

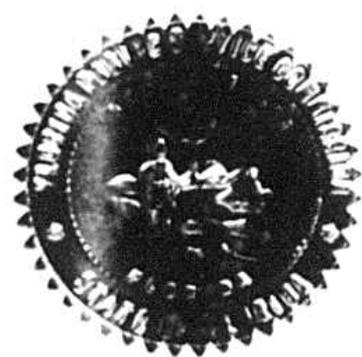
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of

Petition by Sprint Communications
Company Limited Partnership d/b/a
Sprint for arbitration with GTE
Florida Incorporated concerning
interconnection rates, terms, and
conditions pursuant to the Federal
Telecommunications Act of 1996.

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: DOCKET NO. 961173-TP
:



PROCEEDINGS: **SPECIAL AGENDA CONFERENCE**

BEFORE: COMMISSIONER DIANE K. KIESLING
 COMMISSIONER JOE GARCIA

DATE: **Wednesday, April 23, 1997**

TIME: Commenced at 9:30 a.m.
 Concluded at 9:58 a.m.

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

REPORTED BY: ROWENA NASH
 Official Commission Reporter

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SECRETARY

1 **PARTICIPATING:**

2 **NOREEN DAVIS**, Director, FPSC Division of
3 Legal Services.

4 **MARY BANE**, FPSC Deputy Executive
5 Director/Technical.

6 **MARTHA CARTER BROWN**, FPSC Division of Legal
7 Services.

8 **MONICA BARONE**, FPSC Division of Legal
9 Services.

10 **WAYNE STAVANJA**, FPSC Division of
11 Communications.

12 **SALLY SIMMONS**, FPSC Division of
13 Communications.

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P R O C E E D I N G S

(Hearing convened at 9:30 a m.)

COMMISSIONER GARCIA: Good morning.

Commissioner Kiesling is running a little bit late, her flight was -- I think it was fogged in. So we are going to take -- I don't know -- until 9:45 because she said she'd be in on time.

MS. BARONE: She said 10:00.

COMMISSIONER GARCIA: She had asked 10:00, but she said she's on her way in, so I don't want to take too much time. But just so that you know you have 10 minutes, and I know I have 10 minutes. Okay?

(Brief recess.)

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COMMISSIONER KIESLING: All right, we'll call the agenda conference to order, this is a special agenda. Do we need to read anything, or just go right into it? We all know what we're here for.

MR. STAVANJA: I just had an introduction --

COMMISSIONER KIESLING: Okay. Go for it.

MR. STAVANJA: -- but if you want to just move along, that's fine.

COMMISSIONER KIESLING: Go ahead.

MR. STAVANJA: Commissioners, the item for this agenda conference today concerns the approval of

1 an arbitrated agreement between Sprint and GTE. The
2 Commission is faced with a unique situation in that to
3 date parties to arbitration proceedings have filed
4 joint agreements, but Sprint and GTE have filed
5 separate and different agreements. The Commission
6 must decide which agreement is appropriate for this
7 proceeding.

8 Staff believes that in order to protect the
9 integrity of the arbitration process, the Commission
10 should approve an agreement which reflects the agreed
11 upon issues negotiated by the parties and the results
12 of the arbitrated issues per the Commission's order.

13 Staff is ready to proceed in any manner you
14 wish.

15 **COMMISSIONER KIESLING:** Commissioner Garcia,
16 do you have a preference?

17 **COMMISSIONER GARCIA:** I would move Staff on
18 the whole package, unless you have something you would
19 like to discuss.

20 **COMMISSIONER KIESLING:** Well, I only have
21 something to say, and then I'm certainly willing to
22 vote on all of it together.

23 I just found what was happening in this case
24 to be particularly alarming as it relates to the
25 process. And I hope that our action in the second to

1 the last -- in Issue 9 makes it clear to these
2 parties, as well as anyone else in the future, who
3 thinks that they can come in and initiate an
4 arbitration proceeding, make everyone go through all
5 of that process, and then even go through the
6 negotiations afterwards, and then decide they don't
7 want to sign, I think that that is contemptuous
8 behavior that should not be countenanced, and I think
9 it makes a sham and a mockery of all of the hard work
10 everyone has put on this, and I am very disturbed by
11 it.

12 And if the message isn't clear enough in
13 Issue 9, I'm, you know, willing to see what happens
14 and entertain something to make it even stronger. So
15 I just wanted to let the parties know what I think
16 about that behavior and about that disregard for the
17 process.

18 And with that, there having been a motion,
19 show it passed unanimously.

20 **MS. BARONE:** Commissioner Kiesling, before
21 we proceed, I just want to make sure for the record
22 that both you and Commissioner Garcia did receive
23 Staff's revised Issue 10 which included language
24 regarding an administrative order. I gave that to
25 your aides.

1 **COMMISSIONER KIESLING:** Well, I've been on
2 the road. I mean, I flew in this morning through the
3 storm, so --

4 **MS. BARONE:** I will bring that to you right
5 now.

6 **COMMISSIONER KIESLING:** -- I may have to
7 take a look at it then since I haven't seen it. I had
8 the req with me so that I could be prepared for this
9 morning.

10 **COMMISSIONER GARCIA:** Monica, let me see
11 what you are talking about, compared to what I have.
12 I think I did get it.

13 **MS. BARONE:** Yes. It's just one minor
14 addition, and we are going to issue an administrative
15 order once the signed order is in.

16 **COMMISSIONER GARCIA:** Okay.

17 **MS. BARONE:** And that has been given to
18 records and reporting.

19 **COMMISSIONER GARCIA:** While Diane reads that
20 and seeing as we've taken a vote, unless she has a
21 disagreement after reading that, I just want to
22 congratulate Staff, a job well done, and I know a lot
23 of work has gone into this, and it has not gone
24 unnoticed. And I think that's why we are moving so
25 quickly this morning.

1 **COMMISSIONER KIESLING:** Okay. Let me just
2 try to be sure I understand then. Issue 9, which was
3 the sign it or be subject to a show cause and
4 potential fine, if they sign it, but it's not
5 consistent with our order, then what? Do we go back
6 to a show cause?

7 **MS. BARONE:** No, ma'am. If it's not
8 consistent, it could be that they've added different
9 language. We just want to make sure -- and the
10 purpose of this is to make sure we have an end to this
11 process. If it's signed, we are going to have that
12 administrative order saying yes.

13 Now, we just put that contingency in there
14 just in case there's something different.

15 **COMMISSIONER KIESLING:** So are you saying
16 that if the parties are able to -- even from this
17 point out -- negotiate something different, that you
18 are willing to let them sign a different agreement
19 than the one we are ordering today?

20 **MS. BARONE:** That's something that's being
21 debated right now. As a matter of fact, we have a
22 couple of arbitration proceedings where parties have
23 negotiated language outside of the arbitration wherein
24 we are recommending that that language be approved.
25 In fact, I don't think that recommendation has been

1 filed yet. But because of looking at the act, -- or
2 rather the FCC's rules, if the FCC were to act as an
3 arbitrator, one of the provisions provides that absent
4 mutual consent of the parties to change any terms and
5 conditions adopted by the arbitrator, the decision of
6 the arbitrator shall be binding on all the parties.

7 So the avenue we are taking is that your
8 decision is final, but because of the Act's
9 encouragement of negotiations, that parties might be
10 able to bring something back before you if they
11 mutually agree to a provision.

12 **COMMISSIONER KIESLING:** And just so that I
13 understand procedurally how that would work, there's
14 four ways that they can get an agreement.

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

16 **COMMISSIONER KIESLING:** And the second one
17 is a negotiated agreement; the third is an arbitrated.

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

19 **COMMISSIONER KIESLING:** So at this point in
20 this case, we are in the posture of having gone via
21 the arbitrated procedure.

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

23 **COMMISSIONER KIESLING:** And if the parties
24 want to negotiate something different and bring that
25 back to us, wouldn't they then be coming back with a

1 negotiated agreement?

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

3 **COMMISSIONER KIESLING:** So that is a

4 different procedure?

5 **MS. BARONE:** Yes, ma'am. But that would be

6 outside of this. If they were to come back with an

7 issue that was outside the arbitration proceeding,

8 that would be considered a resolved issue, and you

9 could take it from there.

10 But we have resolved this case. This is

11 final, though the distinction between Issue 9 and 10

12 is that if you don't come back with a signed

13 agreement, you are going to be show cause. When you

14 bring that agreement back in Issue 10, we are going to

15 take a look at it and make sure you do what you were

16 supposed to do. So that the 9 is just if you don't

17 sign it, you are going to be show caused.

18 **COMMISSIONER KIESLING:** Okay. But if they

19 bring back a signed agreement, which means both

20 parties have agreed to it --

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

22 **COMMISSIONER KIESLING:** -- that is somewhat

23 different from our order, we are still going to find

24 that acceptable as long as both parties have

25 negotiated and agreed to it.

1 **MS. BARONE:** And it's my opinion we would
2 have to bring that nuance back to you.

3 **COMMISSIONER KIESLING:** Right.

4 **MS. BARONE:** Because the access --

5 **COMMISSIONER KIESLING:** Okay.

6 **MR. STAVANJA:** Commissioner Kiesling, we
7 have two corrections we want to make to the
8 recommendation.

9 **COMMISSIONER KIESLING:** Okay.

10 **MR. STAVANJA:** On Page 14, the first full
11 paragraph, the last sentence where it says, "Both
12 documents are provided as Attachments 1 and 2," we
13 want to strike that.

14 **COMMISSIONER KIESLING:** Yeah.

15 **MR. STAVANJA:** There was two places in
16 there; we took one out and forgot the other.

17 And then on Page 18 in the recommendation
18 statement, there's this Paragraph 21.3, Limitation of
19 Liability. If you go to the end, about the fourth
20 line up, it says "Party's obligation under 20.1
21 above"; it should read 21.1.

22 **COMMISSIONER KIESLING:** All right.

23 **MR. STAVANJA:** That's all.

24 **COMMISSIONER KIESLING:** Thank you.

25 **MR. STAVANJA:** Thank you.

1 **COMMISSIONER KIESLING:** Then without
2 objection.

3 (Thereupon, the hearing concluded at
4 9:58 a.m.)

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

3 I, ROWENA NASH Official Commission Reporter,

4 DO HEREBY CERTIFY that the Special Agenda
5 Conference in Docket No. 961173-TP was heard by the
6 Florida Public Service Commission at the time and
7 place herein stated; it is further

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

13
14 DATED this 23rd day of April, 1997.

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Official Commission Reporter
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