

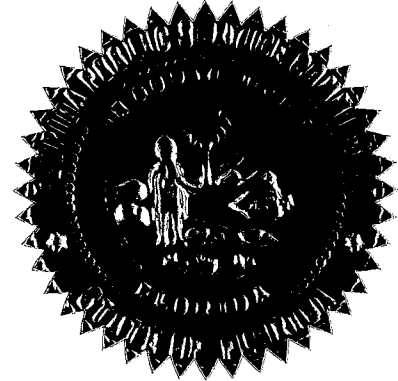
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060598-TL

In the Matter of:

PETITION TO RECOVER 2005 TROPICAL SYSTEM  
RELATED COSTS AND EXPENSES, BY BELLSOUTH  
TELECOMMUNICATIONS, INC.

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PROCEEDINGS:           PREHEARING

BEFORE:                COMMISSIONER J. TERRY DEASON  
                          PREHEARING OFFICER

DATE:                   Monday, November 20, 2006

TIME:                   Commenced at 1:30 p.m.  
                          Concluded at 1:46 p.m.

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

REPORTED BY:         JANE FAUROT, RPR  
                          Official FPSC Reporter  
                          (850) 413-6732

1 PARTICIPATING:

2 JAMES MEZA III, ESQUIRE, BellSouth  
3 Telecommunications, Inc., c/o Ms. Nancy H. Sims, 150 South  
4 Monroe Street, Suite 400, Tallahassee, Florida 32303-1556,  
5 appearing on behalf of BellSouth Telecommunications, Inc.

6 VICKI GORDON KAUFMAN, ESQUIRE, Moyle Law Firm,  
7 118 North Gadsden Street, Tallahassee, Florida 32301, appearing  
8 on behalf of Competitive Carriers of the South, Inc. and NuVox  
9 Communications, Inc.

10 SUSAN J. BERLIN, NuVox Communications, Inc., Two  
11 North Main Street, Greenville, South Carolina 29601, appearing  
12 on behalf of NuVox Communications, Inc.

13 CHARLIE BECK, ESQUIRE, Office of Public Counsel, 111  
14 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400,  
15 appearing on behalf of the Citizens of the State of Florida.

16 ADAM TEITZMAN, ESQUIRE, LEE ENG TAN, ESQUIRE, FPSC  
17 General Counsel's Office, 2540 Shumard Oak Boulevard,  
18 Tallahassee, Florida 32399-0850, appearing on behalf of the  
19 Florida Public Service Commission 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.

4 Could I have the notice read, please.

5 MS. TAN: Pursuant to notice issued November 7th,  
6 2006, this time and place has been set for a prehearing  
7 conference in Docket Number 060598-TL. In re: Petition to  
8 recover 2005 tropical system related costs and expenses by  
9 BellSouth Telecommunications, Inc.

10 COMMISSIONER DEASON: Thank you.

11 Take appearances.

12 MR. MEZA: Jim Meza on behalf of BellSouth.

13 MS. KAUFMAN: Vicki Gordon Kaufman. I'm with the  
14 Moyle Flanigan law firm. I'm here on behalf of the Competitive  
15 Carriers of the South and NuVox Communications, Inc.

16 MS. BERLIN: I'm Susan Berlin, I'm for NuVox  
17 Communications as well.

18 COMMISSIONER DEASON: I'm sorry. Can you repeat  
19 that.

20 MS. BERLIN: Sure. My name is Susan Berlin, I'm also  
21 on for NuVox Communication.

22 COMMISSIONER DEASON: Very good. Thank you.

23 MR. BECK: My name is Charlie Beck, I'm with the  
24 Office of Public Counsel, and I'm appearing on behalf of  
25 Florida's citizens.

1 COMMISSIONER DEASON: Anyone else by telephone?

2 MS. HICKS: My name is Allison Hicks with FDN  
3 Communications, I'm a part of COMPSOUTH.

4 COMMISSIONER DEASON: I'm sorry, could you repeat  
5 your name again, please?

6 MS. HICKS: Allison Hicks.

7 COMMISSIONER DEASON: And you are representing whom?

8 MS. HICKS: FDN Communications.

9 COMMISSIONER DEASON: Okay. Thank you. Anyone else  
10 by telephone?

11 Staff.

12 MS. TAN: Lee Eng Tan and Adam Teitzman on behalf of  
13 staff.

14 COMMISSIONER DEASON: Anyone else wishing to make an  
15 appearance?

16 Very well.

17 Okay. Preliminary matters.

18 MS. TAN: Commissioner, there are none.

19 COMMISSIONER DEASON: Any of the parties have any  
20 preliminary matters? No? Very good.

21 We can then proceed through the draft prehearing  
22 order. And bear with me, I have at least three different  
23 versions in front of me at this point. I don't think there are  
24 any major changes as we proceed. As is customary, we will  
25 proceed section-by-section. Please feel free to identify any

1 questions, changes, concerns, clarifications, or whatever, and  
2 we will proceed in a fairly rapid fashion unless someone has a  
3 matter they wish to discuss.

4           And having said that, we will begin with Section I,  
5 the case background. Section II, conduct of proceedings.  
6 Section III, jurisdiction. Section IV, confidential  
7 information. Section V, prefiled testimony and exhibits.

8           MR. MEZA: Yes, sir.

9           COMMISSIONER DEASON: Mr. Meza.

10          MR. MEZA: Excuse me, I apologize for interrupting.

11           I have discussed with the parties and with staff  
12 counsel some changes to BellSouth's list due to the fact that  
13 we filed surrebuttal on Friday after the date for filing draft  
14 prehearing. And I have already agreed to forward to Mr.  
15 Teitzman those changes. I don't know if you want me to go  
16 through them now or if it's sufficient for me to just notify  
17 him after the prehearing conference.

18          COMMISSIONER DEASON: Are you going to share this  
19 with the other parties?

20          MR. MEZA: Yes, sir.

21          COMMISSIONER DEASON: Have you already done so?

22          MR. MEZA: I shared it with Ms. Kaufman, not with  
23 Mr. Beck.

24          COMMISSIONER DEASON: Okay. Is there anything that  
25 we need to discuss at this point, or can you just share it with

1 Mr. Teitzman?

2 It's fine just to share it with Mr. Teitzman.

3 MR. MEZA: Very well.

4 COMMISSIONER DEASON: Okay.

5 Section VII, order of witnesses. I understand there  
6 have been some changes, or at least some corrections in this  
7 regard.

8 Staff, do you want to go through that just to make  
9 sure that everyone is working the same?

10 MS. TAN: Okay. In the direct category, the mention  
11 of Don J. Wood's revised should be removed because it has been  
12 moved to the rebuttal, so we can just mark that out.

13 And in surrebuttal, William McKinney should be  
14 stricken from the order list. And for C. S. (Steve)  
15 Pendergrass under surrebuttal, Issue Number 1 should be also  
16 added.

17 COMMISSIONER DEASON: Okay. Now, are any of these  
18 witnesses going to be providing the direct and rebuttal or  
19 direct and surrebuttal at the same time, or are we going to  
20 follow this order as presented?

21 MS. TAN: Staff would like to combine it, if the  
22 parties have no problem.

23 MR. MEZA: No objection from BellSouth.

24 MS. KAUFMAN: That would be COMPSOUTH's preference as  
25 well.

1 MR. BECK: No objection.

2 COMMISSIONER DEASON: Is there any objection by  
3 telephone participants?

4 Hearing none, we can make that notation then.

5 Any other concerns with the order of witnesses? Very  
6 good.

7 Section VII, basic positions. Section VIII is the  
8 issues and positions, and we will begin with Issue 1. Issue 2.  
9 Issue 3A. Issue 3B. Issue 4. Issue 5. And Issue 6.

10 Well, we may have set a record, there were no  
11 questions or clarifications. Of course, we only had  
12 six issues, right?

13 Okay. We will proceed then with Section XI, the  
14 exhibit list. Any changes or corrections with the exhibit  
15 list?

16 MS. KAUFMAN: Commissioner Deason, this is not a  
17 change or correction, but I have discussed with Mr. Meza and  
18 Mr. Teitzman being provided with copies of the last exhibit  
19 that's on Page 13, which COMPSOUTH has not seen those  
20 responses.

21 COMMISSIONER DEASON: This is responses to audit  
22 requests?

23 MS. KAUFMAN: Yes, sir.

24 COMMISSIONER DEASON: What is the status of that,  
25 staff?

1 MR. TEITZMAN: We just discussed that before the  
2 prehearing conference, but we will be gathering those materials  
3 and making arrangements for Ms. Kaufman to see them.

4 COMMISSIONER DEASON: Very well.

5 MR. MEZA: I'm sorry, I have some additions due to  
6 the fact we filed surrebuttal on Friday. There are  
7 approximately nine additional surrebuttal exhibits attached to  
8 the testimony that I can provide to Mr. Teitzman after the  
9 prehearing conference to be added to save on time.

10 COMMISSIONER DEASON: Okay. Very well. All right,  
11 then.

12 Section X, proposed stipulations.

13 Section XI, pending motions.

14 MS. KAUFMAN: Commissioner, again, this is more in  
15 the nature of an inquiry. I see that BellSouth put a position.  
16 I'm not sure that's really a pending motion, that's just  
17 something that you've ordered the parties to provide, the  
18 pretrial memoranda. So I guess I'm just suggesting maybe it  
19 doesn't belong in pending motions.

20 COMMISSIONER DEASON: Yes. Staff, we just want to  
21 make sure everyone is clear on this. I guess this really  
22 doesn't meet the definition of a pending motion. You may want  
23 to -- Ms. Kaufman, I guess there's no problem just describing  
24 somewhere in the prehearing order the status of that, just  
25 factually.



1 MS. KAUFMAN: If that's even necessary. You have  
2 another order out there that --

3 COMMISSIONER DEASON: There is another order  
4 addressing that?

5 MS. KAUFMAN: I think it's the second order of  
6 proceedings.

7 MS. TAN: Staff has no problem striking that from  
8 the --

9 COMMISSIONER DEASON: We will do that since it is  
10 addressed elsewhere.

11 MS. TAN: Yes, sir.

12 COMMISSIONER DEASON: Very well.

13 Section XII, pending confidentiality matters.

14 MR. MEZA: We have to add one other item to reflect  
15 our filing on Friday. Again, I'll provide the information to  
16 Mr. Teitzman. We filed a notice of intent for several  
17 confidential testimony and exhibits.

18 COMMISSIONER DEASON: Very well. That should  
19 suffice.

20 And Section XIII, rulings. Let me ask, do the  
21 parties contemplate opening and/or closing statements?

22 MR. MEZA: We definitely contemplate closing. I  
23 believe Ms. Kaufman and I had talked about it before the  
24 prehearing conference today, and BellSouth has no objection to  
25 proceeding with both opening and closing, assuming that each

1 one is governed by the ten-minute time period, if that's  
2 acceptable.

3 COMMISSIONER DEASON: Okay. Ms. Kaufman, that's  
4 acceptable to you?

5 MS. KAUFMAN: Yes, sir.

6 COMMISSIONER DEASON: Mr. Beck, is that --

7 MR. BECK: Yes, sir.

8 COMMISSIONER DEASON: Any comment from the telephone  
9 participants? Okay.

10 MS. KAUFMAN: Is that ten minutes for the opening and  
11 ten minutes for the closing?

12 COMMISSIONER DEASON: I would prefer to have -- I'm  
13 going to defer to input from the parties, but if we are going  
14 to have both, I would like to have five opening and five  
15 closing. I don't think the issues are that complex here.

16 MS. KAUFMAN: Yes, sir.

17 COMMISSIONER DEASON: All right.

18 Anything else concerning the prehearing order or  
19 other procedural matters that we need to address?

20 MR. MEZA: Yes, sir. The prehearing order instructed  
21 the parties to identify if they intended to use any  
22 demonstrative exhibits at the hearing. BellSouth is not  
23 planning to use demonstrative exhibits, per se, but I would  
24 like permission to use an easel for ease of reference when  
25 discussing the calculations that we will be going through.

1 It's not going to be a prepared exhibit, it's mostly going to  
2 be writing to assist the Commissioners with evaluating the  
3 respective positions.

4 COMMISSIONER DEASON: Very well. You probably need  
5 to instruct your witness to be prepared to use the microphone  
6 while he or she is standing at the easel.

7 MR. MEZA: Yes, sir.

8 COMMISSIONER DEASON: Any other matters?

9 MS. KAUFMAN: I have one more matter, Commissioner  
10 Deason. That is on Friday COMPSOUTH withdrew a portion of  
11 Mr. Wood's testimony that addressed insurance issues and the  
12 reserve fund issue. And I know that BellSouth just received  
13 that probably at the end of the day on Friday, but I believe  
14 that some of their testimony will have to be withdrawn as it  
15 rebuts testimony of Mr. Wood that has been withdrawn. And I  
16 raise that now because I noticed in one of the orders it said  
17 that parties need to raise any issues regarding motions to  
18 strike by the prehearing conference. And I'm hopeful we won't  
19 have to go through that exercise, but I know, and Mr. Meza will  
20 correct me, that they are reviewing the parts of Mr. Wood's  
21 testimony that has been withdrawn and hopefully we'll be able  
22 to resolve that.

23 COMMISSIONER DEASON: Mr. Meza.

24 MR. MEZA: Yes, sir, that is correct. BellSouth is  
25 somewhat concerned by the fact that the testimony that Mr. Wood

1 has withdrawn relates to issues that OPC and staff have  
2 provided opinions on, just not in the context of testimony. So  
3 procedurally there is a hiccup that we need to evaluate to see  
4 how we can still preserve what we believe to be relevant  
5 testimony, notwithstanding the fact that Mr. Wood may have  
6 withdrawn his testimony as to that issue. And specifically we  
7 are referring to the storm reserve issue. Neither OPC nor  
8 Mr. Winston for staff specifically addressed that issue in  
9 testimony, but as you can tell by reading the draft prehearing  
10 order, both of them have taken a position on it.

11 COMMISSIONER DEASON: Mr. Meza, it's difficult to  
12 rebut testimony that doesn't exist, you do realize that?

13 MR. MEZA: Yes, sir. But I also believe that simply  
14 because they have withdrawn the testimony it still creates an  
15 issue.

16 COMMISSIONER DEASON: Well, parties are free to take  
17 positions, and they can take that position and they can pursue  
18 it either in the form of prefiled testimony, or they can pursue  
19 it on cross-examination, or whatever viable means, but I'm  
20 going to leave it to you. If you want to attempt to enter in  
21 rebuttal testimony that rebuts something that is not in direct,  
22 we'll address it at the hearing. But I would certainly prefer  
23 you to discuss it with Ms. Kaufman, and if you can come to an  
24 agreement before the hearing the better, and even though  
25 Mr. Beck maybe does not have a direct witness, it probably

1 wouldn't hurt to have him included in the discussion, as well.  
2 It would be helpful if all parties are in agreement as to what  
3 is going to be included and what's not, and if there is going  
4 to be a question and a motion to strike, the better we can have  
5 that focused for discussion at the hearing the better that  
6 would be.

7 MR. MEZA: Yes, sir. And I want to assure you that  
8 it is BellSouth's full intention to reach agreement. This is  
9 something that happened Friday afternoon, and we're still  
10 evaluating the testimony that we filed the same day that we got  
11 the withdrawal.

12 COMMISSIONER DEASON: Very well. Okay.

13 Dates. Do we need to review any dates at this point?

14 MS. TAN: Yes, Commissioner. The discovery cutoff is  
15 November 29th. The South Florida Service Hearings are  
16 November 29th and 30th. The legal briefs are due  
17 November 30th. The prehearing order will be issued  
18 November 30th. The hearing is scheduled for December 6th. The  
19 transcript will be available December 7th. And the agenda is  
20 scheduled for December 19th.

21 COMMISSIONER DEASON: So, staff, you intend to make a  
22 recommendation one day after the hearing?

23 MS. TAN: It will probably be late-filed.

24 COMMISSIONER DEASON: Okay. You can see the  
25 Chairman's office about that.

1           Okay. Anything else to come before the prehearing  
2 officer at this time?

3           MS. TAN: No, sir, there is nothing else.

4           COMMISSIONER DEASON: Okay. Hearing none. Thank you  
5 all. This prehearing conference is adjourned.

6           (The prehearing concluded at 1:46 p.m.)

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STATE OF FLORIDA )  
  
COUNTY OF LEON )

CERTIFICATE OF REPORTER

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, 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 November, 2006.

*Jane Faurot / LB*  
\_\_\_\_\_  
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Official FPSC Hearings Reporter  
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