

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

DOCKET NO. 000649-TP

In the Matter of

**PETITION BY MCIMETRO ACCESS
TRANSMISSION SERVICES, LLC
AND MCI WORLDCOM COMMUNI-
CATIONS, INC. FOR ARBITRATIONS OF
CERTAIN TERMS AND CONDITIONS OF
A PROPOSED AGREEMENT WITH
BELLSOUTH TELECOMMUNICATIONS,
INC. CONCERNING INTERCON-
NECTION AND RESALE UNDER THE
TELECOMMUNICATIONS ACT OF 1996.**



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PROCEEDINGS: SPECIAL AGENDA CONFERENCE

**BEFORE: CHAIRMAN E. LEON JACOBS, JR.
COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ**

DATE: Wednesday, February 21, 2001

**TIME: Commenced at 9:32 a.m.
Concluded at 11:07 a.m.**

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

**REPORTED BY: TRICIA DeMARTE
Official FPSC Reporter**

FLORIDA PUBLIC SERVICE COMMISSION

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4 **SALLY SIMMONS, DAVID DOWDS, KEVIN BLOOM,**
5 **JONATHAN AUDU, MICHAEL BARRETT, TAMIKA WATTS,**
6 **CAYCE HINTON, LAURA KING, LENNIE FULWOOD, FPSC**
7 **Division of Competitive Services.**

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P R O C E E D I N G S

CHAIRMAN JACOBS: Call the special agenda to order. Staff, you want to introduce the item?

MR. FULWOOD: Good morning, Commissioners. Staff is here to address questions regarding recommendations in Docket Number 000649, the arbitration between BellSouth and WorldCom. While some issues have been settled or been removed, there are still 47 issues which remain.

Staff notes that Issues 40, 46, and 51 were deferred to the generic reciprocal compensation docket on January 24th, 2001. Staff is prepared to address each issue individually or proceed however you'd like.

COMMISSIONER JABER: Mr. Chairman, let me just make a couple of comments. First, let me apologize for having to start the special agenda late. I appreciate your indulgence, Commissioners and Staff. And second, I want to compliment Staff on their recommendation. This was a very easy recommendation to read, to understand, and I really appreciate your hard work on all of the issues.

And I'd like to go issue by issue, if that's okay, Mr. Chair.

CHAIRMAN JACOBS: That sounds fine. Let me toss this out. I'd asked Staff to go through and do an analysis for me -- given that there is an extensive list

1 of issues, I asked them to go through and do an analysis
2 of issues that they felt could do with a summary
3 discussion. In other words, only if we had questions of
4 those, would we -- will we take much time on them, and
5 they have done that.

6 If you are comfortable with that, we can go
7 through those items first, because I think they may lend
8 themselves to a very quick resolution, and then we can
9 come back and deal with the more --

10 COMMISSIONER JABER: I didn't make a list of the
11 issues I had questions on.

12 CHAIRMAN JACOBS: Okay.

13 COMMISSIONER JABER: Will it be easy to follow?

14 CHAIRMAN JACOBS: I think so. In fact, I guess
15 I have a copy of -- extra copies here.

16 COMMISSIONER JABER: Okay.

17 CHAIRMAN JACOBS: We'll take a moment for you to
18 review that.

19 COMMISSIONER JABER: So I have a question on
20 Issue --

21 CHAIRMAN JACOBS: If you notice in the
22 right-hand margin, there's a notation that Staff -- the
23 move indicates that they thought that that was -- there
24 was fairly straightforward discussion for that. Why don't
25 we do this: Why don't go ahead and go through issue by

1 issue? And then as we get to these, we can figure out --

2 **COMMISSIONER JABER:** Okay. Because I don't have
3 a lot of questions.

4 **CHAIRMAN JACOBS:** Okay. Good.

5 **COMMISSIONER JABER:** As a matter of fact, on
6 Issue A, I can move Staff's recommendation. With your
7 indulgence, I would like to delete on Page 15, though, any
8 reference in the order to the Commission exercising its
9 state authority with discretion. You know, I feel like,
10 well, that's what we do anyway. Less is better in an
11 order anyway, and I felt like that just kind of went
12 beyond the question of what is the Commission's
13 jurisdiction.

14 **So I would move Issue A with the modification**
15 **that those two sentences on Page 15 be deleted.**

16 **CHAIRMAN JACOBS:** I'm sorry, point me to those
17 again.

18 **COMMISSIONER JABER:** The sentences that start,
19 "However, Staff believes that it is appropriate for the
20 Commission to exercise its state authority with
21 discretion."

22 **CHAIRMAN JACOBS:** In the second paragraph or
23 third?

24 **COMMISSIONER JABER:** In the second paragraph,
25 last line.

1 **CHAIRMAN JACOBS: Okay.**

2 **COMMISSIONER JABER: And then the very last line**
3 **on Page 15, the same comment. I would delete both of**
4 **those sentences. And basically, Mr. Chairman, the**
5 **question is, what is our jurisdiction, not how should we**
6 **exercise it. So I would move Issue A with that**
7 **modification.**

8 **COMMISSIONER BAEZ: Second.**

9 **MS. CHRISTENSEN: Commissioner, can I ask for**
10 **clarification on the second sentence? After the comma, is**
11 **that the portion which you're asking to have deleted, or**
12 **the whole entire sentence which begins with, "Further,**
13 **Staff believes that while section"?**

14 **COMMISSIONER JABER: Thank you, Patty, for that**
15 **clarification. No. On the last sentence, it would be**
16 **after the comma.**

17 **MS. CHRISTENSEN: Okay. Thank you.**

18 **COMMISSIONER JABER: So that would be a motion**
19 **on Issue A.**

20 **CHAIRMAN JACOBS: It's been moved and seconded.**
21 **All in favor, aye.**

22 **COMMISSIONER JABER: Aye.**

23 **CHAIRMAN JACOBS: Aye.**

24 **COMMISSIONER BAEZ: Aye.**

25 **CHAIRMAN JACOBS: Opposed? Show Issue A is**

1 approved.

2 COMMISSIONER JABER: And Issues B and C don't
3 require a vote; right?

4 MS. CHRISTENSEN: Commissioners, the way Issues
5 B and C are framed, they refer back to the substantive
6 issues, 107 and 108. So I would agree that they don't
7 specifically need an individual vote on those issues.

8 CHAIRMAN JACOBS: Right. In resolving
9 Issues 107 and 108 will deal with this.

10 MS. CHRISTENSEN: Correct.

11 CHAIRMAN JACOBS: So can they be withdrawn? Is
12 that the correct course of action?

13 MS. CHRISTENSEN: I think we can just indicate
14 that no votes necessary on those issues.

15 CHAIRMAN JACOBS: All right.

16 COMMISSIONER JABER: Okay. On Issue 1, my
17 question was to Staff related to -- there was a lot of
18 testimony everywhere in the record with respect to how
19 they used to -- WorldCom used to be able to order the
20 MegaLink service electronically. And I know it relates to
21 whether it's an ASR or LSR or whatever SRs, but I wasn't
22 real clear on why there was a change in how the ALEC was
23 able to order in midstream.

24 MS. KING: Based on what we had in the record,
25 being that wasn't the primary issue, there was very little

1 testimony on why that change actually happened. All that
2 was in the record was that letter from BellSouth to MCI
3 saying that they would no longer be allowed to order that
4 electronically because that is no longer the means in
5 place; that when they order that service, they are
6 actually -- let me find my notes here.

7 They were using that process at that time
8 because that's what existed. And when they're ordering --
9 according to the BellSouth witness, when they're ordering
10 a DS-1 combination, BellSouth had to do additional steps
11 to have that order actually happen. It wasn't a
12 completely electronic process, and that's why there was a
13 change. At the time, that's all that was available, and
14 now BellSouth is saying, no, we had to do additional
15 steps, so we are going to the other -- it's really a
16 manual process.

17 **COMMISSIONER JABER:** What difference does it
18 make that they have to go through additional steps? I
19 mean, the crux of the argument -- help me understand,
20 Laura, why we should care about how many steps they have
21 to go through, because I think the crux of the argument
22 is, if BellSouth is able to provide MegaLink service to
23 its own retail customers in a fashion that allows them to
24 order electronically --

25 **MS. KING:** See, we don't believe that. Based on

1 the record before us, I believe that BellSouth also has to
2 go through some up front manual processes. Their customer
3 service representative takes an order, a complex order,
4 from their end user, and then they have to hand off that
5 piece of paper to a different BellSouth person to input
6 that into the raw system to get that in the format for it
7 to become an order.

8 I believe that is similar to what they now want
9 WorldCom to do. WorldCom has to manually write the order
10 and fax it to a BellSouth representative, and someone at
11 BellSouth's local service center then inputs that order
12 into the BellSouth system. So I think it's a similar --
13 it's parity. BellSouth has some up front manual processes
14 that it's required to do before their end users can get
15 MegaLink. WorldCom has some manual processes that it must
16 go through before it can get the DS-1 combo.

17 COMMISSIONER JABER: Okay. So that's different
18 from saying WorldCom didn't present evidence to support
19 its claim of disparity. What I hear you saying is,
20 everything you've seen from the record indicates that
21 there is parity in that regard.

22 MS. KING: Yes. WorldCom made comments on the
23 record that they believe that BellSouth had electronic
24 processes in place for MegaLink. They did not really
25 present anything to me that said BellSouth did not have

1 those manual processes in place. That came all from the
2 BellSouth witness on cross-examination. So I felt that
3 WorldCom really didn't show me that BellSouth was not
4 doing those manual up front processes.

5 COMMISSIONER JABER: How is it that the
6 Commission verifies that? I think some -- and this is a
7 general concern over all the issues, Mr. Chairman, that
8 relate to the electronic interface.

9 CHAIRMAN JACOBS: Right.

10 COMMISSIONER JABER: How is it that our Staff or
11 even the Commissioners verify what it is BellSouth
12 provides to its own retail customers using electronic
13 interfaces? Have we ever initiated some sort of review or
14 informal investigation or field visit?

15 MS. KING: I don't believe so, but I would have
16 to defer that maybe that Dave Dowds or Sally Simmons if we
17 have undertaken that. But I believe this isn't the issue
18 where something like that would happened because this
19 issue as originally framed was something totally
20 different.

21 CHAIRMAN JACOBS: No, but the guts of this issue
22 goes directly to that.

23 MS. KING: But then they started talking about
24 MegaLink and DS-1, but there wasn't a lot of testimony
25 from WorldCom that said, I know BellSouth has this system

1 and this system and this system. We had the Bell witness
2 came in and say, this is how we do it. And that's what I
3 had to go on in this docket.

4 **CHAIRMAN JACOBS:** It just seems to me -- Sally,
5 I know you're going to answer this question, hopefully,
6 but it just seems to me that if we could verify that there
7 in fact was parity or that there wasn't, that a lot of
8 these issues that we look in arbitration would be
9 resolved.

10 **MS. SIMMONS:** What I was going to say
11 Commissioners is, with the OSS third-party test, I mean,
12 that really is the vehicle whereby we're trying to
13 ascertain whether or not there is parity.

14 **COMMISSIONER JABER:** I asked that question, and
15 what Ms. Harvey has told me is, now we're testing -- if
16 there is an electronic interface, we're testing it,
17 basically that the test focuses on whatever is available.
18 That test will not answer for me whether BellSouth uses
19 electronic interfaces for its own ordering for the
20 provision to retail customers.

21 **CHAIRMAN JACOBS:** Commissioner, I've been giving
22 some thought to that as well. And I've come to be aware
23 of a process that's been occurring in some other states.
24 It's effectively known as a collaborative. I'm not sure
25 exactly what that process is in terms of how it actually

1 is done, but the concept of what it's supposed to do
2 sounds exactly what you're asking for.

3 I'd like for Staff to explore what that process
4 is, and I'm at the point where I'd like for us to
5 schedule -- come back to us with a recommendation, but I'm
6 thinking I'd like to schedule something on the order of a
7 collaborative process. But whatever you call it, what we
8 want it to do is exactly what Commissioner Jaber just
9 described. How do we gain an objective and independent
10 assessment of what the real world experiences are?

11 COMMISSIONER JABER: That would answer a lot of
12 the concerns I have over these issues, generally. And,
13 Sally, to the degree there's any duplication in the test,
14 that's okay because I still want our Staff to do that
15 independent analysis.

16 And I don't even care what the answer is. I
17 just need that issue resolved in my mind over this
18 discrepancy. What BellSouth uses to provide service to
19 its retail customers is what I'd like to get my hands
20 around. And if that is that they are doing everything the
21 old-fashioned way, that's okay. I just need to know that
22 outside of a hearing where the issues seem to be so
23 limited and it's one word against the other's word.

24 MS. SIMMONS: Okay. I'll discuss this with
25 Ms. Harvey. I was going to say, in addition, the whole

1 matter of performance measurements, looking at the amount
2 of time required to perform certain functions, that will
3 provide -- I understand, but I'm just trying to point out
4 that that will provide some quantitative type information
5 to determine if the amount of time required is --

6 COMMISSIONER JABER: Okay. But that's not what
7 I'm asking for.

8 MS. SIMMONS: I understand that, but I'm trying
9 to point that out.

10 COMMISSIONER JABER: Okay.

11 CHAIRMAN JACOBS: And I'd like for you guys to
12 get back with me in as short a time as possible on how we
13 would plan out that process and scheduling it, because I
14 want it to happen as quickly as we can. Thank you.

15 COMMISSIONER JABER: And with that, I can move
16 Issue 1 with the direction to Staff that they're coming
17 back to us with the results of some informal investigation
18 or how to go forward on that kind of review.

19 CHAIRMAN JACOBS: All right. I had the same
20 concerns as you expressed, so I won't belabor that in the
21 interest of time. I have a motion.

22 COMMISSIONER BAEZ: Second.

23 CHAIRMAN JACOBS: Moved and seconded. All in
24 favor, aye.

25 COMMISSIONER JABER: Aye.

1 **CHAIRMAN JACOBS: Aye.**

2 **COMMISSIONER BAEZ: Aye.**

3 **CHAIRMAN JACOBS: Opposed? Issue 1 is approved.**

4 **COMMISSIONER JABER: Could we move Issues**

5 **2 through 22?**

6 **CHAIRMAN JACOBS: There was one that I had --**

7 **which one was that? Six, right?**

8 **COMMISSIONER BAEZ: Uh-huh.**

9 **COMMISSIONER JABER: So how about move Issues**

10 **2 through 5?**

11 **COMMISSIONER BAEZ: Second.**

12 **CHAIRMAN JACOBS: Been moved and seconded.**

13 **Approve Issues 2 through 5. All in favor, aye.**

14 **COMMISSIONER JABER: Aye.**

15 **CHAIRMAN JACOBS: Aye.**

16 **COMMISSIONER BAEZ: Aye.**

17 **CHAIRMAN JACOBS: Show Issues 2 through**

18 **5 approved.**

19 **Issue 6.**

20 **MS. WATTS: Commissioners, Issue 6 is a**

21 **currently combines issue. Basically this issue addresses**

22 **under what circumstances BellSouth is obligated to provide**

23 **combinations to WorldCom at TELRIC rates. Staff believes**

24 **that the only circumstance in which BellSouth is obligated**

25 **to provide these combinations at TELRIC rates is when the**

1 combination being requested for a particular customer is
2 already in fact physically connected and in a combined
3 state at the time the order is in place.

4 In other words, there is no work that either
5 BellSouth or WorldCom has to do at the time the order is
6 placed for that particular combination.

7 CHAIRMAN JACOBS: Okay. I have a lot of
8 concerns, but I understand that the law is in flux on this
9 issue. But what I want to be clear on is, what this means
10 is that if -- that -- I'm trying to remember how you told
11 me. The conversion as is, if the UNE-P is there, they get
12 it conversion as is; is that correct?

13 MS. WATTS: Correct.

14 CHAIRMAN JACOBS: Okay. And then what happens
15 is, if there's anything else that they want to add on to
16 that, they have got to come back through the whole
17 ordering process.

18 MS. WATTS: Yes.

19 CHAIRMAN JACOBS: Is there anything in here or
20 anything else we do to try an expedite or streamline that
21 process in the event that there is this extra order that
22 has to occur?

23 MS. WATTS: Not to my knowledge. Also, this
24 record speaks nothing of what you just asked about.

25 CHAIRMAN JACOBS: Okay. That's a part of this

1 investigation I think we definitely need to have. In my
2 mind -- I don't think you say -- if that's a requirement
3 that the law says, I think you do it, but it strikes me
4 that there should be a streamline, a process that's
5 possible to do that second order because you have
6 everything in place except for some just new marginal
7 items. So that should be a part of this investigation as
8 well.

9 **Okay. Now, I would like to come back and review**
10 **this in the event that there's a court decision that comes**
11 **through. We can come back and review this, can't we?**

12 **MS. WATTS: Yes, we can.**

13 **CHAIRMAN JACOBS: Okay.**

14 **COMMISSIONER BAEZ: I had a question. In**
15 **reading the recommendation, it seems like what we're**
16 **accepting is a switch as is standard. Is that what we're**
17 **saying?**

18 **MS. WATTS: Yes.**

19 **COMMISSIONER BAEZ: We're buying the argument**
20 **that the only customers that can be switched based on the**
21 **UNE-P are those that already have it.**

22 **MS. WATTS: That is correct, Commissioner.**

23 **COMMISSIONER BAEZ: What consideration did you**
24 **give to, I guess, the logic of it that all of a sudden by**
25 **placing that type of limitation there is an access to the**

1 entire customer base?

2 **MS. WATTS:** Well, I placed most of the weight
3 for my recommendation on Rule 51.315(b), which states that
4 except upon request, the incumbent is prohibited from
5 separating the combinations that are already in place.
6 Also, in its July 18th ruling, the Eighth Circuit Court
7 reaffirmed that -- its vacation of 51.315(c) through (f),
8 and it specifically said that those rules state who will
9 do the combining. And with their vacation, they are
10 basically saying that the ILEC is not obligated to do the
11 combining.

12 **COMMISSIONER BAEZ:** And the end result of all of
13 this is that, as we've heard, the ILEC's state is that we
14 can do combinations but upon request, and that implies
15 that there's some charge.

16 **MS. WATTS:** Right. BellSouth has stated that
17 under a separate commercial agreement, they are willing to
18 do the combining but, of course, not at TELRIC rates.

19 **COMMISSIONER BAEZ:** Can you tell me what
20 the number -- I mean, and I may be confusing my hearings
21 at this point, but what the practical effect of that is?
22 Is UNE-platform available in a great majority of the
23 customer -- I mean, are there combinations -- common
24 combinations available and servicing most customers right
25 now?

1 **MS. WATTS: Can you repeat your question?**

2 **COMMISSIONER BAEZ: Well, I guess I'm going back**
3 **to the fact that if we place a switch as is limitation or**
4 **if we accept a switch as is limitation based upon the**
5 **uninterpretation of the rules right now, that somehow that**
6 **impacts the availability of UNE-P combinations to serve**
7 **those customers that don't already have service by that**
8 **method. What do the percentages break down? I mean, are**
9 **we talking about a big -- a large percentage of customers**
10 **that aren't being served for which the combination**
11 **wouldn't be directly available?**

12 **MS. WATTS: No, I don't believe so. Basically,**
13 **to date, I believe that BellSouth has somewhere around**
14 **6 million lines in place. So an ALEC would be allowed to**
15 **get those particular combinations at UNE rates. As well**
16 **in the FCC's clarification order, they have also permitted**
17 **an ALEC to be able to convert special access services to**
18 **EELs in the event they are providing a significant amount**
19 **of local traffic. So I believe that there still is, you**
20 **know, the opportunity for ALECs to compete in that market.**

21 **COMMISSIONER BAEZ: And can you explain for me**
22 **that conversion, that term "significant," what the**
23 **analysis is, briefly? I mean, I know -- I read it in the**
24 **recommendation, but I'd like to get -- hear it from you in**
25 **English, if possible.**

1 MS. WATTS: Okay. Basically --

2 COMMISSIONER BAEZ: No knock on the
3 recommendation. I agree with Commissioner Jaber. It was
4 particularly easy to read judging -- you know --

5 COMMISSIONER JABER: We just need it in other
6 English.

7 COMMISSIONER BAEZ: -- I've read a few, so. But
8 better English, I guess, hyper-English.

9 MS. WATTS: All right. There's three
10 circumstances under which the FCC has stated that an ALEC
11 would be providing a significant amount of local traffic,
12 and they are: If their requesting carrier certifies that
13 it is the exclusive provider of an end user's local
14 exchange service. So if that ALEC is the only person
15 providing all of that local service, then they would be
16 able to convert at that point.

17 The second instance is where the requesting
18 carrier certifies that it provides local exchange and
19 exchange access service to the end user customer. And the
20 third would be when the requesting carrier certifies that
21 at least 50 percent of the activated channels on a circuit
22 are used to provide originating and terminating local dial
23 tone.

24 The FCC has also clarified that ILECs must allow
25 the ALECs to self-certify in -- subsequent to giving them

1 or allowing them to convert, and they can do audits,
2 et cetera.

3 COMMISSIONER BAEZ: Okay. So it's in the CLEC's
4 hands to self-certify --

5 MS. WATTS: Yes.

6 COMMISSIONER BAEZ: -- to be able to trigger
7 this conversion mechanism.

8 I guess my greatest concern is that we don't
9 place -- we don't create barriers where none should exist
10 or where none exists naturally. And I've got to tell you,
11 I had a lot of trouble getting off the logic of a switch
12 as is standard, although I've got some comfort because I
13 know that percentage-wise we're not talking about a great
14 deal of the market, and, you know, having the conversion,
15 you know, if there are conditions there to allow the
16 conversion, that's possible as well. So I'm -- I can move
17 this Issue 6.

18 COMMISSIONER JABER: Second.

19 MS. CHRISTENSEN: Commissioner, can I make one
20 point of clarification? I know Commissioner Jacobs had
21 suggested coming back and revisiting the issue should the
22 law change with respect to this. And we wanted to point
23 out that the interconnection agreement itself also
24 requires that the party renegotiate based on any change in
25 the law.

1 **CHAIRMAN JACOBS: Okay. That's fine.**

2 **COMMISSIONER BAEZ: Thank you.**

3 **CHAIRMAN JACOBS: Thank you. Been moved and**
4 **seconded. All favor, aye.**

5 **COMMISSIONER JABER: Aye.**

6 **CHAIRMAN JACOBS: Aye.**

7 **COMMISSIONER BAEZ: Aye.**

8 **CHAIRMAN JACOBS: Oppose? Show Issue 6 is**
9 **approved.**

10 **COMMISSIONER JABER: I can move Issue 8.**

11 **COMMISSIONER BAEZ: Second.**

12 **CHAIRMAN JACOBS: Without objection, show Issue**
13 **8 approved.**

14 **COMMISSIONER JABER: Did anyone have any**
15 **questions on Issue 15, Mr. Chair?**

16 **CHAIRMAN JACOBS: No.**

17 **COMMISSIONER JABER: I can move Issue 15.**

18 **COMMISSIONER BAEZ: Second.**

19 **CHAIRMAN JACOBS: Without objection, show Issue**
20 **15 approved.**

21 **COMMISSIONER JABER: What about Issue 18?**

22 **CHAIRMAN JACOBS: I think I had my questions**
23 **answered.**

24 **COMMISSIONER JABER: Okay. I can move Issues**
25 **18, 19, and 22.**

1 **CHAIRMAN JACOBS:** I do have -- let me just --
2 this is the issue where they go from one switch to the
3 other and whether or not they have to pay for the
4 dedicated transport; right?

5 **COMMISSIONER BAEZ:** I'm sorry, which issue are
6 you on, Chairman?

7 **CHAIRMAN JACOBS:** This is 18, I'm sorry.

8 **COMMISSIONER BAEZ:** Okay.

9 **MR. AUDU:** What was the question again?

10 **CHAIRMAN JACOBS:** This is the one where
11 BellSouth is completing calls -- no, I'm sorry. I'm
12 trying to remember how the -- I saw the -- I'm thinking of
13 the diagram but from another case, so I'm trying to avoid
14 mentioning that particular hearing. But if I understand
15 the concept, this is the instance where an alternative
16 carrier is completing the call to a BellSouth customer; is
17 that correct?

18 And then that call goes over that network, over
19 the alternative carrier's network, but BellSouth doesn't
20 want to pay that part -- well, their switch is outside of
21 BellSouth's area, and they have to haul it back into their
22 area.

23 **MR. AUDU:** No, sir, I believe you're mistaken.
24 That -- I mean, this would -- point of interconnection
25 issue.

1 **CHAIRMAN JACOBS: Right.**

2 **MR. AUDU: I mean, this --**

3 **CHAIRMAN JACOBS: That's what it is. I'm just**
4 **not explaining correctly. Right.**

5 **MR. AUDU: That is not a point of**
6 **interconnection. This is entirely different.**

7 **CHAIRMAN JACOBS: Okay. I understand that. I'm**
8 **glad you cleared me up on that.**

9 **MR. FULWOOD: That's Issue 36, Commissioner.**

10 **COMMISSIONER BAEZ: Did you move 18?**

11 **COMMISSIONER JABER: I moved 18 through 22.**

12 **COMMISSIONER BAEZ: Second.**

13 **CHAIRMAN JACOBS: Without objection, show Issues**
14 **18 through 22 are approved.**

15 **COMMISSIONER JABER: Any questions on Issue 23?**

16 **CHAIRMAN JACOBS: No.**

17 **COMMISSIONER JABER: I can move 23, 28.**

18 **CHAIRMAN JACOBS: I do have a question on 28.**

19 **COMMISSIONER JABER: Okay. So move Issue 23.**

20 **COMMISSIONER BAEZ: Second.**

21 **CHAIRMAN JACOBS: Without objection, show Issue**
22 **23 is approved.**

23 **We're saying that we're okay with -- that the**
24 **BellSouth present practice is sufficient to meet what the**
25 **obligations are in providing this information; is that**

1 correct?

2 MR. BLOOM: Is that Issue 28, sir?

3 CHAIRMAN JACOBS: Yes.

4 MR. BLOOM: Yes, sir. The undisputed testimony
5 in the record was that BellSouth is providing unbundled
6 access to the caller name database as they are required.

7 CHAIRMAN JACOBS: Now, this is a point I was
8 confused. If I understood it, the FCC says that it should
9 be provided upon request; is that correct?

10 MR. BLOOM: Unbundled access, yes, sir.

11 CHAIRMAN JACOBS: Right. But it is my
12 understanding that this is on the complaint that the
13 dispute was over the idea that it wasn't, that they
14 weren't getting it.

15 MR. BLOOM: No, sir. This particular issue to
16 the dispute was WorldCom had asked to actually take
17 physical possession or to have an electronic download of
18 the caller name database.

19 CHAIRMAN JACOBS: Right. So the timing of it
20 wasn't a problem. It was whether or not they had physical
21 ownership --

22 MR. BLOOM: Access versus possession is how I
23 tried to describe it.

24 CHAIRMAN JACOBS: Okay. And so they're okay
25 with -- and I remember we talked about that it's

1 proprietary data. I remember all that. Okay. Very well.

2 COMMISSIONER JABER: Okay. I can move Issues 28
3 through 39.

4 CHAIRMAN JACOBS: Let's see. Thirty-six was one
5 I think I had a question on.

6 COMMISSIONER JABER: Okay. How about Issues 28
7 through 34 then?

8 COMMISSIONER BAEZ: Second.

9 CHAIRMAN JACOBS: Without objection, show Issues
10 28 through 34 are approved.

11 COMMISSIONER BAEZ: On 36, we're holding off the
12 compensation --

13 MR. BLOOM: Yes, sir.

14 COMMISSIONER BAEZ: -- decision? Okay.

15 CHAIRMAN JACOBS: When are we going to do that?

16 MR. BLOOM: Excuse me?

17 CHAIRMAN JACOBS: Okay. All right. I
18 remembered it now. I'm okay with this. We can go on.

19 COMMISSIONER JABER: Move 36 through 39.

20 CHAIRMAN JACOBS: Second?

21 COMMISSIONER BAEZ: Second. I just have one
22 last question on 36. I just want to make sure that -- and
23 you state that the compensation issue gets taken up in the
24 generic docket?

25 MR. BLOOM: I think we only -- we referenced the

1 fact that that will be dealt with in a generic docket, but
2 also the fact that there are obligations under 252(d) that
3 have to be met in order for this Commission to set rates
4 or prices for interconnection, and that testimony is not
5 in the record at this proceeding.

6 COMMISSIONER BAEZ: Will we be dealing with it
7 in generic?

8 MR. BLOOM: Oh, I'd say that's -- yes, sir.

9 COMMISSIONER BAEZ: A certainty. Okay. Thank
10 you.

11 CHAIRMAN JACOBS: Show Issues -- that was --

12 COMMISSIONER JABER: 36 through 39.

13 CHAIRMAN JACOBS: -- 36 through 39. Without
14 objection, show those approved.

15 COMMISSIONER JABER: Now, on issues -- actually,
16 on the stipulated issue, Staff, do you need us to make a
17 motion, or what is it we need to do on Issue 40, for
18 example?

19 MS. CHRISTENSEN: Yes. I believe there would
20 need to be a motion because this is a stipulated agreement
21 between the parties to have the resolution in the generic
22 docket with some interim agreement, so yes.

23 COMMISSIONER JABER: Okay. I can move Issue
24 40 --

25 CHAIRMAN JACOBS: To accept it -- accept the

1 stipulation?

2 COMMISSIONER JABER: -- to accept the
3 stipulation.

4 COMMISSIONER BAEZ: Second.

5 CHAIRMAN JACOBS: Been moved and seconded. All
6 in favor, aye.

7 COMMISSIONER JABER: Aye.

8 CHAIRMAN JACOBS: Aye.

9 COMMISSIONER BAEZ: Aye.

10 CHAIRMAN JACOBS: Show Issue 40, the
11 stipulation, is accepted.

12 COMMISSIONER JABER: Are there any questions on
13 Issues 42 through 45?

14 CHAIRMAN JACOBS: No.

15 COMMISSIONER JABER: I can move Issue 42 and
16 Issue 45.

17 COMMISSIONER BAEZ: Second.

18 CHAIRMAN JACOBS: Without objection, show Issues
19 42 and 45 are approved.

20 COMMISSIONER JABER: I can move the acceptance
21 of the stipulation in Issue 46.

22 CHAIRMAN JACOBS: Second?

23 COMMISSIONER BAEZ: Second.

24 CHAIRMAN JACOBS: Without objection, show the
25 stipulation accepted in Issue 46.

1 **COMMISSIONER JABER: Forty-seven I can move.**

2 **COMMISSIONER BAEZ: Second.**

3 **CHAIRMAN JACOBS: Okay. I can go with that.**

4 **This doesn't get into the discussion of whether or not**
5 **they come up with different rates or not, do they?**

6 **MR. HINTON: Are you talking about Issue 47,**
7 **Commissioner?**

8 **CHAIRMAN JACOBS: Yes.**

9 **MR. HINTON: No. We didn't -- the record didn't**
10 **really allow us to pursue rates in this particular issue**
11 **in this proceeding.**

12 **CHAIRMAN JACOBS: Okay.**

13 **COMMISSIONER BAEZ: Basically what we're saying**
14 **is just, you know, we're going to follow what's been done**
15 **up to now. We're not --**

16 **MR. HINTON: Well, we're actually saying in this**
17 **recommendation that reciprocal compensation will be paid**
18 **for this traffic, but basically that is status quo.**

19 **COMMISSIONER BAEZ: You're not breaking any new**
20 **ground.**

21 **MR. HINTON: Right. That's basically what's**
22 **been going on, yes.**

23 **COMMISSIONER JABER: Why don't the agreements --**
24 **just out of curiosity, it's not -- I know not in this**
25 **issue, but why don't the agreements cover the prices? Why**

1 is it we don't have testimony on the prices associated
2 with recip comp payments on this issue?

3 MR. HINTON: Specifically about ISP-bound
4 traffic?

5 COMMISSIONER JABER: Uh-huh.

6 MR. HINTON: The issue itself didn't approach
7 issues for this traffic, and the record just didn't go
8 there. It just wasn't approached.

9 COMMISSIONER JABER: But I guess I'm trying to
10 educate myself as the Prehearing Officer in some of these
11 cases. Are these questions we should be asking to make
12 sure that -- I mean, when you decide whether the traffic
13 is local or not and, therefore, reciprocal compensation
14 should be due, it seems like a no-brainer that the parties
15 should also put on testimony about what the amount should
16 be. Is there something I'm missing?

17 MR. HINTON: Well, no, that's -- in previous
18 arbitrations, the Global NAPS arbitration, for one thing,
19 we did address rates in that with the point of addressing
20 a separate rate for ISP-bound traffic. In this
21 proceeding, it's just MCI or WorldCom's main testimony was
22 that, yes, we should get this rate but at the same
23 reciprocal comp rate that all other local traffic receives
24 it.

25 COMMISSIONER JABER: Okay. I would just ask

1 Staff, I know we all must feel this way, but when I'm
2 Prehearing Officer on a case, point those kinds of things
3 out to me so that I can ask for those issues, or put those
4 issues in, because I want Staff to have everything it
5 needs to make a recommendation to us. So if there's
6 something the Prehearing Officer should do to include in
7 these proceedings I, for one, want you to let me know.

8 MR. HINTON: Okay. Just -- Staff would also
9 like to note that this issue, you know, as well as rates
10 will be addressed in the generic docket, Docket 75.

11 COMMISSIONER JABER: I can move Issue 47 and 51.

12 COMMISSIONER BAEZ: Second.

13 CHAIRMAN JACOBS: Great. Without objection,
14 show Issues 47 and 51 and the stipulation in 51 is
15 accepted.

16 COMMISSIONER JABER: There were questions on 56,
17 59?

18 CHAIRMAN JACOBS: No.

19 COMMISSIONER JABER: I can move 56 and 59.

20 COMMISSIONER BAEZ: Second.

21 CHAIRMAN JACOBS: On 59, is this the issue where
22 there was a question about whether or not they paid up
23 front --

24 COMMISSIONER BAEZ: Huh-uh.

25 CHAIRMAN JACOBS: -- whether or not they have to

1 pay up front for -- that is not it?

2 MR. BARRETT: It's not this issue, no, sir.

3 CHAIRMAN JACOBS: Okay. Without objection, show
4 Issues 56 and 59 are approved.

5 COMMISSIONER JABER: I can move 60. I thought
6 it was odd in hindsight reading the issue why we needed --
7 why the Commission needs to tell parties what to include
8 at a joint planning meeting, but did you-all have the same
9 reaction? But, again, that's where I come in, I suppose.
10 Remind me to strike issues like this. I could move Issue
11 60.

12 COMMISSIONER BAEZ: Second.

13 CHAIRMAN JACOBS: Without objection, show Issue
14 60 is approved.

15 COMMISSIONER JABER: I can move Issue 61 and 63.

16 COMMISSIONER BAEZ: Second.

17 CHAIRMAN JACOBS: Without objection, show Issues
18 61 and 63 are approved.

19 COMMISSIONER JABER: On 64, Commissioners, I'm
20 inclined to -- especially based on -- yesterday, we were
21 educated on how we could exercise our state jurisdiction
22 in the interest of promoting competition to make ALECs
23 aware of what agreements are out there. And in that
24 spirit and based on the evidence that I think exists in
25 this record on Issue 64B, I'm inclined to require

1 **BellSouth to post the agreements on their own Web site in**
2 **addition to what the State has to do. But if we are**
3 **trying to get the ALECs to know what the agreements say**
4 **and what they can adopt, then why would we not take that**
5 **extra step and require BellSouth to post it on its Web**
6 **site? I know they are not obligated to, but I'm**
7 **suggesting that we exercise our state authority to require**
8 **BellSouth to do it.**

9 **COMMISSIONER BAEZ: You're not changing B then,**
10 **are you?**

11 **COMMISSIONER JABER: So I think on Issue 64A, I**
12 **would move Staff, but on 64B, I would be --**

13 **MR. FULWOOD: May I address you on 64B? 64B is**
14 **not what you are speaking of.**

15 **MR. HINTON: Commissioner, you are thinking of**
16 **109B.**

17 **MR. FULWOOD: Yeah, you're thinking of 109B.**

18 **COMMISSIONER JABER: Yes, I am, I am. Which one**
19 **is this?**

20 **MR. FULWOOD: 64B is dealing with entrance**
21 **facilities.**

22 **COMMISSIONER JABER: Oh, this is -- I wrote this**
23 **down as an example of how we had required BellSouth to add**
24 **to the Web site. So, again, changing then 109B would not**
25 **be inconsistent with this issue, would it?**

1 **MR. FULWOOD: No.**

2 **COMMISSIONER JABER: Okay. I can move 64 in its**
3 **entirety then.**

4 **COMMISSIONER BAEZ: Second.**

5 **CHAIRMAN JACOBS: Without objection, show Issue**
6 **64A and B are approved.**

7 **COMMISSIONER JABER: I can move Issue 65 through**
8 **75.**

9 **COMMISSIONER BAEZ: I had a question on 68.**

10 **CHAIRMAN JACOBS: Yeah, that's the one I was --**

11 **COMMISSIONER JABER: Okay. 65 through --**

12 **CHAIRMAN JACOBS: Sixty-seven.**

13 **COMMISSIONER JABER: -- 67.**

14 **CHAIRMAN JACOBS: Second?**

15 **COMMISSIONER BAEZ: Second.**

16 **CHAIRMAN JACOBS: Without objection, show Issue**
17 **65 through 67 are approved.**

18 **COMMISSIONER BAEZ: And I'm trying to recall,**
19 **this is the one that changes; right? We're not telling**
20 **them that they have to require; this is the one that may**
21 **require? Okay.**

22 **MR. BARRETT: Yes, that's correct, Commissioner.**
23 **The reason that we looked at that change, Commissioner,**
24 **was we felt like it was fairly restrictive as it was**
25 **written previously, and we wanted to give the parties some**

1 latitude rather than put them in a corner.

2 COMMISSIONER BAEZ: Now, refresh my memory. Was
3 there any discussion about whether there was an adequate
4 partial advance or --

5 MR. BARRETT: From the bench, there was some
6 discussion in the context of the hearing, but neither
7 party supported the particular position.

8 COMMISSIONER BAEZ: Okay. All right. I can
9 move 68.

10 CHAIRMAN JACOBS: I have a question also. I'm
11 trying to remember the discussion on that. It seems like
12 there was some discussion that whether or not parties have
13 an opportunity to agree, and I think there was some
14 thought that the estimates of what the cost would be were
15 pretty much unilateral. They were obtained only by
16 BellSouth, and there was some thought from MCI that they
17 could refute those costs. Was that a part of this
18 discussion?

19 MR. BARRETT: Not that I recall, sir.

20 CHAIRMAN JACOBS: It's from another docket then.
21 But the thought occurred to me here. Why not make this as
22 flexible as possible? I don't have a problem with
23 requiring some committment. I think that that's
24 reasonable, and I agreed with the concept that they
25 shouldn't go off and undertake this work without some firm

1 commitment that it's really needed, but are advanced
2 payments the only evidence of that commitment?

3 MR. BARRETT: Well, again, I come back to what
4 Commissioner Jaber spoke of earlier. Staff was somewhat
5 puzzled why the parties couldn't work this out before it
6 got to this.

7 CHAIRMAN JACOBS: I agree, I agree, but, I mean,
8 this has a concern for me because it has precedential
9 value. And while for MCI it may not pose a great barrier,
10 but for medium and smaller companies this could be a
11 substantial barrier for them to get collocation space.
12 And I have a real concern about how we go forward with a
13 requirement like this. So I will be very concerned about
14 trying to make this as flexible an arrangement as
15 possible.

16 As long as a commitment that's reasonable can be
17 obtained, I think we ought to go for that, but the thing
18 that distracts me is that most of these medium and
19 smaller-sized companies are already -- when they get to
20 the point of looking at physical collocation, they are
21 already pretty much down a pretty deep trough in terms of
22 expense. And to try to do that -- do all the collocation
23 preparation work up front, in my mind, could become --
24 when you think about it, they may be doing this in several
25 central offices at once. That can begin to be a pretty

1 significant challenge for a company that's entering the
2 marketplace.

3 **MR. BARRETT:** And, sir, I would agree.

4 **Commissioner,** BellSouth's perspective was that they wanted
5 to treat all of the ALECs uniformly. And they didn't want
6 to -- again, the record reflects that BellSouth wanted to
7 have a particular arrangement with this ALEC and have
8 another arrangement with another ALEC.

9 **CHAIRMAN JACOBS:** Which is exactly my concern.
10 My concern is that the burden will be more -- it would be
11 a greater burden on smaller companies to make them do full
12 up front payments on this.

13 **COMMISSIONER JABER:** How can you treat them
14 uniformly if each one has to enter into a separate
15 interconnection agreement? So that's the fallacy of that
16 argument that BellSouth doesn't want to go down the road
17 of treating each ALEC differently.

18 **Well,** each ALEC enters a different
19 interconnection agreement, perhaps some of the same terms
20 as previous agreement but -- and this was the case,
21 **Commissioner,** where I heard some room for negotiation even
22 on the stand. I recall, based on some questions from
23 **Commissioners,** we were asking the witnesses, well, what's
24 wrong with a 60-40 or a 70-30? I remember that
25 discussion, and you, in fact, refer to it on Page 174.

1 **So is this one where we kick it back to the**
2 **parties and say -- we can't -- we don't have the**
3 **discretion to kick these issues back to the parties and**
4 **say, negotiate some more; right? We have to resolve all**
5 **the issues they bring to our attention.**

6 **MR. BARRETT: I'd ask counsel to respond to**
7 **that.**

8 **MS. CHRISTENSEN: Yes, that would be correct.**
9 **Under the current decision order on the merits by**
10 **Judge Hinkle, that is the position that the Commission**
11 **finds itself.**

12 **COMMISSIONER BAEZ: Commissioners, my reading of**
13 **our conclusion here, it says that BellSouth may require**
14 **advance payment. So, in my mind, we're not -- we're**
15 **really not endorsing one method over another. We're**
16 **just -- we're throwing out some permissive standard.**

17 **COMMISSIONER JABER: That's a good point. The**
18 **parameter.**

19 **COMMISSIONER BAEZ: There is one parameter, yes.**
20 **They do have -- that they may require it.**

21 **COMMISSIONER JABER: Right.**

22 **COMMISSIONER BAEZ: I don't think that that's**
23 **saying anything that forecloses addressing make-ready work**
24 **in a manner that might be more, you know, flexible.**

25 **COMMISSIONER JABER: And I guess, Mr. Chairman,**

1 you can even put language in the order that encourages
2 them to be as flexible as they can, that this was
3 resolving the issue, but in no way does it --

4 **COMMISSIONER BAEZ:** That's what I was thinking
5 about as well. I mean, I don't think we're making -- I
6 don't think we're -- our conclusion is -- limits their
7 ability to be flexible in any way. I mean, that they
8 want -- that they make their decisions based on their
9 interpretation of what is treating all carriers alike, you
10 know, I don't know that we can get into that now.

11 **CHAIRMAN JACOBS:** I can live with some language.
12 I think I would like to take it a little bit further. I
13 want to certainly go for flexibility. I would even
14 consider that we not -- that we limit the precedential
15 impact of this requirement. I think it ought to be on a
16 case-by-case basis, if I had my druthers. But I
17 certainly -- I don't think we can say that in this docket.
18 What I think we can say is that we think, given the
19 negotiating position of these parties in this agreement,
20 that it's a reasonable thing, but I will look at it
21 differently if it were different parties with different
22 negotiating positions. Okay.

23 **MS. CHRISTENSEN:** So let me see if I understand.
24 To the conclusion where we talk -- the sentence reads, for
25 purposes of the interconnection agreement between

1 **BellSouth and WorldCom, BellSouth may require advanced**
2 **payment for ready-made work.**

3 **You'd like an additional sentence that**
4 **clarifies, however, this may not be applicable to other**
5 **arrangements, or do you want an additional clarifying**
6 **sentence, or do you think --**

7 **CHAIRMAN JACOBS: No. Read the first sentence**
8 **that you --**

9 **COMMISSIONER JABER: The issue itself -- what**
10 **Staff is trying to say, I think, is that the issue does**
11 **make it limited to this agreement. It is limited to a**
12 **case-by-case basis.**

13 **CHAIRMAN JACOBS: Okay. Yeah, as I read the**
14 **issue.**

15 **COMMISSIONER JABER: But I think what we're**
16 **suggesting is you add one more sentence that says, the**
17 **Commission encourages BellSouth to be --**

18 **CHAIRMAN JACOBS: Flexible.**

19 **COMMISSIONER JABER: -- flexible with respect to**
20 **negotiating advanced payment.**

21 **CHAIRMAN JACOBS: All right.**

22 **COMMISSIONER JABER: I don't want to put words**
23 **in your mouth, Chairman. Whatever --**

24 **CHAIRMAN JACOBS: That sounds much better than I**
25 **could have said.**

1 **MS. CHRISTENSEN: Encourages BellSouth in**
2 **negotiating to be flexible in --**
3 **CHAIRMAN JACOBS: Negotiating --**
4 **MS. CHRISTENSEN: -- negotiating the ready-made**
5 **work. Thank you.**

6 **CHAIRMAN JACOBS: And with those amendments, do**
7 **I have a motion on --**

8 **COMMISSIONER BAEZ: Show moved.**

9 **COMMISSIONER JABER: Second.**

10 **CHAIRMAN JACOBS: Without objection, show**
11 **Issue -- is that -- 68 approved.**

12 **COMMISSIONER JABER: I can move Issue 75.**

13 **COMMISSIONER BAEZ: Second.**

14 **CHAIRMAN JACOBS: Without objection, show Issue**
15 **75 is approved.**

16 **COMMISSIONER JABER: I think the question I had**
17 **on Issue 80 was resolved early on. It related to the**
18 **electronic interface, but let me make sure. Yeah, on Page**
19 **182. And I went back to the transcript on Pages 77 and**
20 **78, which of course I didn't bring with me, Patty, I**
21 **apologize for that, but it seemed to -- I got out of the**
22 **record that there is some room for requiring more**
23 **electronic application to application interface with**
24 **BellSouth. And from Staff's recommendation, I get the --**
25 **I get the notion that you agree with that.**

1 **MR. BLOOM:** I think what's being -- what's in
2 the recommendation is, there probably are some
3 efficiencies that would result from that, but in this
4 specific instance what WorldCom is asking for is to take
5 the ASR process, which they use to order special access,
6 and convert that into ordering local service.

7 **And I think there's a real question -- I mean,**
8 **the question that arises is, do you order BellSouth to**
9 **make that conversion for one carrier?**

10 **COMMISSIONER JABER:** Well, how -- when the
11 **Commission addresses these issues in arbitrations, isn't**
12 **that exactly what the arbitration contemplates?**

13 **MR. BLOOM:** Yeah. I mean, I don't disagree with
14 **that, but I think -- I guess the way I would phrase it is,**
15 **there is an industry standard out there, and that's what**
16 **BellSouth has said you are going to use. And part of**
17 **this, I think, is wrapped up in the fact that you have a**
18 **carrier that's going from being primarily interexchange to**
19 **now local service and wanting to say, I want to take the**
20 **processes I used as an interexchange carrier and now use**
21 **those as I become a local service provider.**

22 **COMMISSIONER JABER:** What other data, Kevin,
23 **could WorldCom have presented just in an effort to kind of**
24 **make these cases better going forward? What would Staff**
25 **have been looking for? Specifically on Page 182 in the**

1 middle of the paragraph, you say that, you know, based on
2 the evidence in the record, WorldCom wasn't able to
3 present data that can be independently evaluated. What
4 more can ALECs show us?

5 MR. BLOOM: Well, for example, I think there was
6 testimony in the record that -- what happened in other
7 states, and it was just sort of tossed off as, well, you
8 know, it works better in other states where we've done it.
9 Well, you know, could you give us something that we could
10 look at instead of just saying, hey, it works better
11 somewhere else? That would be very helpful.

12 I mean, if there were some kind of studies, if
13 there was some kind of -- you know, whether it be time and
14 motion studies or whatever that specifically said, here's
15 the difference between, you know, using LSR and ASR, then
16 we would have something to work with. But at the present
17 time, we have virtually nothing in the record.

18 COMMISSIONER JABER: At a Staff level, have we
19 looked at that? Independent of this docket, is that an
20 analysis that we need to do as well?

21 MR. DOWDS: I'm sorry, looked at what?

22 COMMISSIONER JABER: The fallout numbers in
23 using manual versus electronic. What Kevin -- if I
24 understand you correctly, Kevin, what you are saying is,
25 you need hard data in the form of some comparative study

1 that shows the advantages of what other states have done
2 and the problems, for example, versus the problems that
3 these ALECs have in Florida.

4 MR. DOWDS: Well, that might be appropriate and
5 useful, but what's really at issue here is, in order for
6 BellSouth to be required to do this, it would have been
7 incumbent upon WorldCom to demonstrate one of two things,
8 that somehow there's a lack of parity, or if there is no
9 retail analog, then their ability to compete is impaired.
10 The WorldCom witness denied that their ability to compete
11 would be impaired, so the issue is moot.

12 COMMISSIONER JABER: Right. And actually, I
13 appreciated her candor, because what she went on to say
14 is, we acknowledge our ability to compete is not impaired,
15 it's the quickness or the timeliness in which we are able
16 to compete. But will some of my concerns be addressed in
17 the same sort of investigation we talked about early on?
18 You just said that WorldCom was unable to demonstrate the
19 lack of parity. Does it all relate back to what it is
20 that BellSouth is really doing internally?

21 MR. DOWDS: Presumably, yes.

22 COMMISSIONER JABER: Okay. Mr. Chairman, I
23 can --

24 MS. SIMMONS: Commissioner Jaber, I just wanted
25 to make a quick remark. I guess I'm struggling here a

1 little bit because the issue at hand, as Mr. Bloom
2 indicated, involves taking an ordering process that
3 interexchange companies use and try to transfer that over
4 to the local arena. And I think there's really a question
5 as to whether or not there is any obligation on the part
6 of BellSouth to do that.

7 It may be more efficient, but I'm not really
8 sure that BellSouth is obligated to allow that ordering
9 process used in the IXC world to be used over in the local
10 arena.

11 COMMISSIONER JABER: Okay. So your
12 recommendation then is really based that they are not
13 obligated under the Act to do it.

14 MS. SIMMONS: That's my belief, yes.

15 CHAIRMAN JACOBS: What if BellSouth comes in
16 later on and modifies and upgrades their retail process?
17 Do we have an option then to come back in and say, okay,
18 guys -- and see, here's my point. What we're doing is
19 essentially giving them an incentive not to do that.
20 We're saying, so long as you can keep your retail process
21 where it is, which arguably may or may not be, you know,
22 where we think it is, you don't have to go back and
23 provide that to the other guys. Should we provide an
24 incentive to them to get their retail process state of the
25 art?

1 **MR. DOWDS:** I guess my answer would be (a)
2 perhaps; (b) this is not a retail process, which
3 is why it's --

4 **CHAIRMAN JACOBS:** What you just said is that
5 they don't have to do this until their retail process is
6 at that stage. Is that --

7 **MR. DOWDS:** No. This is not -- the ASR process
8 is not a retail process. It's for wholesale orders to an
9 IXC.

10 **CHAIRMAN JACOBS:** Understood.

11 **MR. DOWDS:** But going back to the point I made
12 earlier, what do they have to do under the Act in terms of
13 nondiscriminatory access to UNEs and interconnection?
14 There's two standards: One is parity where there's a
15 retail analog. This is not a retail process, so it's --
16 that's -- you know, you don't even have to go any further.
17 Or two, if there's not a retail analog, in other words, if
18 there's not something in place for the retail operations,
19 it's the ability to compete.

20 And this is (a) not a retail, so they fail on
21 that point, and (b) the witness acknowledged that there's
22 no impairment to their ability to compete, so it's --

23 **CHAIRMAN JACOBS:** Now, understand my point. My
24 point is -- first of all, I accept that this is not a
25 retail process, but my point is, it would occur to me that

1 in pursuing a local competitive arena that we want to call
2 out as much innovation and efficiency and economic
3 benefits as we possibly can. And in doing so, if there is
4 a process that improves upon what's happening now, I want
5 to find a way to try and make that as much of a standard
6 as I possibly can.

7 What I hear you saying is that so long as
8 BellSouth chooses not to roll out a process like that, we
9 can't bring that to the marketplace. And what I'm saying
10 now then, if that's the case, we can't force them to do
11 it, how can we provide incentives to do it?

12 MR. DOWDS: If I -- I did not mean to say that,
13 if you took me to say that. What I'm saying is, this is
14 an arbitration. There are issues teed up, and they are
15 yes-no issues. And the issue is, is this a -- does it
16 meet the standard such that BellSouth has to do what they
17 want them to do? And our response is no.

18 CHAIRMAN JACOBS: Okay. I buy that.

19 MR. DOWDS: But --

20 CHAIRMAN JACOBS: Go ahead.

21 MR. DOWDS: But we haven't said anything in
22 terms of whether on a generic basis or in a different
23 venue would it be appropriate for BellSouth to do things
24 it's not currently doing. That's a whole different issue.
25 In other words, could they be better than they are?

1 Presumably yes. But that's not an issue in this
2 arbitration.

3 CHAIRMAN JACOBS: Okay. Then we need to find a
4 vehicle to address this question. And I think that was
5 similar to the question that Commissioner Jaber raised
6 earlier. We have to get there.

7 MR. DOWDS: Right. And I believe that's the
8 subject matter of the investigation that you want us to
9 tee up in the near future.

10 CHAIRMAN JACOBS: Thank you.

11 COMMISSIONER JABER: Yeah. See, I mean, we all
12 recognize these are arbitrations. And I don't know that
13 we want to stretch these -- we're not trying to stretch
14 these proceedings and make them something that they are
15 not. We recognize that, but I think what has nagged at me
16 and what I've heard Chairman Jacobs talk about today is,
17 when is it that the Commission might want to exercise its
18 ability to perhaps order BellSouth to go to a complete
19 electronic interface? And that's what I need your results
20 for.

21 I want to know if there is a point in time where
22 the Commission wants to step in in the effort of promoting
23 competition in Florida where we would be more proactive in
24 saying, you know what? It's more efficient for you to go
25 to a complete electronic interface for ordering, and you

1 should.

2 **MR. FULWOOD:** There are industry groups such as
3 the ordering and billing forum and stuff like that that is
4 responsible for trying to develop interfaces. And these
5 groups are comprised of ALECs and ILECs, and it's like
6 nationwide forums, and I can't describe what the titles
7 are of each of these groups, but they are responsible for
8 conducting the exact kind of -- answering the exact kind
9 of questions that you have.

10 **And they get together and try to make interfaces**
11 **electronic and develop these electronic interfaces for**
12 **each of the ALEC systems. And so -- and that's where**
13 **stuff like, you know, TAG and these certain formats and**
14 **protocols and stuff must be addressed on the individual**
15 **level for each system.**

16 **So there are groups that do address that. I**
17 **can't give you the identity of each kind. I just know the**
18 **OBF is one, and there are several others that do do that.**

19 **COMMISSIONER JABER:** Okay. Who had the question
20 on 80? Commissioner Baez, are we ready to move Issue 80?

21 **COMMISSIONER BAEZ:** Yes.

22 **COMMISSIONER JABER:** I move it.

23 **COMMISSIONER BAEZ:** I second it.

24 **CHAIRMAN JACOBS:** Without objection, show Issue
25 80 is approved. As an aside, again, not probably --

1 certainly not in this arbitration, one of the issues that
2 I've heard time and time again that I'd like for us to
3 make sure we deal with is, most of the smaller and
4 medium-sized ALECs, if I understood it, were using LENS,
5 and they were avoiding going to TAG for a variety of
6 reasons. And the thought was that ROBOTAG was that step
7 for them. I need to understand whether or not in practice
8 it will be -- it will allow -- first of all, let me step
9 back for a minute.

10 As I understand it, LENS will not be -- will not
11 provide the electronic functionality that was -- that most
12 people are feeling that they need. And if that's true and
13 if you buy off on that, then ROBOTAG was the offering to
14 give that functionality. And what I need to understand
15 is, will it in practice do that? Does medium and
16 smaller-sized companies who asked for that functionality,
17 will they in fact get it, and can they merge over to
18 ROBOTAG?

19 Okay. So that's -- and I just want to bring it
20 out because I've heard that time and time again from
21 medium and smaller companies, and it probably is not an
22 issue in this docket. Okay.

23 MR. FULWOOD: Well, see, one thing about the
24 smaller companies as you were speaking of and in
25 developing LENS and TAG and ROBOTAG and so forth, LENS is

1 strictly just a preordering function.

2 CHAIRMAN JACOBS: Okay.

3 MR. FULWOOD: As we were talking about
4 developing OSS interface, not only does it have to be
5 developed on the ILEC side, it has to be developed on the
6 ALEC side as well. And that's where a lot of the ALECs
7 have the problem in developing their interfaces, because
8 the money that it takes to build out their interface --

9 CHAIRMAN JACOBS: That's exactly what I've
10 heard.

11 MR. FULWOOD: I mean, but as you upgrade, LENS
12 is one of the first preordering systems that came out.
13 But as BellSouth develops and this OBF and those forums
14 get together and develop these new interfaces, can the
15 ALECs effectively keep up with -- it's not that they are
16 not available. They may be available or may not be
17 available, but can they afford to build up their system to
18 match that?

19 CHAIRMAN JACOBS: Okay. That sounds like a
20 reasonable question we need to answer.

21 MR. FULWOOD: But LENS does allow ordering, just
22 a very limited amount of ordering.

23 CHAIRMAN JACOBS: Okay. Great. Thank you.
24 We're on Issue 81.

25 COMMISSIONER JABER: I can move 81 and 94.

1 **COMMISSIONER BAEZ: Second.**

2 **COMMISSIONER JABER: On 95, Staff --**

3 **CHAIRMAN JACOBS: Eighty-one, I'm sorry.**

4 **COMMISSIONER JABER: That's okay. 81?**

5 **CHAIRMAN JACOBS: I think this is the one, but**

6 **that may not be true. There was a process where the**

7 **concern was populating these orders whether or not they**

8 **had the -- whether or not they could minimize the fallout**

9 **of orders by getting good information. Is this --**

10 **MR. BLOOM: That is not this issue, sir.**

11 **CHAIRMAN JACOBS: Okay. Then never mind. Been**

12 **moved. Second?**

13 **COMMISSIONER BAEZ: Uh-huh.**

14 **MR. DOWDS: Chairman, the issue about parsing is**

15 **96A, I think.**

16 **CHAIRMAN JACOBS: Okay. Good.**

17 **COMMISSIONER JABER: So we're done with 81 and**

18 **94?**

19 **CHAIRMAN JACOBS: Right. Moved and seconded.**

20 **Without objection, show Issues 81 and 94 approved.**

21 **COMMISSIONER JABER: On 95, Staff, just a**

22 **question for you. Do you feel like this now makes it**

23 **clear what field should be used? BellSouth's position,**

24 **for example, is that the agreement should make clear how**

25 **these records will be and what format to use, and your**

1 recommendation is that the industry standard EMI format
2 should be used. My naivete in that I don't know -- my
3 question to you is, is it enough to say industry standard
4 EMI format? Does that give them enough direction?

5 MR. BARRETT: I certainly believe it does,
6 Commissioner.

7 COMMISSIONER JABER: I can move 95.

8 COMMISSIONER BAEZ: Second.

9 CHAIRMAN JACOBS: Without objection, show Issue
10 95 is approved.

11 COMMISSIONER JABER: I can move 96.

12 COMMISSIONER BAEZ: Second.

13 CHAIRMAN JACOBS: Without objection, show Issue
14 96 approved.

15 COMMISSIONER JABER: Okay. Ninety-six-A I had
16 questions on. This goes back to -- in an arbitration --
17 oh, this is the parsing issue, Mr. Chairman. In an
18 arbitration, I just confirmed with Staff that we don't
19 have the discretion to not decide an issue. And Staff's
20 recommendation is that the issue of parsing be resolved in
21 the change control process, which I get the impression
22 from the record is some sort of collaborative process that
23 the industry is participating in. But I'm worried that we
24 really don't have that kind of discretion that we need to
25 resolve this issue one way or the other.

1 **MR. HINTON:** That position was actually part of
2 **WorldCom's** position that --

3 **COMMISSIONER JABER:** Okay.

4 **COMMISSIONER BAEZ:** Has it been determined that
5 **no industry standard** exists?

6 **MR. HINTON:** There is no industry standard --

7 **COMMISSIONER BAEZ:** Okay.

8 **MR. HINTON:** -- other than **BellSouth's** way of
9 **doing things** that were --

10 **COMMISSIONER BAEZ:** Fair enough.

11 **COMMISSIONER JABER:** But what is wrong -- for
12 **example, on Page 204,** you believe that actually parsing
13 **the information a little bit more** is reasonable. What's
14 **wrong with our making the decision** that it should be
15 **parsed even more?**

16 **MR. HINTON:** I imagine that's at your
17 **discretion. You know, I agree** that it seems reasonable
18 **for information required from BellSouth** in an LSR be
19 **parsed at the same level as information** provided from
20 **BellSouth in a CSR; however, Staff** felt it was compelling
21 **that the reality that that was an issue** that was being
22 **addressed by the industry by a group of ALECs** at the
23 **present time, WorldCom being one of those,** in the change
24 **control process.**

25 **COMMISSIONER JABER:** Well, can we reword the

1 order to make clear that we are not punting the issue,
2 we're not answering the issue, but rather answering it by
3 acknowledging that the parties wanted to use the change
4 control process to decide this?

5 I mean, no one should complain, especially if
6 the parties agree that this is the right forum to use, but
7 I just don't want an order out there that makes it appear
8 like we're not arbitrating an issue that under law we have
9 to arbitrate.

10 CHAIRMAN JACOBS: Do the parties agree that the
11 change control process would handle this?

12 MR. HINTON: That was part of -- this was one of
13 those issues that I wasn't really sure where the
14 disagreement came from. Part of WorldCom's position was
15 either industry standards or change control process.
16 BellSouth said that's what's happening. It's going to the
17 change control process.

18 CHAIRMAN JACOBS: Well, I guess it's not in the
19 record in this proceeding, but there has been a lot of
20 concern recognized about how effective the change control
21 process is in resolving disputes quickly. I don't doubt
22 that they ultimately get them resolved, but getting them
23 resolved in a timely fashion is a thing that I've
24 understood is an issue there.

25 MR. HINTON: You're right. That was addressed

1 in a different arbitration. We had the hearing recently.
2 That's not in this particular record. I do know that it
3 was marked as a priority by the ALECs involved. By the
4 time that this hearing came about, it seemed like things
5 were progressing rapidly. It's been several months since
6 the hearing, and, you know, the record hasn't been built.
7 So we don't know where that is in the process at this
8 point.

9 **COMMISSIONER JABER:** Cayce, in WorldCom's brief,
10 though, on this issue the parties in their briefs, they
11 don't make it sound like it's a -- that they are agreeing
12 that the change control process necessarily is where the
13 issue is resolved. On Page 87, for example, of the brief,
14 WorldCom is asking that BellSouth be required to provide
15 CSR information in a manner that will enable WorldCom to
16 populate LSR fields automatically with data obtained from
17 CSRs. They go on to give an example of what they mean by
18 parsing.

19 You know, my gut is, if Staff believes that the
20 record supports additional parsing, I'd rather make that
21 decision and be done it.

22 **MR. DOWDS:** Commissioner, if I may?

23 **COMMISSIONER JABER:** Yes. Go ahead.

24 **MR. DOWDS:** It's an arbitration. So question
25 number one implicit in all of these, is BellSouth required

1 by the Act to do it? It's not a matter of whether it's a
2 good idea or not. The issue as framed is, is BellSouth
3 obligated to do the parsing? If they do it for
4 themselves, they have to do it for WorldCom. The record,
5 I believe, indicates they do not parse at the field level
6 for themselves; therefore, they don't have to do it, but
7 they agree they will do it, take it under advisement under
8 the CCP. So the decision tree in an arbitration is, does
9 the law require it?

10 **COMMISSIONER JABER:** That's a very good point.
11 Can that be then the crux of this? Instead of saying
12 we're not going to decide it, we're going to let them
13 handle it in the change control process, can it be that we
14 would find -- we find that BellSouth is not required to do
15 it? And I think we need to also find that we don't want
16 to exercise our state law -- see, I understand what you
17 are saying, that the crux of the argument always is, are
18 they required to do it under the Act? But if I'm not
19 mistaken, we can require more than what the Act requires
20 using our state law. And what you're saying to me is, you
21 shouldn't do that, Commissioners, because BellSouth
22 doesn't even do its own parsing for its own customers.

23 **MR. DOWDS:** Well, I guess -- let me restate two
24 points.

25 **COMMISSIONER JABER:** Okay.

1 **MR. DOWDS: One -- what I'm hearing from you,**
2 **and I think I agree with you -- is that the issue**
3 **conceptually is, no, however. It's no, they're not**
4 **required to do it; however, the record indicates they are**
5 **willing to do it, just not -- they don't want it ordered**
6 **in the context of an arbitration. They want to do it in**
7 **the CCP.**

8 **Your other question was, to what extent can we**
9 **order additional things over and above what the Act**
10 **requires? I have to defer to counsel, but conceptually,**
11 **it's to the extent that whatever we would want to do does**
12 **not conflict with federal law because ultimately I presume**
13 **that would trump whatever we would want to do under state**
14 **law.**

15 **MS. CHRISTENSEN: And as far as state law is**
16 **concerned, I think it was outlined in Issue A, which is to**
17 **the extent that it's not in conflict with FCC rules, the**
18 **Act, federal court orders, and we have the state law**
19 **authority outlined in our statute, then, yes, we could**
20 **require additional terms.**

21 **And just a further point regarding the**
22 **resolution, and I know the order does require us to**
23 **resolve the issues. I think there is a distinction**
24 **between having to resolve the issues and what the**
25 **resolution is. And because our resolution to this is**

1 acknowledge that the parties have basically agreed to
2 address this in the change control process, I think that
3 is a resolution of this issue that is consistent, and we
4 are complying with Judge Hinkle's order.

5 COMMISSIONER JABER: With that clarification,
6 I'm okay with it. You understand my concern. I didn't
7 want the appearance that we were punting this issue or not
8 resolving it.

9 MS. CHRISTENSEN: I understand that, and that is
10 one of the confusions with Judge's Hinkle's order. And I
11 think there is a lot of discussion in 107 and 108
12 regarding the difference between requiring us to resolve
13 it and how we are to resolve it and what conclusion we
14 come to. And I think we must look at those as two
15 distinct processes.

16 CHAIRMAN JACOBS: Can we offer some
17 opportunity -- should we -- let me ask this. Should we
18 offer an opportunity -- and I guess we can address that in
19 107 -- for a party to address -- I mean, anybody can file
20 a complaint, but it sounds to me like in this particular
21 instance whether or not a complaint would be called for
22 would not be clear because you don't know whether or not
23 this is getting resolved or not. Should we say time
24 lines? Should we put some kind of criteria in here that
25 would serve as a trigger so that what's anticipated in

1 resolution of this issue doesn't come about in a manner
2 that we would think reasonable, then we think that that
3 has some bearing on the terms and conditions of this
4 arbitration?

5 MS. CHRISTENSEN: I don't believe a time line is
6 necessary in the arbitration. I think the parties are in
7 the best position to know when they feel a complaint is
8 warranted and that they should bring that to us when they
9 feel a complaint is warranted. You know, I think an
10 automatic trigger would be very difficult to enforce.

11 There may be things that, you know, delay the
12 process, but the parties are comfortable with that. Let's
13 say we put in an arbitrary six-month deadline, but for
14 some reason the parties realize there's a problem, it's
15 going to take an additional time. They may not, if they
16 have the discretion, choose to bring a complaint until
17 after that process works it out. Whereas, an automatic
18 trigger would not allow that discretion of the parties.
19 And I really believe that the parties are in the best
20 position to make the determination when they feel a
21 complaint is warranted.

22 And certainly once a complaint is brought, then
23 the Commission has the authority to address whether or not
24 what they're complaining about took place within a
25 reasonable time.

1 **COMMISSIONER BAEZ: What is our jurisdiction in**
2 **terms of the change control process?**

3 **MS. CHRISTENSEN: As far as addressing the**
4 **change control process, or whether or not they're doing**
5 **anything quickly enough?**

6 **COMMISSIONER BAEZ: When you say "complaint,"**
7 **can the complaint be in the form of a complaint as to how**
8 **the CCP is carried out, how it's being developed? I mean,**
9 **do we have jurisdiction over that?**

10 **MS. CHRISTENSEN: I think when we include this**
11 **issue in the interconnection agreement and basically say,**
12 **you will address this in the change control process,**
13 **because it is -- it will be a term or a condition of the**
14 **interconnection agreement, we would have authority under**
15 **the Act to address this complaint.**

16 **MS. SIMMONS: Commissioners, I don't have real**
17 **specific information, but I did want to convey to you that**
18 **the change control process is being looked at in the**
19 **third-party OSS test.**

20 **COMMISSIONER BAEZ: Okay. I guess my concern is**
21 **that -- and I don't have a problem with your**
22 **recommendation on this. I think the change control**
23 **process, absent an industry standard, acts as a**
24 **substitute. And I don't think that we should be creating**
25 **the industry standard where it's absolutely necessary.**

1 But in recommending or in resolving the issue that it
2 should go through the change control process that we are
3 somehow sending it off into the wind and never to be
4 addressed again because we're letting it out of our
5 jurisdiction, but based on what Ms. Simmons has said,
6 somehow -- and I think you bring up a good point by
7 actually making it a term -- making the CCP a term in the
8 interconnection agreement that somehow -- and I hesitate
9 to say it this way, but I don't know any other words --
10 any other way to put it. So somehow if we didn't have it
11 before, we are somehow extending our jurisdiction or kind
12 of leaving a string there over the CCP.

13 And I guess that would -- I think it's in its
14 proper place, but I don't want to let it go -- you know, I
15 don't want to shoo it away. And I think that's what you
16 were worried about is that we're somehow punting. I don't
17 see it that way now. I think we are putting it where it
18 needs to be.

19 COMMISSIONER JABER: Yeah. And maybe just
20 adding some strong language in the order that makes it
21 clear that that's where we expect that it would be
22 resolved ultimately. Does that make sense?

23 MS. CHRISTENSEN: I think we could probably add
24 additional language that we would clarify that that's
25 where we expect it to be resolved. And certainly we would

1 have jurisdiction over these two parties as it relates to
2 them resolving this problem in the change control process
3 through the interconnection agreement.

4 **COMMISSIONER BAEZ:** Well, yeah, my question, I
5 think, was a little broader. It spilled over because I
6 suspect, you know, while these are two very distinguished
7 companies, they are not unique in raising this type of
8 issue. So to the extent that it's raised in future
9 arbitrations, I think -- I just wanted to be clear as to
10 what it meant to send something to the change control
11 process. Does that mean that we're out of it completely?
12 And I'm told somehow that we're not.

13 **MS. CHRISTENSEN:** Okay. And we can put in some
14 stronger language that the Commission -- not only that the
15 parties have agreed to this, but we expect them to resolve
16 this.

17 **COMMISSIONER JABER:** Thank you, Patty. I can
18 move Issue 96A.

19 **COMMISSIONER BAEZ:** Second.

20 **CHAIRMAN JACOBS:** Without objection, show Issue
21 96A is approved.

22 **COMMISSIONER JABER:** I can move Issue 100.

23 **COMMISSIONER BAEZ:** Second.

24 **CHAIRMAN JACOBS:** Without objection, show Issue
25 100 is approved.

1 **COMMISSIONER JABER: Did anyone have questions**
2 **on Issue 101? I can move it if there are no questions.**

3 **COMMISSIONER BAEZ: Did you move? I can move**
4 **it. I don't have any questions.**

5 **CHAIRMAN JACOBS: Without objection, then show**
6 **Issue 101 is approved.**

7 **COMMISSIONER JABER: Issue 107, order on the**
8 **merits make it clear that we can arbitrate a limited**
9 **damages provision even though this agency can't award**
10 **damages. Okay. I can move Issue 107.**

11 **COMMISSIONER BAEZ: Second.**

12 **CHAIRMAN JACOBS: I want to explore. I'm in**
13 **essential agreement with that -- with your position, but**
14 **I'm wondering, does that leave out any thought of**
15 **enforcement at the state level? We obviously can**
16 **entertain complaints. I think there's clear jurisdiction**
17 **for that; right?**

18 **MS. CHRISTENSEN: Yes. There's no dispute that**
19 **we can entertain complaints based on the terms of the**
20 **interconnection agreement. I think what's at issue here**
21 **is damages. And I think it's clear from the Commission's**
22 **history that we don't award damages. That's a court**
23 **action. So, you know, we're not limiting ourselves from**
24 **arbitrating the complaints, making findings, and then if**
25 **the parties wish to take our orders to court and have**

1 those enforced in a court of competent jurisdiction, which
2 I believe would be the federal courts because this is a
3 federal act or federal complaint, they could do so.

4 **CHAIRMAN JACOBS:** There is a term that has
5 become known surrounding the Act. I think it's called
6 rocket docket. And it has to do with expedited procedures
7 to address some of these concerns. Have we implemented or
8 entertained procedures such as that?

9 **MS. CHRISTENSEN:** I think that we have looked at
10 it, and I know Ms. Keating is in a better position to
11 address that.

12 **CHAIRMAN JACOBS:** Ms. Keating.

13 **MS. KEATING:** The most that I can tell you is
14 that I know before Ms. Bedell left there had been some
15 preliminary development of some rocket docket type
16 procedures that involved the use of a hearing officer as
17 opposed to panels, but that's as far as it's gotten. And
18 from what I recall, frankly, because of the restrictions
19 of 120, it didn't really shorten up the time frames all
20 that much, although it did help as far as getting hearing
21 dates. But that's as far as it's gotten. It's never been
22 to Internal Affairs.

23 **MR. DOWDS:** I would note that in Docket Number
24 981834, which is the FCCA competition petition a couple of
25 years ago, one of the issues that was raised is they

1 wanted something that was conceptually like a rocket
2 docket. They wanted expedited complaint processing for
3 intercarrier complaints, and that was the one request that
4 was denied because -- I forget the exact reasoning, but I
5 believe it was because they would be treated differently
6 than other providers.

7 **CHAIRMAN JACOBS:** Did we deny it, or did we say
8 we were going to look at other things and we never really
9 got back? Because I think we were going to look at some
10 alternative ways of dealing with that, though. I defer to
11 your recollection, but I thought we said we were going to
12 look at alternative ways of addressing those, and we just
13 never did.

14 **MR. DOWDS:** I don't recall. I do know that was
15 the one thing that they asked for that was not granted,
16 but I forget the exact way it was phrased. I think it was
17 couched something along the lines that they wanted an
18 expedited complaint processing procedure to handle
19 ILEC/ALEC complaints. And I seem to recall the concerns
20 were, it would be why just them as opposed to all other
21 industries for complaint --

22 **COMMISSIONER JABER:** Because 364 says treat them
23 differently.

24 **MS. SIMMONS:** Commissioners, I remember much the
25 same thing but maybe with a slightly different wrinkle. I

1 recall also that the request was denied. What I recall as
2 to the reasoning was that there was concern -- you know,
3 that perhaps a complaint maybe shouldn't receive
4 necessarily preference scheduling-wise over an
5 arbitration. We felt it was perhaps just trying to rank
6 order and prioritize where maybe it wasn't appropriate.

7 You know, to just to -- basically we would
8 almost -- had we granted it, we would almost be assuming
9 that the complaint would take priority over other types of
10 cases, and that might or might not be appropriate
11 depending on the circumstances. There might be some other
12 pressing matter that doesn't happen to be a complaint.
13 That's how I remember it.

14 **COMMISSIONER JABER:** Well, I guess what's wrong
15 with that or perceived wrong with that is, if you have a
16 complaint that alleges anti-competitive behavior or that
17 there has been a competitive barrier, then --

18 **MS. SIMMONS:** I think it really depends on the
19 nature of the complaint. Under something that you're
20 describing, clearly that's something you'd want to get
21 remedied as quickly as possible, but the complaint might
22 not be as severe as what you're describing.

23 **COMMISSIONER JABER:** Chairman, the questions
24 you're asking about the rocket docket go to that, though;
25 correct?

1 **CHAIRMAN JACOBS:** It strikes me, however, that
2 that doesn't get to the crux of the issue. I mean, what
3 we're seeing now, and we may not see a lot of them in
4 Florida, although we do have one in Florida, but we're
5 seeing proliferation around the country of private
6 litigation, antitrust actions, that essentially entail
7 complaints on arbitration agreements. Now, if that's what
8 promotes the marketplace and that's what moves this along,
9 then maybe that's where this needs to happen.

10 I would suggest to you that that's not what
11 those litigations are about. And that's where damages
12 ought to be dealt with, I agree. What I'm hoping we're
13 focussed on how is, how do we bring solid measures of
14 competitive forces to these markets? And if hearing
15 complaints that demonstrate trends of -- I don't want to
16 get into arbitration, I mean, antitrust type of a posture.
17 What I want to get at is, can I detect the existence of a
18 pattern of a problem that we can deal with?

19 And what I hear in visits and when I go out to
20 the companies, I'm deluged with that kind of a
21 presentation, but it's never on the record, it's never
22 official. So it never seems to be anything that we can
23 deal with on a comprehensive manner.

24 We come and we do get arbitration dockets, and
25 we do look at these things in episodic fashion. And I'm

1 concerned that what we have now is companies -- and I'll
2 be quite frank with you. Why I think it's a pressing
3 matter now is that I think we have companies now that
4 don't have the luxury or the time or the expense to
5 continue to file these types of complaints.

6 We do not have companies out there that can
7 pursue these types of complaints. They are on
8 resuscitation, most of them. And if they are making
9 money, they are good. I think at this point in time at
10 the stage of this market, if we don't get a handle on what
11 the real terms of doing business in these markets are and
12 try and figure out how to make them effective and
13 efficient, then they won't have a market. We may have two
14 or three people out there, but we won't have any
15 reasonable body of CLECs -- of ALECs out there competing.
16 And I think that's our charge right now.

17 And I think to simply walk away from the idea of
18 how to have a handle of the patterns of problems that are
19 in the marketplace is not a reasonable cause of action
20 right now. Now, whether or not we do it in this one or
21 not, I'm suggesting that we need a vehicle to do that.

22 MS. SIMMONS: Commissioners, I was just going to
23 point out that at least within our division we are trying
24 to look at alternative ways of perhaps handling some of
25 these dockets. Nothing for official publication,

1 certainly, at this point, but we are trying to see if
2 there are other ways that we can handle some of these
3 proceedings in a more streamline fashion. So we recognize
4 that we've got to look for ways to do things faster.

5 **CHAIRMAN JACOBS:** I don't want to belabor this
6 because we probably need to move on. I'd like to have a
7 focus discussion, maybe even a workshop, on this
8 particular issue. I'm leaving fluid for right now, but
9 I'd like in the near term -- and this is separate and
10 aside from the other. The other I think is a slightly
11 different question, although they are related. But this
12 specifically I think deserves some time and attention, and
13 I'd like for us to figure out how to get a proper focus on
14 this. So if you would, come and visit with me, and let's
15 talk about that, I'd appreciate it. That's all.

16 **Any further questions on Issue 107?**

17 **COMMISSIONER JABER:** No. I think I moved it.

18 **COMMISSIONER BAEZ:** Second.

19 **CHAIRMAN JACOBS:** Been moved and seconded.

20 **Without objection, show Issue 107 is approved.**

21 **COMMISSIONER JABER:** I can move Issue 108.

22 **COMMISSIONER BAEZ:** Second.

23 **CHAIRMAN JACOBS:** Without objection, show Issue
24 **108 is approved.**

25 **COMMISSIONER JABER:** And Issue 109B -- well,

1 Issue 109 is the one I was talking about requiring
2 BellSouth to post the interconnection agreements on their
3 Web site. So I'm breaking this up. I would move Staff on
4 Issue A, and I would deny Staff on Issue B and require
5 BellSouth's interconnection agreements with third parties
6 to be posted on the Web site -- on their Web site.

7 COMMISSIONER BAEZ: Second.

8 MR. FULWOOD: Can I interrupt for a second,
9 Commissioners?

10 COMMISSIONER JABER: What?

11 MR. FULWOOD: May I interrupt for a second,
12 interject, interrupt?

13 COMMISSIONER JABER: Sure.

14 MR. FULWOOD: You made Issue 109B relative to
15 Issue 64B about posting on the Web site. I just wanted to
16 clarify that 64B is only about posting a date at which --

17 COMMISSIONER JABER: Thank you.

18 MR. FULWOOD: -- entrance space will become
19 available as opposed to posting an entire agreement on the
20 Web site.

21 COMMISSIONER JABER: Thank you for that
22 clarification. To me, it really doesn't make any
23 difference to me because I would -- and, Patty, in writing
24 up the analysis on B, if the Commissioners do support that
25 motion, I would encourage you to add the section of

1 364 where it gives us the latitude to make these kinds of
2 decisions to promote competition. I think you cited it in
3 the recommendation we had yesterday. It is 364.01.

4 **MS. CHRISTENSEN:** I think that's .014. I mean,
5 I can certainly make sure that I have the correct cites,
6 and I will also cite to the preservation of state power in
7 the Act and type up --

8 **COMMISSIONER JABER:** And disseminating
9 information for the benefits of ALECs so that they will
10 have access to the interconnection agreement.

11 **MR. HINTON:** Commissioner, there's a
12 clarification I can make on that. A few points: One is
13 you are already aware of having read the recommendation
14 that the Act specifically mandates that the Commission
15 provide public copies of agreements. Two, as Mr. Fulwood
16 had pointed out, there is a dramatic difference between
17 posting a list of dates and scanning electronically
18 hundreds of interconnection agreements onto a Web site.

19 **COMMISSIONER JABER:** I appreciate all of that.
20 Here's the problem with just relying on the Commission Web
21 site. We charge for the copies.

22 **MR. HINTON:** Five cents per page.

23 **COMMISSIONER JABER:** Five cents per page. We're
24 suggesting that every attorney or every company have a
25 liaison in Tallahassee so that they can come and get the

1 document. It would be great if the company that is in the
2 best position to post the document on their Web site did
3 in addition to what the agency does. It doesn't always
4 have to be the agency that disseminates the information.
5 And why not allow the --

6 MR. HINTON: I agree. There's one more thing,
7 one point that BellSouth makes is, WorldCom is requesting
8 that these agreements be filed on their Web site within 15
9 days of them being filed at the Commission. That would be
10 prior to the agreement being approved by this Commission.

11 COMMISSIONER JABER: Okay. What would be a
12 reasonable time? Because I would consider --

13 MR. HINTON: The Commission has 90 days to
14 approve an agreement filed.

15 COMMISSIONER JABER: So would you suggest that
16 the agreement be posted on BellSouth's Web site within 100
17 days?

18 MR. HINTON: Either within 100 days or upon
19 approval, Commission approval.

20 COMMISSIONER JABER: I would modify my motion,
21 Mr. Chair, to say that BellSouth would post the agreements
22 on their Web site upon the approval of the agreement by
23 the Commission.

24 CHAIRMAN JACOBS: Can I suggest a better
25 flexibility here? A Web site where you maintain all these

1 agreements could be tough to maintain. I'm thinking let's
2 set a standard. We want to have the critical terms and
3 conditions accessible to parties so they can get access to
4 them, but I'm thinking it may not be necessary to post --
5 to put the whole agreement out there. I don't know.

6 Let's give some thought to that. Do we really want them
7 to put every contract that they do out on their Web site?

8 MR. HINTON: That's what we're requiring them to
9 do at this point.

10 COMMISSIONER JABER: Give us some feedback on
11 that, though, Cayce, because I think the Chairman makes a
12 very good point. What is it that really we want to make
13 sure gets disseminated to the ALECs?

14 MR. HINTON: Well, the majority of agreements
15 that are out there are standard cookie-cutter agreements,
16 standard resale agreements, standard IURs. A number of
17 agreements that get approved are adoptions of previous
18 agreements. I'm not sure where I would draw the line.
19 You know, if we were going to require them to post an
20 agreement so that other ALECs can have access, you would
21 definitely want them to post the major agreements like
22 WorldCom, AT&T, and so forth, but where do you draw that
23 line?

24 COMMISSIONER JABER: See, the benefit is, they
25 are able to download it off the Web site. Why not --

1 **BellSouth is in the best position to tell us if that's**
2 **cumbersome. I'd like to go down the road of requiring it,**
3 **and if there are problems along the way, that they need to**
4 **bring that to our attention because --**

5 **MR. HINTON: Commissioners, one point, could we**
6 **possibly do upon approval plus five days? If we require**
7 **them to file it upon approval, then that's the day of**
8 **approval. You know, approval plus five days, give them**
9 **five days after the agreement has been approved before**
10 **it's required to be filed.**

11 **COMMISSIONER JABER: Sure.**

12 **CHAIRMAN JACOBS: So with that amendment --**

13 **COMMISSIONER BAEZ: How does the requirement**
14 **stand how?**

15 **COMMISSIONER JABER: It would be to require**
16 **BellSouth to post the interconnection agreements on their**
17 **Web site within approval by the Commission plus five days.**

18 **COMMISSIONER BAEZ: Second.**

19 **CHAIRMAN JACOBS: Without objection, show Issue**
20 **109 --**

21 **COMMISSIONER BAEZ: A.**

22 **CHAIRMAN JACOBS: -- I'm sorry, yes, 109A as**
23 **amended is approved.**

24 **COMMISSIONER JABER: 109A and B.**

25 **CHAIRMAN JACOBS: And B. I'm sorry.**

1 **MS. CHRISTENSEN: Commissioners, back with this**
2 **Issue 107, and I think it was with the expedited dispute**
3 **resolution process. We just want to bring to your**
4 **attention, we have a copy of the order where the**
5 **Commission declined to initiate rulemaking for expedited**
6 **dispute resolutions, if you're interested. And that is in**
7 **Docket 981834-TP. That was Order Number**
8 **PSC-990769-FOF-TP.**

9 **CHAIRMAN JACOBS: Okay. We can always revisit**
10 **that.**

11 **MS. CHRISTENSEN: Correct.**

12 **CHAIRMAN JACOBS: And I'd like to read that.**
13 **Issue 110.**

14 **COMMISSIONER JABER: I can move Issue 110 and**
15 **Issue 111.**

16 **COMMISSIONER BAEZ: Second.**

17 **CHAIRMAN JACOBS: Without objection, show Issues**
18 **110 and 11 are approved. That takes care of this docket.**

19 **I agree with Commissioner Jaber's comments.**
20 **Staff, you did an excellent job preparing this. You made**
21 **our work a lot easier. I hope we didn't make yours too**
22 **hard -- too much harder. Thank you. We're adjourned.**

23 **(Special Agenda concluded at 11:07 a.m.)**

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25

1 STATE OF FLORIDA)

2) CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, TRICIA DeMARTE, Official Commission Reporter,
6 do hereby certify that the Special Agenda in Docket No. 000649-TP
7 was heard by the Florida Public Service Commission at the time
8 and place herein stated.

7

8 IT IS FURTHER CERTIFIED that I stenographically
9 reported the said proceedings; that the same has been transcribed
10 under my direct supervision; and that this transcript, consisting
11 of 75 pages, constitutes a true transcription of my notes of said
12 proceedings.

10

11 I FURTHER CERTIFY that I am not a relative, employee,
12 attorney or counsel of any of the parties, nor am I a relative or
13 employee of any of the parties' attorneys or counsel connected
14 with the action, nor am I financially interested in the action.

13

DATED THIS 26th DAY OF FEBRUARY, 2001.

14

15

Tricia DeMarte

16

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