

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO.
Petition by AT&T Communications of : 960833-TP
the Southern States, Inc., for :
arbitration of certain terms and :
conditions of a proposed agreement :
with BellSouth Telecommunications, :
Inc., concerning interconnection :
and resale under the :
Telecommunications Act of 1996 :

In the Matter of : DOCKET NO.
Petition by MCI Telecommunications : 960846-TP
Corporation and MCI Metro Access :
Transmission Services, Inc., for :
arbitration of certain terms and :
conditions of a proposed agreement :
with BellSouth Telecommunications, :
Inc., concerning interconnection :
and resale under the :
Telecommunications Act of 1996. :

In the Matter of : DOCKET NO.
Metropolitan Fiber Systems of : 960757-TP
Florida, Inc., for arbitration with :
BellSouth Telecommunications, :
Inc., concerning interconnection :
rates, terms and conditions, :
pursuant to the Federal :
Telecommunications Act of 1996. :

PREHEARING CONFERENCE

BEFORE: Commissioner Susan F. Clark
LOCATION: Room 142, Easley Building
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
TIME: Commenced at 9:30 a.m.
Concluded at 10:00 a.m.
DATE: Wednesday, January 14, 1998
REPORTED BY: SYDNEY C. SILVA, CSR, RPR

BUREAU OF REPORTING

RECEIVED 1-20-98 FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER-DATE

01025 JAN 16 88

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1 APPEARANCES:

2 MICHAEL PELLEGRINI and BETH KEATING,
3 Florida Public Service Commission, Division of
4 Legal Services, 2540 Shumard Oak Boulevard,
5 Tallahassee, Florida 32399-0870, appearing on
6 behalf of the Commission Staff.

7 TRACY HATCH, Suite 700, 101 North Monroe
8 Street, Tallahassee, Florida 32301, appearing on
9 behalf of AT&T Communications of the Southern
10 States, Inc.

11 NANCY WHITE, 150 South Monroe Street,
12 Suite 400, Tallahassee, Florida 32301, appearing
13 on behalf of BellSouth Telecommunications, Inc.

14 RICHARD MELSON, DAVID ADELMAN and TOM
15 BOND, Hopping Green Sams and Smith, Post Office
16 Box 6526, Tallahassee, Florida 32314, appearing on
17 behalf of MCI Telecommunications Corporation.

18 FLOYD SELF, Messer, Camparello & Self,
19 P. O. Box 1876, Tallahassee, Florida 32302-1876,
20 appearing on behalf of WorldCom, Inc., and
21 Metropolitan Fiber Systems.

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APPEARANCES (Continued)

PATRICK K. WIGGINS, Wiggins &
Villacorta, P.O. Box 1657, Tallahassee, 32302, on
behalf of the Intermedia Communications, Inc.

NORMAN H. HORTON, JR., Messer,
Camparello & Self, P. O. Box 1876, Tallahassee,
Florida 32302-1876, appearing on behalf of ASCS.

I N D E X

MISCELLANEOUS

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P R O C E E D I N G S

(Hearing commenced at 9:30 a.m.)

MR. PELLEGRINI: Pursuant to notice dated December 31, 1997, this time and place have been set for a prehearing in the consolidated Dockets Nos. 960757-TP, 960833-TP, 960846-TP, the petitions for arbitration of, respectively, MFS, AT&T and MCI with BellSouth.

COMMISSIONER CLARK: We'll take appearances. Ms. White?

MS. WHITE: Nancy White for BellSouth Telecommunications.

MR. MELSON: Richard Melson, Hoping Green Sams and Smith, on behalf of MCI Telecommunications Corporation. Also with me is Tom Bond from MCI and David Adelman, A-D-E-L-M-A-N, of the law firm OF Southerland, Asbill & Brennan.

MR. HATCH: Tracy Hatch on behalf of AT&T Communications of the Southern States Inc.

MR. SELF: Floyd Self of the law firm Messer, Caparello and Self, P.A., appearing on behalf of WorldCom, Inc. which also includes its subsidiary, Metropolitan Fiber Systems, or MFS.

MR. WIGGINS: Patrick K. Wiggins, law

1 firm of Wiggins & Villacorta, P.O. Box 1657,
2 Tallahassee 32302, on behalf of the Intermedia
3 Communications Inc.

4 Commissioner Clark, I'm only here for
5 the limited purposes of making the appearance to
6 preserve if necessary our attempts to intervene
7 and TO give you the opportunity if you so choose
8 to hear discussion or oral argument on that issue.
9 Thank you.

10 COMMISSIONER CLARK: Thank you.

11 MR. PELLEGRINI: Charles Pellegrini and
12 Beth Keating representing Commission Staff, 2540
13 Shumard Oak Boulevard, Tallahassee, Florida.

14 COMMISSIONER CLARK: Mr. Pellegrini, are
15 there any preliminary matters we have to take up
16 at this time?

17 MR. PELLEGRINI: Yes, Commissioner
18 Clark. There are four motions pending. The first
19 of these is a Motion to Expand Testimony filed by
20 BellSouth. Second is a Motion to Compel Testimony
21 filed by Commission Staff. Third is a Motion for
22 Reconsideration and Request for Oral Argument
23 filed by Intermedia. And last is a Motion to
24 Strike, which is a joint motion filed by WorldCom
25 and AT&T.

1 The Motion to Compel and the Motion to
2 Strike we have tentatively agreed would be heard
3 at a special prehearing to be held next Tuesday at
4 3:00.

5 COMMISSIONER CLARK: All right. Let me
6 ask, are there any changes to the prehearing
7 order?

8 MS. WHITE: Yes, Nancy White for
9 BellSouth. We have a few minor ones based on the
10 fact the Commission removed what was Issue No. 2
11 and put it in a separate proceeding to be held in
12 February. We have some testimony pages to delete
13 and some exhibits to delete. I don't know whether
14 you want to do that now?

15 COMMISSIONER CLARK: That was in the
16 order. Was that in the prehearing, or you told me
17 about that would need to come out?

18 MR. PELLEGRINI: I'm not sure. Are you
19 talking about --

20 MS. WHITE: Remember there used to be an
21 Issue 2 in this docket?

22 MR. PELLEGRINI: Yes. Oh, yes.

23 MS. WHITE: It was not removed from this
24 docket until after direct testimony had been
25 filed, so there are parts of the direct testimony

1 that talk about this issue that really need to
2 come out.

3 MR. PELLEGRINI: Yes. All parties need
4 to be prepared to identify such testimony.

5 COMMISSIONER CLARK: Right. That sounds
6 familiar, Ms. White.

7 Mr. Melson?

8 MR. MELSON: One preliminary matter. I
9 would like to ask that David Adelman be admitted
10 for purposes of this proceeding. He's a member of
11 the Georgia Bar and practices regularly before the
12 Georgia Public Service Commission.

13 And I believe that BellSouth has got no
14 objection to his admission for purposes of this
15 proceeding.

16 COMMISSIONER CLARK: Mr. Melson, is this
17 the way we usually do it and does he meet all the
18 requirements?

19 MR. MELSON: For admission for purposes
20 of this sole proceeding, all he requires is local
21 sponsorship and to be a member of good standing of
22 the Bar. Sometimes it's done orally, sometimes
23 it's done by written motion.

24 COMMISSIONER CLARK: I'll grant the
25 motion.

1 MR. MELSON: With regard to changes to
2 the prehearing order, I believe there will be some
3 suggested changes probably to the order of
4 witnesses. And there are a number of witnesses
5 sponsored jointly by AT&T and MCI that are --
6 where one or the other party needs to be added to
7 reflect that they are appearing for both.

8 COMMISSIONER CLARK: All right. Is that
9 something we should take up at the prehearing is
10 discussion of the order of witnesses or can we --
11 we do need to take it up?

12 MR. PELLEGRINI: Yes, I think we do need
13 to do it.

14 COMMISSIONER CLARK: All right. Well,
15 just --

16 MR. PELLEGRINI: Before we go on, excuse
17 me, would you spell the name of that person for
18 me?

19 MR. MELSON: A-D-E-L-M-A-N. I'll give
20 you his business card.

21 MR. PELLEGRINI: All right. Thank you.

22 COMMISSIONER CLARK: So order of
23 witnesses is something we need to take up?

24 MR. MELSON: Yes, ma'am.

25 COMMISSIONER CLARK: Anything else?

1 MR. MELSON: No, ma'am.

2 MR. HATCH: I have just a couple of
3 things to raise, Madam Chair.

4 With respect to Witnesses Klick and
5 Bissell, they are both sponsoring collocation
6 models, one is physical, one is virtual. We feel
7 that it probably would be more efficient to put
8 them up as a panel since they both feed off of
9 each other in various respects.

10 I have not had a chance to raise that
11 with BellSouth yet; I do not know if they have any
12 objection.

13 COMMISSIONER CLARK: Bissell and --

14 MR. HATCH: Klick, K-L-I-C-K.

15 COMMISSIONER CLARK: Anything else?

16 MR. HATCH: I have raised the
17 possibility of stipulating cost of capital and
18 depreciation so as to avoid having those people
19 come to town and appear at the hearing. I don't
20 think anybody is prepared to answer that; I just
21 wanted to raise that for the parties' benefit. I
22 have discussed that with Staff. I've also raised
23 that with BellSouth.

24 The other question I had is whether
25 there was any interest in combining direct and

1 rebuttal so as to have a single appearance on the
2 stand during the hearing. We think it would go
3 faster that way, since we only have a very limited
4 time and a lot of witnesses to go through.

5 COMMISSIONER CLARK: Okay. Mr. Self?

6 MR. SELF: The only matter I'd want to
7 discuss, Madam Commissioner, is having WorldCom's
8 single witness, Mr. Porter, appear after the
9 BellSouth witnesses. In other words, he would be
10 the first of the ALEC witnesses. Other than that,
11 I would support any efforts to consolidate direct
12 and rebuttal.

13 COMMISSIONER CLARK: Okay.

14 MR. SELF: Thank you.

15 COMMISSIONER CLARK: Mr. Horton?

16 MR. HORTON: Yes, ma'am. For the
17 record, I'm Norman H. Horton, Jr. on behalf of
18 ACSI, who used to be a party of to this
19 proceeding. I would like the record reflect we
20 were present.

21 I'm not entering an appearance for them,
22 but we do have a Petition for Reconsideration of
23 the Prehearing Officer's Ruling pending before the
24 Commission and, in the event that's granted, we do
25 have a witness.

1 COMMISSIONER CLARK: Okay. Staff --

2 MS. WHITE: I'm sorry, Commissioner
3 Clark, I do have one more thing. That is, I do
4 need to add some names to the attorneys who will
5 be representing BellSouth at the hearing.
6 Douglas, R. Douglas Lackey, L-A-C-K-E-Y; Bennett,
7 B-E-N-N-E-T-T, Ross, R-O-S-S; and Mike Twomey,
8 T-W-O-M-E-Y, not the local Mike Twomey, will be
9 representing BellSouth.

10 Mr. Lackey is a member of the Georgia
11 Bar and has practiced before this Commission on
12 numerous occasions. Mr. Ross is a member of the
13 Georgia Bar, and Mr. Twomey is a member of the
14 Louisiana Bar. They will be assisting me in
15 representing BellSouth at the hearing.

16 COMMISSIONER CLARK: And you move to --

17 MS. WHITE: I move to have them
18 entered -- allowed to practice for that purpose.

19 COMMISSIONER CLARK: The motion is
20 granted.

21 MS. WHITE: Thank you.

22 COMMISSIONER CLARK: All right. So I
23 have before me, I think, the spectrum of what I
24 need to take care of today. Let me just, the
25 Motion to Expand the Testimony by BellSouth, is

1 there an objection to that? This was the motion
2 filed on the 9th; is that correct?

3 MS. WHITE: That's correct. It is
4 really not a motion to expand the testimony --

5 COMMISSIONER CLARK: Right.

6 MS. WHITE: -- it was a Motion for Leave
7 to File Revised Testimony and Exhibits. There
8 were some mathematical errors that were found and
9 these are correcting them.

10 COMMISSIONER CLARK: Right. Is there an
11 objection?

12 MR. MELSON: No objection.

13 MR. PELLEGRINI: Commissioner Clark,
14 Staff would recommend that the motion be granted
15 but subject to furnishing the transcript in the
16 Tennessee proceeding that deals with this, deals
17 with this matter? As an attachment to the motion.

18 MS. WHITE: I would be happy to supply
19 the Staff --

20 COMMISSIONER CLARK: I guess my question
21 is, why?

22 MR. PELLEGRINI: It will enable Staff to
23 understand what the difficulty was that came to
24 the surface in the Tennessee proceedings and led
25 to the filing of revised testimony.

1 COMMISSIONER CLARK: Okay.

2 MS. WHITE: I'll be happy to do that.

3 COMMISSIONER CLARK: All right. Thank
4 you, Ms. White. The motion to, it is a Motion for
5 Leave to File Revised Testimony and Exhibits is
6 granted. And that was, was that the one listed as
7 "expand testimony"?

8 MR. PELLEGRINI: Yes.

9 COMMISSIONER CLARK: Okay. The next,
10 the Motion to Strike the OSS Information?

11 MR. PELLEGRINI: Yes.

12 COMMISSIONER CLARK: I understand your
13 answer, BellSouth, is not yet due.

14 MS. WHITE: Due Friday.

15 THE COURT: Friday. It is would be my
16 intention to take that up at a --

17 MR. PELLEGRINI: Special prehearing.

18 COMMISSIONER CLARK: -- special
19 prehearing that I would hope to have on Tuesday.
20 If that's not possible, I will rule on the
21 pleadings.

22 MS. WHITE: That's fine, Tuesday is
23 fine.

24 COMMISSIONER CLARK: Okay. The Motion
25 to Compel likewise is not ripe, as BellSouth needs

1 to respond? Is that correct? Needs to have the
2 opportunity to respond?

3 MS. WHITE: Yes. I think it was --

4 MR. PELLEGRINI: Yes. Service was made
5 on January 13, yesterday.

6 COMMISSIONER CLARK: Okay, yesterday.

7 MS. WHITE: I think we could make every
8 effort to respond in writing to it by Friday and
9 be prepared to argue it on Tuesday.

10 COMMISSIONER CLARK: Thank you. Let me
11 ask a question, though. You have suggested,
12 Mr. Hatch, that there may be an opportunity to
13 stipulate the cost of capital. Will that obviate
14 the need for the information that's requested?

15 MR. PELLEGRINI: No. No.

16 COMMISSIONER CLARK: Why not?

17 MR. PELLEGRINI: Well, as --

18 COMMISSIONER CLARK: It seems to me -- I
19 have to say that I've just read the first part of
20 it, but the issue is BellSouth has indicated its
21 cost of raising capital is increasing and the
22 question is, what's causing it to increase? And
23 that's the basis on which you want this
24 information.

25 But if we stipulate the cost of capital,

1 is it still relevant?

2 MR. HATCH: Commissioner Clark, I hope
3 there's no confusion here. It was my suggestion
4 that we submit all the testimony and the
5 deposition transcripts and the exhibits, not to a
6 number.

7 COMMISSIONER CLARK: I see. Well, then
8 in that case it doesn't --

9 MR. PELLEGRINI: Yeah, I still think
10 that the information requested is still essential
11 for the Staff to have some understanding of
12 BellSouth's position.

13 COMMISSIONER CLARK: No chance we would
14 stipulate the cost of capital?

15 MR. HATCH: I don't think we can
16 stipulate a number.

17 MR. PELLEGRINI: Yeah.

18 COMMISSIONER CLARK: Okay. Then we'll
19 take up the Motion to Compel the Discovery on
20 Tuesday.

21 Mr. Wiggins, I'll hear from you. Is
22 there any objection to or is there going to be any
23 response from Mr. Wiggins on his Motion for
24 Reconsideration of the Order denying his
25 intervention?

1 MS. WHITE: BellSouth doesn't have a
2 position on it.

3 COMMISSIONER CLARK: All right. Go
4 ahead, Mr. Wiggins.

5 MR. WIGGINS: Thank you, Commissioner
6 Clark. I'll be very, very brief.

7 Intermedia did not choose to intervene
8 in the original arbitration proceedings for the
9 very reason that the Commission would exclude them
10 from intervention in this phase of it. That is,
11 we didn't think it had anything to do with us. We
12 thought it was simply between these parties.

13 However, in the 271 proceeding order,
14 the Commission made it clear it intended to use
15 the permanent rates established in this proceeding
16 for future purposes. That being the case, we're
17 on notice that our interests in that future
18 proceeding were going to be determined in this
19 proceeding; therefore, we need to intervene.

20 If that's not the intention of the
21 Commission, that's very easy to handle that.
22 Simply by clarifying that, in fact, the findings
23 in this -- the matters adjudicated in this docket
24 have no collateral estoppel effect on Intermedia
25 or any other party not involved here.

1 If we can either be intervened, let in
2 as a party, or have that clarification, we're
3 happy either way.

4 COMMISSIONER CLARK: How is the setting
5 of permanent rates for items which were interim
6 make it any different than it was -- make this any
7 different than what we had been doing in this
8 arbitration?

9 And I have another question. Is this
10 the first time you have raised this issue? I
11 didn't see it in the original Petition to
12 Intervene.

13 MR. WIGGINS: I believe that, because of
14 the ACSI's status in my original Petition to
15 Intervene, we did not emphasize that. I think
16 that was what I was alluding to in the original
17 intervention order where I mentioned that I'd
18 changed conditions and things have moved on since
19 the original decision.

20 Commissioner Clark, I'm not sure I
21 understand what you mean by, how are we doing
22 anything any different?

23 COMMISSIONER CLARK: I guess it strikes
24 me that what we are doing in all, in approval of
25 negotiated agreements, in arbitration agreements,

1 all have an impact on 271, and in some sense are
2 relied upon or will be relied upon in determining
3 whether BellSouth meets those requirements,
4 assuming it still has to do that.

5 So I guess my question is, why is this
6 different than what we -- the original
7 arbitration? What has now made it such that you
8 should be granted standing?

9 MR. WIGGINS: In the original
10 arbitration proceeding -- excuse me. In the 271
11 order, Bell's application for 271 relief was
12 denied. Because of that, Staff's recommendation
13 and the Commission's findings with respect to the
14 use of the permanent rates from the original
15 arbitration were irrelevant to Intermedia in terms
16 of challenging that.

17 If the Commission intends to use the
18 permanent rates decided here in the next 271
19 proceeding or the next SGAT without allowing
20 Intermedia full access to the costs, an
21 opportunity to relitigate that, then that would be
22 something we would intend to challenge as error
23 and to appeal.

24 COMMISSIONER CLARK: Well, Mr. Wiggins,
25 I'm inclined to think that what we are doing here

1 in terms of setting permanent rates for purposes
2 of arbitration is something that BellSouth can
3 then rely on in pursuing its authority to provide
4 long distance service by proving it meets the
5 check list. And it would be my belief that, to
6 the extent Intermedia is part of that proceeding
7 to see if the check list is met, if they didn't
8 think that the permanent rates we set met the
9 requirements, that you could raise it as an issue.

10 MR. WIGGINS: Yes, ma'am.

11 COMMISSIONER CLARK: I need to check and
12 make sure that is the intent of what was put in
13 that order, and it would be on that basis I would
14 deny your Motion for Intervention.

15 Let me just ask Ms. White. Do you have
16 a different view of how the process works?

17 MS. WHITE: I'm sorry, but I --

18 COMMISSIONER CLARK: What he is
19 suggesting is that his concern is that once we
20 have set permanent rates for purposes of this
21 arbitration, then you -- then it has been an
22 indication from the Commission that those
23 permanent rates will be relied on to determine if
24 you have complied with the requirements of 252 for
25 check -- purposes of the check list. I guess it

1 is my view that you could rely on those --

2 MS. WHITE: Sure. I would agree with
3 that.

4 COMMISSIONER CLARK: -- but it would
5 seem to me a party to that proceeding which was
6 not a party to the arbitrations could suggest it
7 is not cost-based or it does not meet it.

8 MS. WHITE: Sure. I think that in the
9 271 case, if we say these are the prices we are
10 relying on for check list compliance, then anybody
11 can come in and say those prices aren't right for
12 whatever reason.

13 COMMISSIONER CLARK: Okay.

14 MS. WHITE: So I wouldn't think that
15 lack of intervention in this case would deny that
16 opportunity.

17 COMMISSIONER CLARK: Well, Mr. Wiggins,
18 that's my inclination. I'm going to check and
19 make sure that's the process we contemplate and
20 then issue the Motion to Deny the Intervention if
21 it is, in fact, what we had intended.

22 MR. WIGGINS: Thank you. Intermedia has
23 attempted throughout this process with BellSouth
24 and with the Commission to negotiate and cooperate
25 and not litigate. The reason we have done this

1 intervention is so that if we did in fact wish to
2 challenge those rates later on, there would be no
3 basis for anyone to say, "Hey, you should have let
4 us know this in the 833 docket, where were you?"

5 COMMISSIONER CLARK: Okay.

6 MR. WIGGINS: Thank you for your time.

7 COMMISSIONER CLARK: Thank you. As I
8 see it, that leaves us right now with just
9 determining the order of witnesses, determining
10 whether or not we'll have direct and rebuttal,
11 determining whether or not some of them will
12 appear as a panel.

13 Let me first talk about direct and
14 rebuttal. Is there any objection to doing it that
15 way and is there a general feeling that will
16 facilitate the process?

17 MR. PELLEGRINI: There is no objection
18 from Staff. We would favor the combination of
19 testimony.

20 MS. WHITE: There's no objection from
21 BellSouth. I think I would agree we have three
22 days set for hearing in this case and a lot of
23 witnesses and that would probably make it go a
24 little faster.

25 COMMISSIONER CLARK: Okay.

1 MR. MELSON: MCI agrees.

2 COMMISSIONER CLARK: Mr. Hatch?

3 MR. HATCH: I proposed it, I agree.

4 COMMISSIONER CLARK: Oh, a memory lapse.

5 MR. SELF: I already agreed with

6 Mr. Hatch.

7 COMMISSIONER CLARK: Good. What I would
8 suggest is letting you all work out the order of
9 witnesses. I know there are depositions to be
10 taken today and I don't want to prolong it by
11 going, going through it here --

12 MS. WHITE: The --

13 COMMISSIONER CLARK: -- unless you think
14 we need to.

15 MS. WHITE: The order that is in the
16 prehearing, the order of witnesses that's in the
17 prehearing order for BellSouth is acceptable for
18 BellSouth's witnesses, I guess with the caveat
19 that on Page 5 of the draft prehearing order I
20 want to make sure that everybody understands that
21 Ms. Caldwell and Mr. Zarakas are a panel. They
22 are kind of listed as two separate witnesses, and
23 they really are a panel.

24 COMMISSIONER CLARK: Okay. Let me just
25 direct Staff. Let's make sure it shows them on

1 the prehearing order as a panel so the
2 Commissioners and particularly the Chairman will
3 be aware of it.

4 MR. PELLEGRINI: Yes. We'll make that
5 clarification, Commissioner Clark.

6 MS. WHITE: I guess the only other issue
7 we'd have is, since we are doing direct and
8 rebuttal together, we have some witnesses that are
9 just rebuttal so we would have to figure out where
10 in the process they would go.

11 COMMISSIONER CLARK: That's correct. I
12 guess, again, it was my inclination to leave it to
13 you all to work it out, but I'm available if we
14 can't.

15 Is there anything else?

16 MR. HATCH: With respect to the order of
17 witnesses, Madam Chairman, Jim Wells, one of the
18 AT&T's rebuttal witnesses, is available only on
19 the second day of the hearing; and I'm trying to
20 work out some conflicts with the others. As I can
21 resolve them, then there won't be an issue; but if
22 it becomes a problem, I will notify you and the
23 other parties.

24 COMMISSIONER CLARK: Let me ask at this
25 time. Is there anyone else whose witnesses are

1 not available on any days? Mr. Melson?

2 MR. MELSON: Mr. Wood is available only
3 the third day of the hearing, the 28th. But he is
4 likely to be the last or next-to-last witness, so
5 I don't think that will be a problem.

6 COMMISSIONER CLARK: Okay. You never
7 know, we might finish up Tuesday night, so you all
8 need to be prepared for that. That doesn't mean
9 for you to extend your cross-examination.

10 MR. MELSON: You can read my mind,
11 Commissioner.

12 MR. HATCH: That was very good, very
13 quick. (Laughter)

14 COMMISSIONER CLARK: Anything else? All
15 right, we will adjourn --

16 MR. PELLEGRINI: There is one further
17 matter, Commissioner Clark, and that is the
18 identification of the testimony related to Docket
19 No. 97-1140, or the former Issue 2.

20 COMMISSIONER CLARK: That's correct.
21 What I would ask you to do is -- I hope you would
22 be able to do that today -- identify the testimony
23 and exhibits that are no longer appropriate to be
24 included in this docket and get it to Staff?

25 MR. HATCH: I will endeavor to do that.

1 I anticipate that that will not be possible,
2 because the non-recurring charge witness is Jack
3 Lynott and I already know that I can't find him
4 today because I have been trying since this
5 morning.

6 COMMISSIONER CLARK: Well, is there
7 somebody else that can look at the testimony?

8 MR. HATCH: Part of the problem -- the
9 testimony itself is really not the problem, it is
10 going through the schedule of all the exhibits and
11 the model itself to make sure which pieces don't
12 fit. I will endeavor to do that as soon as I
13 possibly can.

14 COMMISSIONER CLARK: Let me ask Staff.
15 What is your time frame on needing that
16 information to correct the prehearing order.

17 MR. PELLEGRINI: I suppose if it is done
18 by the conclusion of this week, I think we can
19 work it out.

20 COMMISSIONER CLARK: Let's put it close
21 of business Friday. Anything else?

22 MR. PELLEGRINI: I don't have anything
23 else.

24 COMMISSIONER CLARK: All right.

25 Thank you very much. And we will, to

1 the -- if we can, I will see you on Tuesday at
2 3:00. Thank you very much.

3 MR. SELF: Thank you.

4 (Hearing concluded at 10:00 a.m.)
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