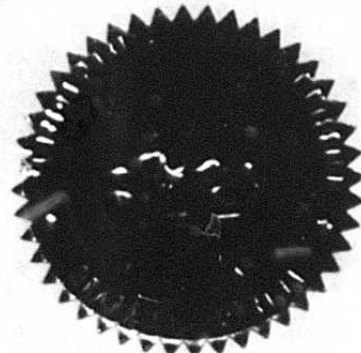


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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 In the Matter of :  
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 : DOCKET NO. 961150-TP  
 :  
 Petition by Sprint :  
 Communications Company Limited :  
 Partnership, d/b/a Sprint for :  
 arbitration with BellSouth :  
 Telecommunications, Inc. :  
 concerning interconnection :  
 rates, terms, and conditions :  
 pursuant to the Federal :  
 Telecommunications Act of 1996. :  
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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER DIANE K. KIESLING

DATE: November 25, 1996

TIME: Commenced at 8:30 a.m.  
Concluded at 9:10 a.m.

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

REPORTED BY: H. RUTHE POTAMI, CSR, RPR  
Official Commission Reporter

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 2580 NOV 25 96

FPSC-RECORDS/REPORTING

1 **APPEARANCES:**

2 **NANCY WHITE and PHILLIP J. CARVER, BellSouth**  
3 **Telecommunications, Inc., 4300 Southern Bell Center,**  
4 **675 West Peachtree Street, Northeast, Atlanta, Georgia**  
5 **30375-0001, Telephone No. (404) 614-4045, appearing on**  
6 **behalf of BellSouth Telecommunications, Inc.**

7 **C. EVERETT BOYD, JR., Ervin, Varn, Jacobs &**  
8 **Ervin, P.O. Drawer 1170, Tallahassee, Florida 32302,**  
9 **appearing on behalf of Sprint Communications Company,**  
10 **Limited Partnership.**

11 **BENJAMIN W. FINCHER, 3100 Cumberland Circle,**  
12 **Atlanta, Georgia 30339, Telephone No. (404) 649-5145,**  
13 **appearing on behalf of Sprint Communications Company,**  
14 **Limited Partnership.**

15 **MARK HERRON, Akerman, Senterfitt & Eidson,**  
16 **P.A., 216 South Monroe Street, Tallahassee, Florida,**  
17 **Telephone No. (904) 222-3471, appearing on behalf of**  
18 **BellSouth Advertising & Publishing Corporation.**

19 **MONICA BARONE and CHARLIE PELLEGRINI,**  
20 **2540 Shumard Oak Boulevard, Tallahassee, Florida**  
21 **32399-0870, Telephone No. (904) 413-6199, appearing**  
22 **on behalf of the Commission Staff.**

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

(Hearing convened at 8:30 a.m.)

**COMMISSIONER KIESLING:** We'll call the hearing to order. Counsel, would you please read the notice.

**MS. BARONE:** Pursuant to notice, this time and place have been set for a prehearing conference in Docket 961150.

**COMMISSIONER KIESLING:** And I'll take appearances.

**MS. WHITE:** Phil Carver and Nancy White on behalf of BellSouth Communications. I'm sorry.

**COMMISSIONER KIESLING:** I was just going to work my way down the table.

**MR. HERRON:** Mark Herron on behalf of BellSouth Advertising & Publishing Corporation.

**MR. FINCHER:** Benjamin Fincher on behalf of Sprint Communications Company, Limited Partnership.

**MR. BOYD:** Everett Boyd, also on behalf of Sprint Communications Company, Limited Partnership.

**MS. BARONE:** Monica M. Barone and Charlie Pellegrini, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399, appearing on behalf of Commission Staff.

**COMMISSIONER KIESLING:** All right. Are

1 there any preliminary matters we need to take up?

2 MS. BARONE: Yes, ma'am. The first thing we  
3 recommend that you take up is BellSouth Advertising &  
4 Publishing Corporation's request to make special  
5 appearance and to intervene in this proceeding.

6 COMMISSIONER KIESLING: All right.

7 MS. BARONE: And, Commissioner, it's my  
8 understanding that all directory issues have been  
9 withdrawn, for your information; therefore, the issue  
10 really is moot.

11 COMMISSIONER KIESLING: All right,  
12 Mr. Herron. What is it that you think is still at  
13 issue?

14 MR. HERRON: Madam Hearing Officer, I think  
15 I agree with your counsel from the Commission that  
16 Mr. Boyd, I think, has to make a statement that  
17 matters have been withdrawn, and my motion would be  
18 mooted at that point.

19 MR. BOYD: Commissioner, we have clarified  
20 this with Mr. Herron and his client that based upon  
21 the issues that are still alive and will be confirmed  
22 this morning in the conference, that based on those  
23 issues, Mr. Herron will stipulate on the record that  
24 BAPCO's pleadings will be withdrawn.

25 COMMISSIONER KIESLING: Well, as long as the



1 issues are withdrawn, you can either withdraw your  
2 request or I'll deny it. Those are the two choices.

3 MR. HERRON: I understand. And, again, I  
4 understand that the issue is going to be withdrawn  
5 and, as a consequence, my pleadings will be withdrawn.

6 COMMISSIONER KIESLING: Okay. Then you  
7 don't need to stick around unless you're just dying to  
8 listen to the rest of it.

9 MR. HERRON: I'd love to hear it.

10 COMMISSIONER KIESLING: Any other  
11 preliminary matters?

12 MS. BARONE: Commissioner Kiesling, that's  
13 the only one that I'm aware of. However, the parties  
14 have informed Staff that they've withdrawn several  
15 more issues.

16 COMMISSIONER KIESLING: Well, let's work our  
17 way through the prehearing then, and we can get to  
18 them. And I don't need to do anything with Sprint  
19 Communication Company's motion to strike, or do I do  
20 that at the end?

21 MS. BARONE: That's in Section IX, which it  
22 is moot at this point.

23 COMMISSIONER KIESLING: Okay.

24 MS. BARONE: Oh, I'm sorry. Sprint's motion  
25 to strike the notice of the 8th Circuit's order,

1 that's what you're referring to. We'll get to that in  
2 Section IX.

3 COMMISSIONER KIESLING: Okay.

4 MS. BARONE: Also, I'd like to ask if the  
5 parties have any preliminary issues before we move  
6 into the issues.

7 MS. WHITE: Beyond the additional issues? I  
8 mean, the ones we've taken out?

9 MS. BARONE: Yes.

10 MS. WHITE: No.

11 COMMISSIONER KIESLING: Okay. I've got the  
12 draft prehearing here. Are there any problems with  
13 the case background?

14 MR. BOYD: Commissioner, I'm sure Monica  
15 will clarify that we need to show Mr. Fincher's  
16 appearance also on behalf of Sprint.

17 COMMISSIONER KIESLING: Is Mr. Fincher from  
18 your office, or do you have another address?

19 MR. BOYD: He is with the Atlanta office.

20 MR. FINCHER: I'm with Sprint out of  
21 Atlanta, Georgia, 3100 Cumberland Circle, Atlanta,  
22 Georgia 30339.

23 COMMISSIONER KIESLING: Have you entered any  
24 kind of a written appearance just so that our record  
25 can be clear?

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MR. FINCHER: Yes, my name is on the original petition.

COMMISSIONER KIESLING: Okay.

MS. BARONE: It will be reflected in the order.

COMMISSIONER KIESLING: All right. What about the order of witnesses or the names of the witnesses, are any of these going to be stipulated?

MS. BARONE: Yes, and I've asked the parties to identify which issues the witnesses will be appearing for.

COMMISSIONER KIESLING: All right, the first two listed are yours. Go ahead?

MR. BOYD: Yes, ma'am. We are withdrawing the testimony of Mr. Stahly, who is listed second, and our witness will be Mr. Hunsucker, who is adopting the direct prefiled testimony of Mr. Key. We filed a notice to that effect, and with it the three replacement pages. Mr. Hunsucker will be testifying as to all of the issues that are still remaining, and he has both direct and rebuttal as to all issues.

COMMISSIONER KIESLING: All right. Well, that makes one thing -- let's go ahead and take it up now. I don't see him listed here under rebuttal. When did he file rebuttal?

1           **MR. BOYD:** It was on the date that was  
2 required to be. I'm not sure why it was overlooked.

3           **COMMISSIONER KIESLING:** All right.

4           **MS. BARONE:** We'll reflect that.

5           **COMMISSIONER KIESLING:** Okay. And as to  
6 Mr. Hunsucker's testimony, if he has testimony that  
7 relates to any issues that have now been withdrawn,  
8 are you planning to delete that testimony at the  
9 beginning of his testimony.

10          **MR. BOYD:** If that's the desire of the  
11 chair, we certainly will.

12          **COMMISSIONER KIESLING:** I mean, that's what  
13 I would request that everyone do. To the extent that  
14 any of your witnesses have provided testimony on  
15 issues that are no longer litigated issues, just when  
16 you begin with your witnesses go ahead and have them  
17 delete whatever is superfluous now so that it doesn't  
18 come into the record.

19          **MS. BARONE:** Commissioner Kiesling, if I may  
20 add, the parties have recommended to Staff that it may  
21 be that they can stipulate all of the testimony into  
22 the record, and that we not have a hearing and they  
23 brief the issues. I wanted to bring that to your  
24 attention.

25          **COMMISSIONER KIESLING:** Bless you.



1 MS. BARONE: So with that in mind, I was  
2 wondering when we could finalize which of the  
3 testimony would be withdrawn.

4 MS. WHITE: We could get you the exact page  
5 numbers by Wednesday.

6 MS. BARONE: That will be fine.

7 MR. BOYD: Sure, we can do that.

8 COMMISSIONER KIESLING: And then  
9 Mr. Hunsucker is your only witness?

10 MR. BOYD: Yes, ma'am.

11 COMMISSIONER KIESLING: And at some point, I  
12 guess, he will testify as to every issue that is not  
13 withdrawn.

14 MR. BOYD: Yes, ma'am, that is correct.

15 COMMISSIONER KIESLING: And then how about  
16 BellSouth? Let's start with Mr. Varner.

17 MS. WHITE: All of Mr. Varner's testimony  
18 will be withdrawn except that with regard to Issue 27,  
19 and Mr. Scheye will adopt that. Mr. Scheye's  
20 testimony, direct and rebuttal, will be in to the  
21 extent it talks about the issues that are still in.

22 Ms. Caldwell's testimony would be totally  
23 withdrawn. Mr. Reid's testimony would be totally  
24 withdrawn. Ms. Calhoun's testimony would be withdrawn  
25 with the exception of that concerning Issue 11.

1 Mr. Milner's testimony would be withdrawn in its  
2 entirety. Mr. Pecoraro's testimony would be withdrawn  
3 in its entirety, and Mr. Atherton's testimony would be  
4 withdrawn with the exception of Issues 18 and 21.

5 COMMISSIONER KIESLING: That's all that's  
6 listed here. So his will stay?

7 MS. WHITE: Oh, yes; that's correct. I  
8 think all of his will stay. I think that's the way  
9 it'll end up, and he just has direct. Ms. Calhoun has  
10 direct and rebuttal.

11 COMMISSIONER KIESLING: Okay. Let's go on  
12 into rebuttal then. Mr. Varner's will be withdrawn in  
13 its entirety or --

14 MS. WHITE: I'd have to see if it speaks to  
15 Issue 27. I'm not sure. But it will be withdrawn  
16 with regard to everything but that issue and will be  
17 adopted by Mr. Scheye.

18 COMMISSIONER KIESLING: Okay.

19 MS. WHITE: Mr. Scheye's rebuttal will be  
20 withdrawn with the exception of Issue 6, 7, 13 and 27.  
21 I'm sorry; 21 as well. 6, 7, 13, 21 and 27.  
22 Dr. Emerson's would be withdrawn in its entirety.  
23 Ms. Calhoun's would be withdrawn with the exception of  
24 Issue 11. I guess that's it.

25 MS. BARONE: Commissioner Kiesling, may I

1 ask a question, please?

2 COMMISSIONER KIESLING: Sure.

3 MS. BARONE: It would help us, if you could,  
4 if you need to clarify any of this, to get it to us by  
5 Tuesday since we have a three-day week. And the  
6 second thing is I would ask, would you like to take  
7 the direct and rebuttal together?

8 COMMISSIONER KIESLING: That was going to be  
9 my next question. What's the parties' pleasure?  
10 Direct and rebuttal together?

11 MS. WHITE: Oh that's fine.

12 MR. BOYD: That's fine.

13 COMMISSIONER KIESLING: Would you make sure  
14 the order reflects that?

15 MS. BARONE: Yes, ma'am.

16 COMMISSIONER KIESLING: And do you have any  
17 problem with having any of that filed by tomorrow,  
18 just to the extent --

19 MS. WHITE: Yeah. Okay.

20 COMMISSIONER KIESLING: Okay. Basic  
21 positions; any changes, additions, corrections?

22 MS. WHITE: I guess that will be changed to  
23 the extent the issues have been narrowed, but other  
24 than that --.

25 COMMISSIONER KIESLING: And each of you will

1 get something to Staff so that they can get the final  
2 order out?

3 MS. WHITE: Oh, yes, we will be briefing;  
4 we'll both be briefing the issues that remain.

5 COMMISSIONER KIESLING: No, no. I meant in  
6 terms of basic positions, so --

7 MS. WHITE: Oh. Yes. I'm sorry. We can do  
8 that.

9 MR. BOYD: Yes, ma'am, that's fine.

10 MS. BARONE: And I would just add, Staff has  
11 requested tomorrow, because we have a three-day week,  
12 and try to have the turnaround before the hearing next  
13 week.

14 COMMISSIONER KIESLING: That would be great,  
15 especially since Staff has a hearing today.

16 All right. On the issues, Issue 1 has been  
17 withdrawn, Issue 2 has been withdrawn, Issue 3 has  
18 been withdrawn, Issue 4 has been withdrawn.

19 Issue 5, any changes, additions,  
20 corrections, or is it withdrawn?

21 MR. BOYD: Issue 5 has been withdrawn.

22 COMMISSIONER KIESLING: 6; changes,  
23 additions, corrections or withdrawn?

24 MR. BOYD: It is still alive, and we don't  
25 have any changes.



1           **COMMISSIONER KIESLING:** Okay no changes from  
2 anyone. How about 7?

3           **MR. BOYD:** It is also still on the table.

4           **COMMISSIONER KIESLING:** And as it is?

5           **MR. BOYD:** Yes, ma'am.

6           **COMMISSIONER KIESLING:** 8 has been  
7 withdrawn. 9?

8           **MS. WHITE:** Withdrawn.

9           **MR. BOYD:** Withdrawn. 10 has been  
10 withdrawn, and 11 is still alive.

11           **COMMISSIONER KIESLING:** Any changes in the  
12 parties' positions?

13           **MS. WHITE:** No.

14           **COMMISSIONER KIESLING:** 12?

15           **MS. WHITE:** Withdrawn.

16           **COMMISSIONER KIESLING:** 13?

17           **MS. WHITE:** It's alive.

18           **COMMISSIONER KIESLING:** And no changes?

19           **MS. WHITE:** No.

20           **COMMISSIONER KIESLING:** Is that correct,  
21 Mr. Boyd?

22           **MR. BOYD:** It is still alive.

23           **COMMISSIONER KIESLING:** And no change in  
24 your position?

25           **MR. BOYD:** No change. Yes, ma'am.

1 COMMISSIONER KIESLING: 14 is withdrawn?

2 MS. WHITE: (Nodding head.)

3 COMMISSIONER KIESLING: 15 is withdrawn. 16

4 and 17 are withdrawn. What about 18?

5 MR. BOYD: 18 is still alive.

6 COMMISSIONER KIESLING: Any changes?

7 MS. WHITE: Yes; it's been narrowed

8 considerably. Essentially what is left with 18 is

9 "What are the appropriate points of interconnection."

10 I think Mr. Fincher would agree with that

11 characterization.

12 MR. FINCHER: Yes. The actual term sheet  
13 items that relate to the still outstanding issues are  
14 II.B.1A points of interconnection, and II.B.2.

15 MS. WHITE: I guess that could be really  
16 boiled down to and changed to "How many points of  
17 interconnection are appropriate and where are the  
18 appropriate points of interconnection to be located."  
19 Would that be --

20 MR. FINCHER: That sounds --

21 COMMISSIONER KIESLING: Well, let's get that  
22 down then. "How many points of interconnection are  
23 appropriate"?

24 MS. WHITE: (Nodding head.)

25 COMMISSIONER KIESLING: "And where should

1 they be located?"

2 MS. WHITE: That's fine with us.

3 MR. FINCHER: Would you read that one more  
4 time, please?

5 COMMISSIONER KIESLING: "How many points of  
6 interconnection are appropriate and where should they  
7 be located."

8 MR. FINCHER: Sounds good.

9 MR. BOYD: Yes, ma'am.

10 COMMISSIONER KIESLING: And then as to the  
11 parties' positions, is there any change for Sprint?

12 MR. FINCHER: No change.

13 COMMISSIONER KIESLING: Okay. So one point  
14 of -- at least one, and within the ILEC calling area.

15 MS. WHITE: I think BellSouth would probably  
16 have to make a change to make it more specific to that  
17 issue that's left, but I can get that to Staff by  
18 Tuesday.

19 COMMISSIONER KIESLING: Okay.

20 MS. BARONE: Thank you.

21 COMMISSIONER KIESLING: And if in reading  
22 over your entire position on that, if there is any  
23 change, would you also get that in on Tuesday?

24 MR. BOYD: Yes, ma'am. We'll do that by  
25 tomorrow.

1 COMMISSIONER KIESLING: 19 is withdrawn?

2 MR. BOYD: Correct.

3 COMMISSIONER KIESLING: 20?

4 MR. BOYD: Has been withdrawn.

5 COMMISSIONER KIESLING: 21?

6 MR. BOYD: It's still alive.

7 MS. WHITE: But it's been narrowed

8 considerably.

9 COMMISSIONER KIESLING: What should it be  
10 now?

11 MS. WHITE: The only two issues left in 21  
12 are whether mid-span meets are appropriate, and -- I  
13 never know how to put this one -- the types of  
14 traffic, the jurisdictional mix -- let's see. I guess  
15 it would be broken down into two. "Are mid-span meets  
16 appropriate," and the second one would be, "What is  
17 the jurisdictional mixture of traffic that should be  
18 allowed on the trunks."

19 COMMISSIONER KIESLING: Okay. Well, let me  
20 get the first part down, then. "What are the midpoint  
21 connects"?

22 MS. WHITE: No, it would be -- I guess it  
23 would be, "Are mid-span meets appropriate."

24 MS. BARONE: I would suggest we begin the  
25 next sentence "If so."



1 COMMISSIONER KIESLING: "If so -- would you  
2 repeat yourself again then for me, Ms. White?

3 MS. WHITE: I was just trying to think. I  
4 think it's two different issues.

5 MS. BARONE: Oh, is it?

6 MS. WHITE: Yeah.

7 MS. BARONE: Go ahead.

8 MS. WHITE: So I would just say what --

9 COMMISSIONER KIESLING: Well, do we need an  
10 (a) and a (b), then?

11 MS. WHITE: Maybe we need an (a) and (b).  
12 That would probably make it cleaner.

13 MS. BARONE: That's okay.

14 COMMISSIONER KIESLING: Okay. 21(a) is "Are  
15 mid-span meets appropriate." And I guess for that,  
16 Sprint, your position would be yes?

17 MR. BOYD: That's correct.

18 COMMISSIONER KIESLING: And BellSouth's  
19 would be no?

20 MS. WHITE: Right.

21 MR. FINCHER: Let me clarify something. I  
22 was thinking mid-span meets was really part of Issue  
23 21 rather than --

24 COMMISSIONER KIESLING: That's where we are.

25 MR. FINCHER: I mean, 18; part of 18 rather

1 than 21.

2 MS. WHITE: That's fine with us.

3 MR. FINCHER: Term sheet item II.B.2 along  
4 with II.B.1.A are the two issues still remaining in  
5 Issue No. 18. That might be the place to address  
6 mid-span meets.

7 MS. WHITE: We could make 18 an (a) and a  
8 (b).

9 MR. FINCHER: Right. That would work.

10 COMMISSIONER KIESLING: Well, a mid-span  
11 meet is a form of point of interconnection.

12 MS. WHITE: Right.

13 COMMISSIONER KIESLING: Then I don't see a  
14 need to break it up, because how many points of  
15 interconnection are appropriate? You know, Sprint  
16 says at least one. BellSouth says none, I guess.

17 MS. WHITE: No. I think we'd say that at  
18 least one is appropriate.

19 COMMISSIONER KIESLING: Both of you are in  
20 agreement on --

21 MS. WHITE: Maybe it's where they should be  
22 located that is really the issue.

23 COMMISSIONER KIESLING: "And where should  
24 they be located," and would include the mid-span meet  
25 issue.

1 MS. WHITE: Right; because that would be  
2 part of where should they be located.

3 COMMISSIONER KIESLING: So both of you will  
4 be amending your position on 18 to reflect your  
5 position on midpoint meets, which means that we don't  
6 need an (a) and a (b) on 21.

7 MS. WHITE: So 21 really comes down --

8 COMMISSIONER KIESLING: Jurisdictional.

9 MS. WHITE: Yeah; what jurisdictional mix of  
10 traffic. I never know how to put this one.

11 COMMISSIONER KIESLING: Well, everyone think  
12 about it for a second and see if you can come up with  
13 some language that you think is okay.

14 (Pause.)

15 MS. BARONE: Nancy, is this the issue,  
16 "Should jurisdictional mixed traffic be allowed?"

17 MS. WHITE: Yeah, that's it, on the same  
18 trunk group. I mean, on the same trunk is really what  
19 it comes down to.

20 MR. BOYD: But we want to make sure that the  
21 condition --

22 COMMISSIONER KIESLING: Push your button.

23 MR. BOYD: The rest of the term sheet  
24 language relating to the conditions and if it's how  
25 you're going to -- if you're going to mix them, how

1 it's going to be accommodated is encompassed within  
2 that. It's not just a yes or no answer.

3 COMMISSIONER KIESLING: No, it's not. I  
4 mean, it's saying what jurisdictional mix of  
5 traffic -- no; sorry --

6 MS. WHITE: No; but you could do that and  
7 that would do it. "What jurisdictional mix of traffic  
8 should be allowed on the same trunk group," because  
9 your argument would be all of it and here's how you  
10 deal with it. You know, you use percentage of local  
11 use and measurements and all that kind of thing. So  
12 maybe that's the way to do it. "What jurisdictional  
13 mix of traffic should be allowed on the same trunk  
14 group."

15 MR. FINCHER: Would a second part of the  
16 that be like "If so --

17 MS. WHITE: No, because you're not  
18 answering --

19 COMMISSIONER KIESLING: This isn't a yes or  
20 no. You list it and you say --

21 MS. WHITE: And you say how you deal with  
22 it, because your answer would be "All types should be  
23 allowed, and here's how you deal with it."

24 MS. BARONE: Nancy, we have a suggestion.  
25 What do you think about this? "Should jurisdictional



1 mixed traffic be allowed? If so, what should be the  
2 terms and conditions?"

3 MR. FINCHER: That's what I was looking for.

4 COMMISSIONER KIESLING: You have that down,  
5 because I'm not going to rewrite it.

6 MR. BOYD: Would you say it again, please?

7 MS. BARONE: "Should jurisdictional mixed  
8 traffic be allowed? If so, what should be the terms  
9 and conditions?"

10 MS. WHITE: Be allowed on the same trunk  
11 group.

12 COMMISSIONER KIESLING: And then each of you  
13 will amend your positions to respond to that issue?

14 MR. FINCHER: Yes, ma'am.

15 COMMISSIONER KIESLING: Okay. When you're  
16 finished writing, I'll start the next one. (Pause.)  
17 Okay. Issue 22?

18 MR. BOYD: It is withdrawn. 23 is  
19 withdrawn, 24 is withdrawn, 25 is withdrawn, 26 is  
20 withdrawn, and 27 is still alive.

21 COMMISSIONER KIESLING: And is 27 alive in  
22 its current form?

23 MR. BOYD: Yes, ma'am.

24 COMMISSIONER KIESLING: No rewording is  
25 necessary.

1 MR. BOYD: I don't believe so.

2 COMMISSIONER KIESLING: And no changes to  
3 either party's position are necessary?

4 MS. WHITE: (Shaking head.)

5 COMMISSIONER KIESLING: Okay. On the  
6 exhibit list, then I assume since we're withdrawing a  
7 number of parties' testimony in toto, that some of  
8 these exhibits are not going to remain. So do you  
9 know yet which ones are going?

10 MS. WHITE: Do you all want to start?

11 MR. BOYD: Sure. Mr. Stahly's been  
12 withdrawn, so all three of his are out.

13 Mr. Hunsucker's, all three of his are still on the  
14 table, and I guess that should be -- the third one  
15 should be MRH-3.

16 COMMISSIONER KIESLING: Yes. Okay.

17 MS. WHITE: Mr. Varner's, his two exhibits  
18 should be withdrawn. Mr. Scheye's issue -- Exhibits 1  
19 and -- no. Exhibit 1 would be the only one remaining.

20 COMMISSIONER KIESLING: Okay. 2 and 3 are  
21 gone.

22 MS. WHITE: Right. Dr. Emmerson is  
23 withdrawn in its entirety, so his would be gone, as  
24 would be Ms. Caldwell's, which go on for quite a  
25 while.

1           **COMMISSIONER KIESLING:** They sure do.

2           **MS. WHITE:** Mr. Reid is withdrawn, so all of  
3 his would go. Ms. Calhoun, let's see. I think all of  
4 hers are gone except for GC-1 and GC-3. Now, 1, 2 and  
5 3 would remain, 5, 6, 7 and 8 would be withdrawn.

6           **COMMISSIONER KIESLING:** And there is no 4?

7           **MS. WHITE:** I guess that's so. Yes. And I  
8 didn't count very well. Yes. Mr. Milner's, all of  
9 his would be gone. Mr. Pecoraro's all would be gone.  
10 Mr. Atherton's would remain.

11           **COMMISSIONER KIESLING:** And are there any  
12 stipulations at this time?

13           **MS. WHITE:** Yes. The parties would propose  
14 stipulating the testimony of the witnesses that were  
15 left and on the issues that remain, and briefing the  
16 issues that are remaining for the Commission and not  
17 having a formal hearing on this matter.

18           **COMMISSIONER KIESLING:** And waving cross?

19           **MS. WHITE:** Waiving cross.

20           **MR. BOYD:** (Nodding head.)

21           **COMMISSIONER KIESLING:** Any problem with  
22 Staff on that?

23           **MS. BARONE:** We're going to have to check  
24 with all Staff on their issues, but we can get back  
25 with you today and let you know.

1           **COMMISSIONER KIESLING:** Yes, because if you  
2 actually want somebody to be here to testify, you'll  
3 need to make sure they know it, too.

4           **MS. BARONE:** Yes, ma'am.

5           **MS. WHITE:** And just to make clear, the  
6 three witnesses that -- what we had remaining on the  
7 issues that remain would be Mr. Scheye, Ms. Calhoun  
8 and Mr. Atherton.

9           **COMMISSIONER KIESLING:** All right. Then the  
10 only matter remaining is Sprint's motion to strike.  
11 The other is taken care of. I'm assuming that  
12 BellSouth Advertising & Publishing Corp's motion to  
13 dismiss is no longer viable since they're not a party  
14 any longer.

15           **MR. BOYD:** That's correct.

16           **COMMISSIONER KIESLING:** Then let's talk  
17 about the motion to strike. Well, let me just ask a  
18 couple clarifying questions and then it will help me  
19 put this in a framework.

20           On the notice of the order of the 8th  
21 Circuit, I understand everything except the request  
22 for relief. I mean, I take it you're asking us to  
23 take official recognition of the 8th Circuit's order  
24 granting stay.

25           **MR. BOYD:** Yes. Are you talking --



1 MS. WHITE: BellSouth.

2 COMMISSIONER KIESLING: Yes.

3 MS. WHITE: BellSouth.

4 COMMISSIONER KIESLING: Yes, I'm sorry. It  
5 was your motion to strike. I'm sorry.

6 MS. WHITE: Yes. We are asking you to take  
7 notice of the 8th Circuit order.

8 COMMISSIONER KIESLING: And since we  
9 generally do take official notice of orders of Courts,  
10 what does the request for relief mean? I mean, how  
11 can you be requesting relief on a notice, official  
12 notice --

13 MS. WHITE: Well, in light of the fact that  
14 we've been able to resolve, to some extent, a lot of  
15 the issues in this case, the pricing issues in  
16 particular, I'm not sure that our motion -- or our  
17 petition for relief really has the same effect, or  
18 we're really asking for anything more in this.

19 The most favored nation clause, the pick and  
20 choose part, is still out there, but we can argue that  
21 in our brief. So I guess -- I think as long as the  
22 Commission takes notice of the order, then we're not  
23 asking for anything more.

24 COMMISSIONER KIESLING: Well, I don't think  
25 there's going to be any problem with that. Ordinarily

1 you'll take that up at the beginning of the hearing  
2 with whoever is conducting the hearing. But I mean  
3 beyond that, I couldn't understand what the request  
4 for relief was. It seemed like it was more argument  
5 for your position than it was --

6 MS. WHITE: Well, I think you're right, and  
7 that's why I think it's better to be argued in the  
8 brief if need be.

9 COMMISSIONER KIESLING: So if we limit  
10 what's going to happen to simply official recognition  
11 and allow both parties to argue in their brief, do I  
12 need to take up your motion to strike?

13 MR. BOYD: Well, I think the most  
14 appropriate thing would be for BellSouth to withdraw  
15 its pleading, save for the request for official  
16 recognition.

17 MS. WHITE: We'll do that.

18 MR. BOYD: That's fine.

19 COMMISSIONER KIESLING: That will make it a  
20 whole lot cleaner and easier.

21 Okay. Then with that, I have nothing else  
22 on my plate.

23 MS. BARONE: Staff does.

24 COMMISSIONER KIESLING: Okay.

25 MS. BARONE: We have one last question. We

1 want to clarify with the parties, are there any  
2 pricing issues left? Because I believe you have  
3 withdrawn cost studies and I want to make sure that  
4 there are no pricing issues left.

5 MR. BOYD: There are no pricing issues  
6 remaining.

7 MS. WHITE: Unless you call the most favored  
8 nation some kind of pricing issue, but other than  
9 that, there's nothing left; and that's why we might  
10 just as well withdraw our motion for the 8th Circuit  
11 order.

12 MS. BARONE: Thank you. That's all.

13 COMMISSIONER KIESLING: All right. We will  
14 at least convene a hearing and then let everyone  
15 stipulate in the testimony and then close the record.  
16 So are there any questions or problems about when that  
17 is set, or any question about whether we'll finish in  
18 time? (Laughter.)

19 Well, I just like to be sure, considering  
20 some of the hearings we've been having lately that  
21 have gone until 9:00 at night.

22 MS. BARONE: And for clarification, I would  
23 recommend to BellSouth to ask for official recognition  
24 of the order in the beginning of that proceeding.

25 MR. BOYD: So the procedure that we

1 anticipate, if Staff agrees with our proposal, is that  
2 we'll convene the hearing Tuesday morning, sponsor in  
3 the testimony, and then conclude the hearing.

4 MS. BARONE: Yes.

5 MR. BOYD: That will be fine. Thank you.

6 COMMISSIONER KIESLING: And you'll bring up  
7 your official recognition request at that time.

8 MS. WHITE: Yes, ma'am.

9 COMMISSIONER KIESLING: As well as anyone  
10 else who wants official recognition of any orders of  
11 Courts or this Commission. Okay. If nothing else is  
12 ripe for decision, then we'll adjourn the hearing.

13 MS. BARONE: Thank you.

14 (Thereupon, the hearing concluded at  
15 9:10 a.m.)

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

3 I, H. RUTHE POTAMI, CSR, RPR Official  
4 Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing  
6 Conference in Docket No. 961150 was heard by the  
7 Prehearing Officer at the time and place herein  
8 stated; it is further

9 CERTIFIED that I stenographically reported  
10 the said proceedings; that the same has been  
11 transcribed under my direct supervision; and that this  
12 transcript, consisting of 30 pages, constitutes a true  
13 transcription of my notes of said proceedings.

14 DATED this 25th day of November, 1996.

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H. RUTHE POTAMI, CSR, RPR  
Official Commission Reporter  
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