 I'm not sure where the Commission in its final order has an
24 opportunity to resolve, even if it's just a matter of dotting
25 the I's and crossing the T's, the revenue being held subject to

1 refund in this case. And there may be some other people who
2 have better ideas on that, but I thought I'd throw it out just
3 for the group to think about.

4 COMMISSIONER TEW: I think it's duly noted, and
5 everyone can take that into consideration when you circulate
6 drafts and see if you can come to some resolution. But as
7 Mr. Wahlen said, maybe, maybe it's preferable to have a
8 stipulation on that issue rather than a withdrawal.

9 Staff, do you have any input on that?

10 MS. BANKS: No, Commissioner. I think that would be
11 workable for staff, just have the parties take the lead on it.
12 And if there are any issues, just to contact us.

13 COMMISSIONER TEW: Okay. Any other changes to this
14 section?

15 We'll move along to Section XI. Are there any
16 pending motions that are not listed or any corrections?

17 Hearing none, move along to pending confidentiality
18 matters. Are there any anticipated requests or claims for
19 confidential classification that aren't accounted for?

20 MR. GROSS: Commissioner, Michael Gross on behalf of
21 FCTA. The FCTA's answers to staff's first set of
22 interrogatories are due on Thursday, and we anticipate making a
23 request for confidential classification for some of the
24 information when we serve those interrogatories on Thursday.

25 COMMISSIONER TEW: Thank you, Mr. Gross. Any other?

1 Section XIII, I think we've discussed this a good bit
2 already, and I believe there will be some additional cases
3 listed.

4 MR. SELF: Commissioner Tew.

5 COMMISSIONER TEW: Yes.

6 MR. SELF: Floyd Self. I just have one suggestion
7 with respect to this list. The first order that's listed there
8 is generally known as and referred to by I think all of the
9 parties as the T-Mobile order. And it may just be helpful to
10 put a parenthetical at the end of that citation because that's
11 the way most of the parties have referred to it just so the
12 other Commissioners will know what's happening.

13 COMMISSIONER TEW: I agree. Any other changes there?

14 Then that leaves Section XIV on rulings. And I guess
15 this is the time to discuss opening statements. The draft
16 prehearing order, of course, as you see it there has ten
17 minutes per party. I think Ms. Banks may have already talked
18 to some of you about this already. We now have eight parties,
19 as I count them. That will have -- that will leave us 80
20 minutes of opening statements. I would prefer to come up with
21 some kind of compromise where we limit opening statements to a
22 total of 60 minutes, if possible. I think I would rather leave
23 it up to the parties to propose some kind of workable solution
24 to this. I know that it also ties into our discussion earlier
25 about the order of witnesses too, and it may be good that they

1 coincide somewhat. So I think that's something we'll have to
2 take into account, but we'll maybe look to some of you to see
3 if you can consolidate some of your arguments to the extent
4 they're similar. Any feedback?

5 MR. SELF: Commissioner, if I may. I've talked with
6 some, but not all, of the parties. I think what makes the most
7 sense is we would simply have five minutes for each party. I
8 know in talking with some of the wireless carriers, we don't
9 think each of us would take the full five minutes, but we do
10 have some nuances of difference between us.

11 Personally with respect to BellSouth and the small
12 LECs, personally I would be willing to let them have more time
13 if they thought five minutes was not appropriate, given, given
14 the way that the parties generally line up on some of these
15 issues. But, again, I think five minutes per party,
16 recognizing that some of us aren't going to take the full five
17 minutes.

18 COMMISSIONER TEW: Ms. Kaufman, did you --

19 MS. KAUFMAN: I was just going to agree, Commissioner
20 Tew. I think that this is an interesting and somewhat unusual
21 case in that you have certain parties aligned on certain issues
22 and other parties aligned on other issues, and it may not, you
23 know, work as neatly as we've done in some other cases. And so
24 we would support the five minutes per party, and then that way
25 each party could make the Commissioners aware if there are any

1 unique issues or matters that pertain particularly to that
2 party.

3 COMMISSIONER TEW: I guess perhaps it's best if we
4 just go down the table. Mr. Atkinson, would you like to -- do
5 you have any thoughts?

6 MR. ATKINSON: Thank you, Commissioner. Bill
7 Atkinson on behalf of Sprint Nextel. We agree with the five
8 minutes per party and think that's appropriate. For Sprint
9 Nextel, I doubt that we'll go the five, the full five minutes,
10 as Ms. Kaufman suggested. I think several parties will not go
11 the full five minutes, but we support that. Thank you.

12 COMMISSIONER TEW: Mr. Palmer.

13 MR. PALMER: Thank you. We don't have any objection
14 to that. Whatever the Commission decides to do we're fine
15 with. Thank you.

16 MR. HOFFMAN: Commissioner Tew, you know, in
17 listening to the suggestions -- this is Ken Hoffman -- to my
18 left here, you know, I don't know that, you know, we represent
19 four parties, that we'll need a full 20 minutes to present an
20 opening statement. And I really doubt that's what my friend
21 Mr. Self and Ms. Kaufman intended. But I do think that what
22 Mr. Self suggested, that it would probably be appropriate to
23 allow some additional time for the small LECs and for
24 BellSouth, makes sense.

25 So what I will suggest is that we go up to ten

1 minutes for the small LECs and for BellSouth, and then five
2 minutes per party for the remaining parties.

3 COMMISSIONER TEW: Okay. Mr. Wahlen.

4 MR. WAHLEN: Alltel would be happy with five minutes,
5 and I doubt we'll use it.

6 COMMISSIONER TEW: Okay. Mr. Hatch. And I do note
7 that you're also a Petitioner, so I wanted to --

8 MR. HATCH: I can actually pretty much assure you I
9 won't take five minutes.

10 COMMISSIONER TEW: Okay.

11 MR. GURDIAN: Commissioner, we agree with that
12 proposal of five minutes for the other parties and ten minutes
13 for BellSouth and the small LECs.

14 COMMISSIONER TEW: Okay. Thank you.

15 MS. HYER: For Verizon Access, five minutes is more
16 than ample for us.

17 MR. GROSS: On behalf of the FCTA, we support the
18 five minutes per party proposal.

19 COMMISSIONER TEW: Okay. I think -- oh, any, any
20 comments from those on the phone?

21 MR. GERKIN: Thank you, Commissioner. This is
22 Charles Gerkin. I must apologize for my late arrival. I don't
23 know why I had this on my calendar at the wrong time. And I
24 think Ms. Kaufman has generally addressed MetroPCS's position
25 up until now. We would support the five minutes per party,

1 with some additional time for BellSouth and the small LECs.

2 COMMISSIONER TEW: Staff, any thoughts?

3 MS. BANKS: No real thoughts, Commissioner, other
4 than it appears, and I guess just to clarify, that generally
5 speaking most of the parties agree that the small LECs and
6 BellSouth should get more time. And I think the proposed time
7 is ten minutes, with the remainder of the parties getting five
8 minutes, and staff has no issue with that.

9 COMMISSIONER TEW: Well, thank you all for your
10 cooperation. I think that helps out tremendously. And we
11 will, we will note that in the prehearing order that that's the
12 plan.

13 I guess that leads us to, just to ask if there are
14 any other matters that we should take up at this time.

15 MR. HOFFMAN: Commissioner Tew, this is Ken Hoffman.
16 Just sort of looking ahead so we're not at the hearing
17 wondering sort of who goes first, I guess I would suspect that
18 in terms of the order of presentation of the opening
19 statements, that's going to follow your ultimate decision in
20 connection with the order of witnesses.

21 COMMISSIONER TEW: That would be my understanding and
22 I think my preference. But, staff, do you have any --

23 MS. BANKS: I'm not sure if I understood you,
24 Mr. Hoffman.

25 MR. HOFFMAN: Well, we've allocated the time, Ms.

1 Banks, in terms of the opening statements. And so the only
2 question or potential question is at the hearing who starts,
3 who goes first in terms of their opening statement? And all I
4 was suggesting is perhaps it's best, easiest, most efficient to
5 just sort of follow the order that Commissioner Tew ultimately
6 determines to be appropriate for the order of witnesses.

7 MS. BANKS: Staff would agree with that.

8 COMMISSIONER TEW: Okay. Well, the only other things
9 I have are just a reminder of the critical dates we have before
10 us. I show that discovery completion and the OEP is to be
11 completed by March 20th, and that the hearing, of course, is
12 scheduled for two days on March 29th and 30th. And we'll take
13 all your comments into consideration, and we're aiming to get a
14 final prehearing order out by this Friday or next Monday. And
15 unless there are any other matters to be taken up at this time
16 --

17 MS. BANKS: Commissioner, I was just going to, I
18 guess, seek clarification as to what parties would be
19 submitting to staff. I know we spoke earlier about the
20 proposed stipulations or withdrawal of Issues 12 and/or 13.
21 And so we had initially talked about tomorrow by noon, and I
22 think that was okay with everyone. And in viewing those
23 stipulations or proposed stipulations, giving consideration to
24 the order of witnesses as well, I haven't identified a point
25 person who might take the lead in that, but maybe considering

1 those things together. And if there is not enough time, to let
2 staff know. But we're hoping to hem it up by noon tomorrow, if
3 possible.

4 COMMISSIONER TEW: With that, I think that we can
5 adjourn the prehearing.

6 (Prehearing Conference adjourned at 10:31 a.m.)

7

8

9

10

11

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 16th DAY OF MARCH, 2006.



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