

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990649-TP

In the Matter of
INVESTIGATION INTO PRICING
OF UNBUNDLED NETWORK
ELEMENTS.



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PROCEEDINGS: STATUS CONFERENCE

BEFORE: CHAIRMAN E. LEON JACOBS, JR.
Prehearing Officer

DATE: Monday, July 9, 2001

TIME: Commenced at 1:30 p.m.
Concluded at 2:53 p.m.

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

REPORTED BY: KORETTA E. STANFORD, RPR
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P R O C E E D I N G S

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CHAIRMAN JACOBS: Good afternoon. We're here today on a status conference regarding the plan for completion of docket number 990649, which is the unbundled network elements docket for Verizon and for Sprint, both of those in the same docket. Very well. How should we begin? Do we have a notice to read?

MS. KEATING: I've got a notice, and you might also want to take appearances.

CHAIRMAN JACOBS: Okay, go ahead. Read the notice, please.

MS. KEATING: By notice issued July 3rd, this time and place have been set for a status conference in docket 990649-TP, the purpose is as set forth in the notice.

CHAIRMAN JACOBS: Very well. Are there any preliminary issues that we need to deal with? Let me -- actually, before we do that, let me just say one of the reasons why I thought it was important to do this is we -- as you know, we're determined to grant the motion for continuance of the hearing. And my concern, particularly looking back to the events of the UNE docket in BellSouth, is that we anticipate as much as possible and deal with up front any logistical matters, any communication and, most specifically, any technical issues that arise with regard to actual workings and running of the model.

1 I want to anticipate as much of that in advance so
2 that we can deal with that in an orderly fashion and we can
3 move forward with the hearing in the time frame in which it's
4 now scheduled. It's late in the day, and I would be very
5 hesitant to do much more in the way of pushing back the hearing
6 in this docket, particularly given some of the other
7 proceedings that are before us.

8 So, with that as a prelude, are there any preliminary
9 matters that we need to deal with?

10 MS. KEATING: No, sir, other than the items for
11 discussion that were listed in the notice.

12 CHAIRMAN JACOBS: Okay. What I'd like to do, then,
13 is just go through, and I understand everybody has a copy of
14 these items or I just address -- there are a couple of items we
15 identified up front that we would like to just make sure we
16 have an understanding on. If there are others that the parties
17 wish to raise, feel free to do so.

18 First -- Ms. Keating?

19 MS. KEATING: I was just going to suggest it might be
20 helpful to the court reporter if we took appearances, might be
21 clearer for the record.

22 COMMISSIONER JACOBS: That would be better. Let's
23 take appearances. Ms. Caswell.

24 MS. CASWELL: Kim Caswell for Verizon Florida,
25 Incorporated.

1 MR. FONS: John Fons on behalf of Sprint Florida,
2 Inc. and Sprint Communications Company, Limited Partnership.

3 MR. MELSON: Rick Melson on behalf of MCI Worldcom.

4 MS. KAUFMAN: Vicki Gordon Kaufman on behalf of
5 Z-Tel.

6 MR. WAHLEN: Jeff Wahlen on behalf of ALLTEL
7 Communications, Inc.

8 MS. KEATING: And Beth Keating and Wayne Knight on
9 behalf of Commission Staff.

10 CHAIRMAN JACOBS: Mr. Self, did you want to enter an
11 appearance? Okay. Very well.

12 So, with that, let's go to Item 1, and that has to do
13 with one of the principle issues that I think we had before us
14 at the moment. Many parties -- several parties, I should say,
15 have filed or intend to file testimony, and so the issue is
16 then should parties withdraw testimony and the cost studies and
17 refile them or should the current filings be retained with the
18 opportunity for supplemental testimony with regard to those
19 existing filings? Why don't we hear -- we'll go down the line,
20 if that's okay with everyone.

21 MS. CASWELL: Yes. Mr. Chairman, one of the explicit
22 conditions for Verizon agreeing to the continuance requested by
23 MCI and AT&T was that we would be able to withdraw our cost
24 studies and testimony. It would be very unfair to allow that
25 testimony to remain in the record and let the opposing parties

1 have months and months to look at it.

2 Also, if we are permitted adequate time, we can
3 update those studies. And since they were filed, we have found
4 that there are some mistakes in the studies as well, so it
5 would be most efficient, I think, to withdraw all of the
6 studies and testimonies and refile those.

7 CHAIRMAN JACOBS: So, as I understand you, then, you
8 chose not to oppose the motion, but primarily based on the idea
9 that you'd have a chance to refile.

10 MS. CASWELL: Absolutely. And that was also
11 memorialized in their own motion or was it -- yeah, your motion
12 withdrawing the loop study.

13 CHAIRMAN JACOBS: Mr. Fons?

14 MR. FONS: At this point and time, Mr. Chairman,
15 Sprint is not in a position to withdraw its testimony or its
16 cost studies. As you'll recall, this is the second time we've
17 had to file them. We're not looking forward to having to redo
18 the cost studies.

19 Depending upon what the schedule is, ultimately
20 determined by the Commission, we may find that it's necessary
21 to withdraw the testimony and the cost studies, but we're
22 unable, at this point and time, to make a commitment one way or
23 the other.

24 There are too many things still outstanding that
25 could affect whether or not the cost studies that we have filed

1 are still efficient cost studies. There are things, such as
2 the Supreme Court, what it might do with regard to the Eighth
3 Circuit decision. There's also the issue of what's going to
4 ultimately come out of the hearing on the BellSouth revised
5 cost studies that would be filed. So, at this point and time,
6 we cannot make a commitment one way or the other whether we'll
7 withdraw our studies and our testimony.

8 CHAIRMAN JACOBS: Do you anticipate a time when
9 you'll be able to make that determination?

10 MR. FONS: Again, it will depend most on when the --
11 when we set the schedule. If the schedule is -- we're not
12 going to hear this matter until March of 2000 (sic). An awful
13 lot can happen in the interim, and so I can't even give you a
14 date when we'll know that. A lot of things will have to come
15 into play.

16 CHAIRMAN JACOBS: Very well. Mr. Melson.

17 MR. MELSON: MCI does not object to the companies
18 either withdrawing and refileing or to letting their existing
19 cost studies stand. Ms. Caswell is correct, we agreed
20 specifically in filing the joint motion with AT&T that if GTE
21 wished to withdraw and refile that was fine with us. On the
22 other hand, I don't want to try to force Sprint to do the same
23 if they believe, given whatever schedule you set out, that
24 their existing cost studies are satisfactory.

25 CHAIRMAN JACOBS: Very well. Ms. Kaufman?

1 MS. KAUFMAN: Thank you, Mr. Chairman.

2 We have no problem with GTE or, excuse me, with
3 Verizon, withdrawing and refileing their studies and testimony.
4 And we would have no problem in regard to Sprint either, so
5 long as there was sufficient time, if Sprint did decide to
6 withdraw and refile, for the parties to have an adequate
7 opportunity to analyze and run the cost models.

8 And, I think, I heard Mr. Fons say that he couldn't
9 tell you now and he doesn't know when he can tell you whether
10 or not Sprint would pursue that option. And we would just
11 express concern that if they do withdraw and refile that there
12 be an adequate opportunity for reviews. You mentioned some of
13 the problems we had running the models and dealing with them
14 and making corrections to them in a very short time frame. We
15 would prefer that not occur in this case.

16 CHAIRMAN JACOBS: Very well. Mr. Wahlen.

17 MR. WAHLEN: ALLTEL has no objections to either of
18 the proposals.

19 CHAIRMAN JACOBS: Staff?

20 MS. KEATING: We'd actually sort of prefer to see the
21 testimony withdrawn and refiled and preferably to have it --
22 the cost studies filed 30 days before the testimony. But that
23 being said, you know, we'd be amenable to allowing them to, you
24 know, Sprint, particularly, not to withdraw its testimony, as
25 long as we could maybe have some assurance that there weren't

1 going to be any last-minute major changes like we ran into last
2 time.

3 CHAIRMAN JACOBS: That's the basis of any concern I'd
4 have. I don't think that we'd want to force you to withdraw
5 and refile. The concern I have is that we would -- we'll try
6 and address today, or very soon after today, what the schedule
7 will be, but it would be the absolute desire that once we have
8 that schedule that we can get determination as to whether or
9 not parties are going to have to respond to a refiled study or
10 not and that -- Mr. Fons?

11 MR. FONS: Well, there's a lot of things that are out
12 of our hands with regard to whether or not we're going to have
13 to refile and we don't know, at this point and time, what those
14 things that are -- we have no control over might dictate.

15 CHAIRMAN JACOBS: Mm-hmm. Are there things under our
16 control that would dictate that?

17 MR. FONS: I don't think that there are. Perhaps, if
18 we knew more what the schedule was with regard to the BellSouth
19 refile that would help a great deal, because there are still
20 issues outstanding there that if there are changes, further
21 changes made, it may require further changes in our cost study.

22 CHAIRMAN JACOBS: Here's what I think I'd like to do.
23 Sounds like there's no real disagreement that Verizon should
24 have the opportunity to withdraw their cost study and testimony
25 supporting it and refile. We'll discuss the dates for those

1 for that refiling.

2 As to Sprint, I think, at the moment, it will be
3 reasonable to honor your decision not to refile. What I'd like
4 to do is try and work through those issues that might warrant
5 your refiling, because we will need to have contingencies in
6 place in that event, and I'd like to understand as much or as
7 early as possible what those contingencies need to be.

8 Quite frankly, as we get closer to the hearing date,
9 I will be -- I guess, I can't state on the record what I would
10 be inclined to do or not, but it would be -- it would appear to
11 me that it would be imperative that as we get closer to the
12 hearing date, we become more and more certain about what our
13 scheduling will be, and that will be the tenor of what I
14 anticipate any rulings to come from the prehearing officer to
15 be.

16 So, as to working on those issues, I want to try and
17 identify them and get them worked out as early as possible.
18 And if the BellSouth docket has that kind of relevance here,
19 then I don't have any problem at all working with the
20 prehearing officer in that docket. Am I -- I don't think I am,
21 am I?

22 MS. KEATING: It'll still be in this docket, so you
23 would remain prehearing officer.

24 CHAIRMAN JACOBS: Okay, yeah. Well, then, it would
25 be easy to work with the prehearing officer in that docket to

1 work through those issues.

2 MR. MELSON: Chairman Jacobs, if I might make a
3 suggestjion for you to consider. Once you establish a schedule,
4 whatever date is set for filing a cost study, it would seem to
5 me, Sprint could decide by that date and either file a new cost
6 study or simply file a piece of paper saying we choose not to
7 file a new one, we stand on the one we previously filed, and
8 that would keep the cost study filing on whatever schedule you
9 establish for Verizon in the docket.

10 CHAIRMAN JACOBS: Mr. Fons.

11 MR. FONS: That certainly conceptually is workable.
12 My only concern is if we're going to be required to refile, as
13 set forth in the proposed schedule by the middle of September,
14 we're almost to the middle of July, and there's still a lot of
15 issues that remain outstanding that we don't have a definitive
16 answer.

17 So, even if we were to elect either to stand on what
18 we have filed already or decide to file something differently,
19 there's still the possibility that things are going to change
20 between September the 14th and the first of December that may
21 require us to refile again, and we want to avoid that, if at
22 all possible.

23 MS. CASWELL: Chairman Jacobs?

24 CHAIRMAN JACOBS: Yes.

25 MS. CASWELL: I do agree with Mr. Fons that a lot of

1 things can change and that the filing date is coming up pretty
2 quickly and I know we'll probably get to the schedule, but we
3 had hoped to have at least until November to file the cost
4 study so that we could get all the year 2000 inputs in those
5 studies. I don't know how Staff feels about that, but I can
6 probably guess.

7 CHAIRMAN JACOBS: Why don't we delay that discussion
8 until the time we actually get down to --

9 MS. CASWELL: Okay, thank you.

10 CHAIRMAN JACOBS: -- do the schedule. Very well.
11 So, I don't think we -- I'm inclined to go along with that, but
12 with Mr. Melson's recommenda-- suggestion as to your status,
13 and then we'll try to work through as much of the concerns
14 about what you just raised in the scheduling that we come up
15 with.

16 Okay. So, that takes us into the next item.
17 Verizon, I assume, has made this as an offer to Staff to meet
18 and to go through your model.

19 MS. CASWELL: Right.

20 CHAIRMAN JACOBS: Do you want to just explain that?

21 MS. CASWELL: Yeah, we had a workshop, I guess, which
22 is a public workshop, but it's difficult in a workshop to sit
23 down with someone and go through the model. And I understand
24 that Staff might need some guidance on that and we're willing
25 to send somebody here and sit with them and make sure they

1 understand the ins and outs of the model, and I don't think
2 that Staff had a problem with that.

3 MS. KEATING: I think, our main concern is a possible
4 notice problem, but that could be cured if the parties were
5 willing to allow these types of tutorials to occur.

6 MS. CASWELL: Yeah, and it won't be anything like
7 advocacy. It's just explain to the Staff what the model is
8 doing. And I'm sure our people would be willing to work with
9 the parties as well, if they need to know any details about the
10 model.

11 CHAIRMAN JACOBS: As I recall, we had something on
12 this order amongst the parties in the prior docket. Why don't
13 I allow the parties to comment. Mr. Melson?

14 MR. MELSON: I guess, we would like the opportunity
15 -- we would like to know when those meetings are scheduled and
16 the opportunity to attend, if maybe not to participate, but
17 only to monitor. Again, I know the workshop process was a
18 little more formal in the Bell docket and we've had, I believe,
19 one workshop in this docket and those are helpful to us in
20 trying to understand the model.

21 If we get to the point that we understand it, then we
22 wouldn't see a need to attend a meeting that Verizon was having
23 with Staff. But if we're still having difficulties, anything
24 the Staff might learn that would be helpful to them, I think,
25 would be helpful to us as well. We simply wouldn't want to be

1 shut out of that process, although we'd understand that we
2 weren't the primary focus and it wasn't there for us to, you
3 know, conduct discovery or do cross examination or whatever,
4 but simply to sit and listen and learn.

5 CHAIRMAN JACOBS: Ms. Kaufman.

6 MS. KAUFMAN: Yes, I agree with Mr. Melson. I think,
7 the parties should have the opportunity to attend the meeting,
8 if they so desire.

9 MR. WAHLEN: ALLTEL doesn't have a strong position
10 one way or the other on it.

11 CHAIRMAN JACOBS: I'm sorry, you had a response?

12 MS. CASWELL: Yeah, I was just going say we don't
13 have a problem with that if Staff doesn't have a problem with
14 it. And I would like to point out that we filed this model in
15 the past before on a few different occasions, and there never
16 have been the level of problems that there were with the new
17 BellSouth model.

18 MS. KEATING: I think, Mr. Chairman, actually the
19 problem we're going to run into is not that we wouldn't like to
20 have all the parties there, it's going to be more of a
21 practical problem. The room that we actually have the computer
22 set up in to actually go to run through the model is a room
23 designated to maintain confidential material, and there's just
24 not enough room for more than two people in there and that's
25 sort of the reason for the request and, I think, for Verizon's

1 offer to have sort of a help desk person. I mean, that was
2 sort of the problem.

3 CHAIRMAN JACOBS: I think, you explained to me that
4 the whole purpose here was to put this -- install this on a
5 computer disk off of our network so that there would not be a
6 concern about that. So, in addition to that it's in the area
7 where confidential materials are maintained.

8 MS. KEATING: Correct.

9 CHAIRMAN JACOBS: So, I take it, then, the request
10 would not accommodate -- the other room actually, would not
11 accommodate all the parties having representatives there. In
12 that regard, what I probably would want to be hearing is
13 whether or not you could stipulate to that tutorial occurring
14 in your absence, but what about notes? I don't --

15 MR. MELSON: Let me ask this. And, obviously, we
16 don't want to stand in the way of the Staff learning something
17 they need to learn about the model. I wonder, is it possible
18 if that computer is not networked for the purpose of this
19 tutorial to pick it up and move it into a larger room. If it's
20 not on the network, that would seem like it might be a
21 solution. If that's impossible then, obviously, we'd live with
22 whatever the Staff needs to do with Verizon, but at this point
23 if there is a way for us to have the opportunity to be present,
24 I wouldn't want to give that up today.

25 CHAIRMAN JACOBS: Okay. Why don't we go passed this

1 half of the discussion, and we'll circle back to this item.

2 MS. KEATING: Yeah, we'll have to check on that,
3 Mr. Chairman.

4 CHAIRMAN JACOBS: Okay. The next item has to do with
5 discovery. First of all, is there outstanding discovery at
6 this time?

7 MS. KEATING: Staff does have several sets of
8 outstanding discovery at this time.

9 CHAIRMAN JACOBS: Okay. Now then, so the first
10 question, then, given the continuance that's been granted, do
11 we need to withdraw those discovery requests or make the
12 response or just the response times?

13 MS. KEATING: We've handed out a list, I think,
14 everybody's got a copy now of the discovery requests that we
15 don't really feel a need to have responses provided to at this
16 time.

17 CHAIRMAN JACOBS: So you -- Mr. Fons.

18 MR. FONS: Excuse me. I thought all of it had been
19 withdrawn, that there was no discovery currently pending
20 because of the possibility that whatever has already been filed
21 will no longer be operative. Why should we have to go to
22 the --

23 MS. KEATING: Well, the only -- we're saying that we
24 don't necessarily need responses within the -- I think, it's
25 20-day time frame that was in the original order establishing

1 procedure, but what we're looking at instead of re-- I mean,
2 we're going to be sending everybody those exact same discovery
3 requests. And the idea that we had was for those things that
4 we do still want responses to is if, perhaps, you could just
5 provide responses at the same time that you filed your
6 testimony. I mean, it's just a matter of, you know, trying to
7 save a few trees, really.

8 MR. FONS: Well, we understand that, and I hate to
9 broach this, but a lot of the questions that were asked of
10 Sprint with regard to its studies are in the studies
11 themselves. If someone had taken the time to look at the items
12 in our cost study, a lot of this stuff was already there, and
13 what we're going to have to do in responding to these was
14 actually provide the same information again that was already in
15 our cost study, and that's why I thought if everything was
16 withdrawn that we could start from scratch and not try to pick
17 up a number of the very same questions that were asked before
18 which, we believe, are totally answered in the information that
19 we filed in our cost study in both the narrative and in the
20 study itself.

21 MS. KEATING: Well, is it possible that a number of
22 those, though, that you have a concern about are listed here as
23 being eliminated?

24 MR. FONS: Well, only ones that are listed are 1 to
25 4, 86 -- 83, 86, and 99 to 117. And my belief is that 99 to

1 117 are the traditional rate of return cost of capital
2 questions, but the rest of them you're only eliminating 7 or 8
3 issues out of the -- or discovery requests out of the
4 interrogatories and, likewise, on the request for production.

5 We'll be happy to work with Staff. All I'm really
6 asking is that before we go down this road that we have an
7 opportunity to discuss this with Staff a bit further so that we
8 can possibly eliminate more, if that would be helpful.

9 CHAIRMAN JACOBS: Let's do this. Well, first, let me
10 ask, is there any problems eliminating discovery on this as
11 requested here by Staff?

12 MR. MELSON: No. If we had any of the same
13 questions, we could ask them. To this point, Worldcom's not
14 served any discovery.

15 CHAIRMAN JACOBS: Okay. Now then, what we'll do is
16 we'll go ahead and acknowledge today, withdraw the list as
17 stated here, and then have you work with principally the
18 parties sponsoring the cost studies to see -- to the extent to
19 which -- to see that there is agreement that the model does
20 answer the other items that are outstanding. And if you guys
21 come to an agreement on that, then you can agree to withdraw
22 more. Sounds like a reasonable approach?

23 MR. FONTS: That would be fine with us, Mr. Chairman.
24 We'd prefer to do it that way.

25 CHAIRMAN JACOBS: So, we'll leave outstanding those

1 that you've indicated you want outstanding.

2 MS. KEATING: We'll definitely work with the parties,
3 Mr. Chairman. I think, you know, it's entirely possible that a
4 lot of these can be worked out.

5 CHAIRMAN JACOBS: Okay. And then how about response
6 times?

7 MS. KEATING: Well, again, we were only looking at
8 having responses when the actual testimony was filed.

9 CHAIRMAN JACOBS: Okay.

10 MS. KEATING: So, I'm sure between now and then we
11 can get something worked out.

12 CHAIRMAN JACOBS: Okay.

13 MR. FONS: Thank you.

14 CHAIRMAN JACOBS: Very well. Do we have an answer
15 now on the computer issue or do we want to come back to that
16 later? Do we have an answer on the computer, access to the
17 model?

18 MS. KEATING: It looks like we can do it.

19 CHAIRMAN JACOBS: Okay.

20 MS. KEATING: So, we'll try and set something up like
21 that and move it into one of the larger rooms. We just want
22 parties to be aware that when we do schedule those meetings the
23 model will -- everything will still be treated as confidential,
24 so we won't be able to set up call-in numbers.

25 CHAIRMAN JACOBS: Understood. And it's intended

1 primarily as a tutorial for Staff as opposed to any kind of
2 advocacy going back and forth on the model itself.

3 Ms. Caswell?

4 MS. CASWELL: I would just like to ask that the
5 parties attending would let me know in advance so that I can
6 make sure they've signed the confidentiality agreement.

7 CHAIRMAN JACOBS: Yes.

8 MR. MELSON: We won't send somebody who hasn't.

9 CHAIRMAN JACOBS: Very well.

10 MS. CASWELL: I'll take your word for it.

11 CHAIRMAN JACOBS: Now, there are some miscellaneous
12 issues here, with regard to the model filings themselves and
13 some of them have to do with both models and some of them have
14 to do with only one model. Why don't I just go down this list,
15 and then we'll have you respond as according to your model.

16 Staff, basically, has indicated there are some
17 variables, apparently, in the execution of the models and they
18 need to understand how to access those variables or what files
19 need to be accessed in order to input or change these
20 variables.

21 Why don't I do this: I'll just read down this list,
22 and then you just indicate to me -- if you're prepared today to
23 give a response, fine; otherwise, what we'll do is we'll work
24 out an opportunity for you to respond back to Staff, okay? So,
25 if you don't have an answer today, that will work for me. So,

1 that's point A. Point B is as to the format of the filings,
2 apparently, there is an opportunity to file some electronic
3 formats, with this testimony, Mr. Fons?

4 MR. FONTS: I was going to -- could we go back to
5 number one --

6 CHAIRMAN JACOBS: Sure.

7 MR. FONTS: -- first, Chairman? I thought that
8 Sprint's filing was user-usable. If not, please let me know
9 that it's a Sprint problem, and we'll be happy to see what we
10 can do to eliminate it, but I didn't think we had that problem.

11 MS. KEATING: I think, some of the problems we've run
12 into is there are some parts of the model, some files that
13 Staff either can't change or when they change them it doesn't
14 make changes in other portions of the model that should change
15 because of the change in a particular file. I think, one of
16 the examples they'd indicated is if a change is made in cost of
17 capital, the common cost factor doesn't automatically change.

18 MR. FONTS: Okay.

19 MS. KEATING: They're saying it's specific to Verizon
20 but, I believe, there may be some of the same problems with
21 Sprint.

22 CHAIRMAN JACOBS: I'm going to go through these other
23 items pretty quickly. It looks like there's only one that we
24 probably need to deal with in terms of any kind of procedural
25 matter. Step B has to do with the format, whether or not you

1 can do the electronic format. You guys can work that out, but
2 let me ask this: Is the electronic format possible? Is that
3 within realm of possibility?

4 MS. CASWELL: We did file the cost study on CDs, but
5 the recurring and nonrecurring, I think, there was a question
6 with regard to native format for some of the files and we
7 couldn't provide all those files. Our cost expert worked
8 something out with Staff, I think, as to which file should be
9 filed in native format, so I think we're okay, but I'm not the
10 cost expert and, I'm assuming, if Staff has problems they can
11 work it out with our cost expert.

12 CHAIRMAN JACOBS: Right.

13 MR. MELSON: Chairman Jacobs, this is one that MCI
14 Worldcom is very interested in. My understanding is that all
15 the inputs that Sprint put into their model were filed,
16 essentially, in a format where we could print out a hard copy
17 and read the inputs, but we didn't have any way to follow
18 through a spreadsheet or to make changes in the input.

19 My understanding what the Staff is asking that they
20 be filed in the native format would be, for example, an Excel
21 spreadsheet that we would be able to actually examine the flow
22 of the logic and to make changes in an assumption and see how
23 that flowed through. And, I believe, if you look back, it's
24 probably the end of 1999 stipulation that was filed in this
25 docket about how cost studies would be filed, it was my

1 understanding that the cost studies had to be filed in a format
2 that enabled parties, essentially, to make those types of
3 changes. And so, I just want to make sure that in working this
4 out between Staff and Verizon that Staff sort of insists on
5 getting it in a format where all of the inputs can be tested
6 for sensitivity and done so electronically.

7 CHAIRMAN JACOBS: Mr. Fons?

8 MR. FONS: We'll be happy to work with anybody to get
9 whatever information they need. This is the first I've heard
10 that anybody's had problems with the Sprint cost studies.

11 CHAIRMAN JACOBS: Okay. So that we're clear on it,
12 I'm going to go and order that it be filed in the native format
13 and you work with any issues that might be upcoming with that,
14 okay?

15 MS. KEATING: And Mr. Chairman, could I just make
16 clear that that would also apply to testimony as well.

17 CHAIRMAN JACOBS: Okay, testimony as well.

18 MS. CASWELL: I'm sorry, Beth. What applies to
19 testimony? That it be --

20 CHAIRMAN JACOBS: The filing in native format.

21 MS. CASWELL: Oh, okay.

22 CHAIRMAN JACOBS: Great. Okay. Next one is Sprint.

23 MR. FONS: We'll be happy to make that available to
24 Staff --

25 CHAIRMAN JACOBS: Very well.

1 MR. FONS: -- a nonconfidential version.

2 CHAIRMAN JACOBS: Great, then it's agreed.

3 Point D. Now Staff, how would -- is there a process
4 -- for your -- I guess, everybody has a copy of this for the
5 record. This has to do with identifying which particular
6 portion is confidential or not. Do you have a method or
7 process that you'd prefer?

8 MS. KEATING: If there's some way to maybe highlight
9 the information or even put confidential next to it, something,
10 so that we don't have one CD that's labeled confidential and
11 one that's labeled nonconfidential and we have to go through
12 and do a side-by-side comparison to figure out where the
13 confidential numbers are showing up.

14 MR. FONS: So, you're really asking us to put in
15 confidentiality by fields within the CD, rather than just --
16 you're asking --

17 MS. KEATING: If at all possible, or highlight it or
18 do something to sort of key us to particular items in the
19 confidential disk that are, in fact, the confidential
20 information so that we're not treating the entire disk as
21 confidential.

22 MR. FONS: Well, that causes me a little bit of
23 concern that you're not treating it as all confidential. I
24 mean, what --

25 MS. KEATING: Well, we have a nonconfidential part.

1 MR. FONS: Right, you have a nonconfidential.

2 MS. KEATING: And because there is a nonconfidential
3 version, that means there are portions of it that are
4 nonconfidential. And what we're saying is we want the whole
5 thing, but we want the confidential portions identified, that's
6 all. I mean, if there's --

7 MR. FONS: So, you want the nonconfidential portions
8 on the confidential CD to be differentiated from the
9 confidential portions on that same CD.

10 CHAIRMAN JACOBS: Right.

11 MS. KEATING: Correct.

12 MR. FONS: And if we were to do that, would you still
13 need a nonconfidential CD?

14 MS. KEATING: Staff is telling me we probably would,
15 because you can only take the confidential one into the
16 confidential room, so Staff -- there would be a queue for that
17 little room, and there may be portions of it that they would
18 want to be able to work on in their office.

19 MR. FONS: We could work it out.

20 CHAIRMAN JACOBS: So, we'll order that as to the
21 confidential filing on CD, that the confidential information be
22 designated as such.

23 MS. KEATING: And, I think, we can probably work with
24 the parties, too, a little bit more on this, too, to get some
25 clarification or maybe some more defined ways of doing this.

1 MS. CASWELL: Yeah. I just have to point out I have
2 no idea what it would take to do that so I have to, you know,
3 again get back with Staff.

4 CHAIRMAN JACOBS: Okay. Item E, nonrecurring and
5 recurring rates. It appears that whereas now we have separate
6 filings and some calculation for those, do you want to now
7 bring those into a common calculation? Is it possible -- first
8 of all, to begin, is it in the realm of possibility? If you
9 know an answer today --

10 MS. CASWELL: I think, we'll still need to file two
11 separate disks, but as far as the mapping goes, maybe some kind
12 of a third submission would be possible.

13 MR. FONS: I think that there are some nonrecurring
14 rates that don't go with a specific recurring rate but may go
15 to several different recurring rates, and that's probably the
16 reason why we have a separate listing for the nonrecurring
17 charges than we do for the monthly recurring charges, but we'll
18 work with Staff to try to come up with something that
19 accommodates their needs, no question.

20 CHAIRMAN JACOBS: All right. Sounds like that's
21 possible, so we'll order that.

22 MS. KEATING: Yes, sir, I think, that's an area where
23 we should definitely be able to get something worked out.

24 CHAIRMAN JACOBS: Item F is an interesting one.

25 MS. KEATING: Mr. Chairman, I don't think they have

1 Item F --

2 CHAIRMAN JACOBS: Okay.

3 MS. KEATING: -- which may be the reason for the
4 silence. We were just going to suggest, perhaps from this
5 point on, discovery and discovery responses be served by e-mail
6 as well. A lot of people have been doing that anyway, but if
7 we could make that an ongoing requirement, I think, it would
8 expedite discovery and --

9 MS. CASWELL: And that's with discovery questions and
10 responses?

11 MS. KEATING: Mm-hmm.

12 CHAIRMAN JACOBS: With a follow-up hard copy as well.

13 MS. KEATING: Yes, sir.

14 MR. MELSON: That would not apply to document
15 production, I would assume.

16 MS. KEATING: No.

17 MR. MELSON: Just interrogatories, okay.

18 MS. CASWELL: Yeah.

19 MS. KEATING: But still have the POD requests perhaps
20 e-mailed.

21 CHAIRMAN JACOBS: So, this would be granted as to
22 interrogatories, but not as to PODs.

23 MR. MELSON: I guess, my understanding is that all
24 requests would go by e-mail, and responses to interrogatories
25 would come back by e-mail.

1 CHAIRMAN JACOBS: That's correct.

2 MR. MELSON: Mr. Chairman, could I ask that the Staff
3 at some point, then -- I'm not sure in this docket anymore I
4 know who the right e-mail list would be. If Staff could put
5 together a list that we can rely on, that would be very
6 helpful.

7 CHAIRMAN JACOBS: I think that would be very helpful
8 as well.

9 MS. KEATING: We can certainly do that, Mr. Chairman.

10 CHAIRMAN JACOBS: And distribute it. Very well.
11 This next item, I would think, would have been happening
12 already, but it seems like we need to require that all
13 discovery responses filed on the parties also get filed to
14 Staff.

15 MS. KEATING: It really should be happening already,
16 Mr. Chairman, but sometimes it doesn't, and we just want to
17 make sure that we get all responses.

18 CHAIRMAN JACOBS: We'll order that, then. And then
19 the last point I have is for the ALECs, and that is to what
20 extent would you file your own cost of capital and depreciation
21 testimony for both or either of the models?

22 MS. KEATING: Perhaps, Mr. Chairman, I could explain
23 where this one came from.

24 CHAIRMAN JACOBS: By all means. I'm receiving blank
25 stares so, I think, an explanation would be useful.

1 MS. KEATING: Staff is sort of in the awkward
2 position of trying to determine whether or not to file
3 testimony, and the particular area of concern is cost of
4 capital and depreciation, so we're trying to get some feel as
5 to whether this is an area we really need to put Staff
6 resources towards, and that's the reason for the question.

7 MR. FONS: What was the question again?

8 MS. KEATING: Whether or not there's going to be any
9 testimony filed on cost of capital and depreciation by the
10 ALECs.

11 MR. MELSON: And let me respond for Worldcom. I
12 don't know. I know when we were on the original schedule for
13 this docket we would not have filed any. Whether, with an
14 extended schedule, we will have the resources to do it, I don't
15 know. I will try to find out what our intentions are and
16 communicate back to Staff. I suspect the answer may very well
17 be no, particularly on cost of capital; on depreciation, I
18 guess, I'm a little less sure.

19 MS. KAUFMAN: As far as Z-Tel goes, I do not know,
20 but as Mr. Melson is going to do, I will try to find out and
21 let you know.

22 MS. KEATING: That would be very helpful, and we'd
23 appreciate it.

24 MR. FONS: Could we revisit the responses to
25 discovery that Staff would like for the parties, those

1 responding, to provide copy of any responses to a party's
2 discovery? We normally have nondisclosure agreements with the
3 parties, so that we can exchange material very simply just by
4 indicating that it's confidential, but once Staff enters the
5 picture, now we've got this whole other procedural aspect which
6 is we've got to file a notice that we're going to claim
7 confidentiality, and then within 21 days we've got to go
8 through the problem of line by line identifying everything
9 that's confidential, and that's an enormous burden on us and I
10 know it's an enormous burden on Staff, ultimately.

11 Is there some way we can come up with a procedural
12 device where all of that's protected and we don't have to go
13 through this claim of confidentiality, which adds an enormous
14 amount of time and effort to just identify all that and then
15 prepare a written document?

16 MS. KEATING: Well, actually, with a claim you don't
17 have to do anything within 20 days unless it actually gets
18 admitted at hearing.

19 MR. FONS: That's not the way I read the rule, but we
20 can --

21 MS. KEATING: There's a difference between the notice
22 of intent and a claim of confidentiality.

23 MR. FONS: Right, but normally we have to file within
24 21 days why we base our claim or we lose our confidentiality.

25 MS. KEATING: No, that's not --

1 MS. CASWELL: Yeah, I think, the rules are somewhat
2 confusing, but the process we've been going under is the 21
3 days runs from the conclusion of the hearing, I think, --

4 MS. KEATING: You're correct.

5 MS. CASWELL: -- if the evidence is admitted into the
6 record. It is confusing, and we've only learned that through
7 trial and error.

8 MS. KEATING: And it's only -- it's purely a telecom
9 rule.

10 MR. FONS: We understand that.

11 MS. KEATING: But yeah, you don't have to do anything
12 within 20 days of the actual filing.

13 MR. FONS: Okay. You promise, swear, cross your
14 heart and hope to die?

15 MS. KEATING: A promise, unless directed by the
16 prehearing officer.

17 CHAIRMAN JACOBS: I'll make that an official
18 interpretation, then. That and 50 cents will get you a cup of
19 coffee, by the way.

20 MR. MELSON: May I ask the Chairman and the Staff a
21 slight clarification? My understanding was that if you filed
22 something that you intended to put into evidence, such as
23 testimony or an exhibit, that you needed to file a notice and
24 justification. If you're filing the discovery response, which
25 you didn't know whether it was going to go into evidence, that

1 was the category to which the simpler claim of confidentiality
2 applied. And I don't know if I've got that right or not.

3 . MS. KEATING: That's correct. As a general rule -- I
4 don't think that's actually well-defined in the rule, but if
5 you're not clear that it's going into the record, a claim is
6 acceptable. If you know that it's going into the record, you
7 probably might as well file a question up front.

8 MR. FONS: Well, we had a pretty good -- based on the
9 Staff's track record of taking everything that's furnished in
10 response to discovery and putting in an exhibit and putting in
11 the record, then are we on notice that it's going to be going
12 in the record and, therefore, we have to comply with the 21
13 days?

14 MS. KEATING: No. I think, it would be incumbent
15 upon us to let you know at some point and time if we were
16 planning on putting it into the record.

17 MR. FONS: Okay. I'm not planning on putting it...

18 CHAIRMAN JACOBS: Sounds like we have an agreement
19 that parties can rely on this standard by which they do not
20 have to file for confidentiality within 21 days of filing,
21 correct?

22 MS. KEATING: They would need to file a claim under
23 Subsection 5 of the confidentiality rule.

24 CHAIRMAN JACOBS: Okay. Very well. Sounds like that
25 answers that question. As to the -- why don't we do -- as to

1 the cost of capital and depreciation information, why don't we
2 go through the calendar first, and then we'll come back and see
3 if there's a way we can get some kind of a window of time, one
4 in which we can be certain about those filings.

5 Next, do the parties have any other items or issues
6 at this point? Okay. Well, then, what I'd like to do then is
7 look at a proposed schedule to guide the docket from this point
8 forward. As I under-- the hearing dates we've looked at are
9 March 11th through the 13th, 2002, and let's work backwards
10 from that. The prehearing will be February 18th. Prehearing
11 statements are due February 8th. Rebuttal of Staff testimony
12 only --

13 MS. KEATING: Now, Mr. Chairman, that's assuming that
14 we do have to file some sort of testimony on the cost of
15 capital and depreciation.

16 CHAIRMAN JACOBS: Okay. Then, that's where we're
17 getting to this point. If then, the parties, the ALECs,
18 essentially, do file cost of capital, then, Staff would file
19 testimony in response to that, and this would be the
20 opportunity for the parties to rebut Staff's, testimony; is
21 that correct?

22 MS. KEATING: We are hopeful that perhaps Staff won't
23 have to file any testimony at all, quite honestly,
24 Mr. Chairman. And if that is the case, then that line right
25 there could potentially be deleted.

1 CHAIRMAN JACOBS: Okay. On that same day would be
2 rebuttal testimony from ILECs, that day being January 15th,
3 2002. Presently, we propose that Staff file its direct and
4 rebuttal testimony, if any, on December 17th, 2001; propose
5 that ALECs file their direct and rebuttal testimony on December
6 3rd, 2001; and that -- now, this -- refiled direct testimony
7 and exhibits, that will be testimony that has been filed now,
8 but today is being withdrawn -- or not withdrawn, as the case
9 may be, only that testimony would be refiled on this date; is
10 that correct? And the date will be October 15th.

11 MS. KEATING: We're contemplating that anything -- I
12 mean, this would essentially be their second go round at
13 testimony.

14 CHAIRMAN JACOBS: Okay.

15 MS. KEATING: Anything that they wanted to be
16 considered at the hearing would need to be filed on this date.
17 Maybe refiled is perhaps a confusing use of the word. I mean,
18 that's assuming they withdraw -- if Sprint doesn't actually
19 withdraw its testimony, then they would just file a letter, I
20 guess, as they've indicated.

21 MR. FONS: Well, I guess, it's all driven from filing
22 the cost studies on December 14th and, I think, I can pretty
23 well assure -- pretty well be sure that if we have to have a
24 cost study filed by September the 14th, and this is almost the
25 middle of July that it would be impossible for to us come up

1 with anything other than the study we've already filed. And
2 so, in effect, we'll be ignoring a lot that has transpired or
3 could transpire, and I would have to check with my clients as
4 to whether or not there's any possibility of doing anything
5 different than what we have right now if September the 14th is
6 the date on which a cost study has to be filed.

7 CHAIRMAN JACOBS: Let's go off the record for two
8 minutes.

9 (Recess taken.)

10 CHAIRMAN JACOBS: How are we?

11 MS. KEATING: I think, we may have made some
12 progress.

13 CHAIRMAN JACOBS: Some progress? Maybe a solution.

14 MS. KEATING: I think, Mr. Chairman, what Staff would
15 probably recommend right now is that you hold off maybe
16 actually setting a schedule. The parties are going to get back
17 to us on some dates that we had sort of worked out and let us
18 know, I guess, their clients' reactions.

19 CHAIRMAN JACOBS: That's a challenge. I can do that
20 within a limited time frame because, again, I have real
21 concerns that we not get too -- for the very reasons that have
22 expressed today, we're already way down the road, if we intend
23 to proceed on any kind of reasonable schedule. Do we know how
24 long we're talking?

25 MS. KEATING: Just a week.

1 CHAIRMAN JACOBS: Okay.

2 MR. MELSON: End of next week, essentially.

3 CHAIRMAN JACOBS: Okay. Do we have a framework that
4 we're proposing? So, we're going to propose this schedule?

5 MS. KEATING: Yes.

6 CHAIRMAN JACOBS: Well, we can work under that. What
7 I'd like to do since I'll probably be gone at the end of next
8 week, what I'd like to do is have you go ahead and prepare an
9 order.

10 MS. KEATING: I think, actually the parties have
11 indicated they'd try to get back to us at the beginning of next
12 week.

13 CHAIRMAN JACOBS: Okay.

14 MS. KEATING: And as soon as we hear something we can
15 get something together for you.

16 CHAIRMAN JACOBS: Very well. We're not anticipating
17 moving the hearing dates?

18 MS. KEATING: No, sir.

19 CHAIRMAN JACOBS: Okay. So, we can live with the
20 hearing dates and probably most of the dates after that. So,
21 we're talking about dates prior to the hearing?

22 MS. KEATING: No, sir.

23 CHAIRMAN JACOBS: Very well. With that
24 understanding, then, we can move forward. We'll leave the
25 final calendar pending for one week, okay? Any other

1 questions, issues, concerns?

2 MS. KEATING: I think, those are all the concerns
3 that Staff had.

4 CHAIRMAN JACOBS: Very well. We anticipate an order
5 being issued to confirm the procedural calendar for this
6 docket, and if there are any other questions or concerns I'm
7 sure we'll hear from the parties very soon. And if there's
8 nothing else to come before us today, we're adjourned. Thank
9 you.

10 MS. KEATING: Thank you.

11 (Status Conference concluded at 2:53 p.m.)

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

4

5 I, KORETTA E. STANFORD, RPR, Official Commission
6 Reporter, do hereby certify that a Status Conference was
7 heard at the time and place herein stated.

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

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

18 DATED this Tuesday, July 17, 2001.

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Koretta E. Stanford
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