

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

December 7, 2004
Jefferson City, Missouri
Volume 1

10

11

12 In the Matter of the Application)
13 of ALLTEL Communications, Inc.,)
14 for Approval of its Successor)
15 Cellular/PCS Interconnection) Case No. TK-2005-0114
16 Agreement and Accompanying)
17 Amendment with Southwestern Bell)
18 Telephone, L.P. d/b/a SBC Missouri)
19 Under 47 U.S.C. Section 252)

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KENNARD L. JONES, Presiding,
REGULATORY LAW JUDGE.

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18 Service Commission.

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

2 JUDGE JONES: This is the prehearing
3 conference for Case No. TK-2005-0114, in the matter of the
4 application of ALLTEL Communications, Inc. for approval of
5 its successor Cellular/PCS interconnection and
6 accompanying amendment with Southwestern Bell Telephone,
7 L.P., doing business as Southwestern Bell Missouri, under
8 47 U.S.C. Section 252.

9 At this time we'll take entries of
10 appearance, beginning with the Staff of the Commission.

11 MR. POSTON: Marc Poston appearing for the
12 Staff of the Missouri Public Service Commission.

13 JUDGE JONES: Mr. Dority?

14 MR. DORITY: Thank you, Judge. Appearing
15 on behalf of ALLTEL Communications, Inc., Larry W. Dority,
16 Fischer & Dority, PC. Our address is 101 Madison,
17 Suite 400, Jefferson City, Missouri 65101.

18 JUDGE JONES: And Mr. Johnson?

19 MR. JOHNSON: Thank you, your Honor. Craig
20 Johnson, Andereck, Evans, Milne, Peace & Johnson, 700 East
21 Capitol, Box 1438, Jefferson City, Missouri 65102, here
22 for the six individual telephone companies intervening,
23 and the group name is MITG.

24 JUDGE JONES: And Mr. Bub?

25 MR. BUB: Thank you, your Honor. Leo Bub

1 for SBC Missouri. Our address is One SBC Center,
2 St. Louis, Missouri 63101.

3 JUDGE JONES: Okay. Mr. Bub, we can hear
4 you okay. Can you hear everyone else here okay?

5 MR. BUB: I can. Thank you.

6 JUDGE JONES: Well, as you all know, this
7 prehearing conference is primarily an opportunity to get
8 you-all together to discuss whatever differences you may
9 have. Refresh my memory. Didn't this issue come up
10 before with the Public Service Commission with the
11 intervenors, Mr. Johnson? Didn't you represent MITG and
12 they intervened and the cases went away?

13 MR. JOHNSON: There have been several
14 situations in the past where we have either attempted to
15 intervene or were allowed to intervene. I think it's
16 accurate to say that none of those interventions that
17 we've made into an agreement has resulted in a hearing
18 yet.

19 JUDGE JONES: And Mr. Bub, were you
20 involved in any of those cases?

21 MR. BUB: A few of them, and my
22 recollection is that after the intervention, the parties
23 that actually had the dispute, which were different
24 parties than the parties in the agreement, is usually an
25 outsider, an MITG company objecting to other's agreement,

1 usually the -- I believe the Sprint example comes to my
2 mind closest. In that situation, the intervening MITG
3 parties worked some language with Sprint itself to resolve
4 that, so that the objections to the agreement I think were
5 withdrawn. That's my recollection of how most of those
6 cases have been.

7 JUDGE JONES: Is there any reason, speaking
8 all of you, why this wouldn't work out the same way?

9 MR. DORITY: Judge, if I might?

10 JUDGE JONES: Mr. DORITY.

11 MR. DORITY: Thank you. We have been
12 actively engaged in discussions with Mr. Johnson and his
13 clients to attempt to resolve the issues that they have
14 raised as it relates to the subject interconnection
15 agreement that's before the Commission. And we're very
16 mindful of the severe time constraints under which the
17 Commission has to operate in these proceedings, the 90
18 days.

19 And I think in your order granting
20 intervention and setting this prehearing conference you
21 reflect that the Commission -- I believe it's February 1,
22 2004 is the date upon which the Commission has to reach a
23 decision in this matter, and you've instructed the parties
24 to file a proposed procedural schedule by this Friday,
25 December 10th, if I remember correctly.

1 As I indicate, we are actively negotiating
2 with Mr. Johnson and his clients, and I believe we have
3 every reason to think that we will be able to resolve this
4 matter within the next several days. Having said that,
5 I'm wondering if we could be relieved of the obligation of
6 filing a proposed procedural schedule by this Friday, but
7 recognizing that if we're not able to reach an agreement
8 with Mr. Johnson, then we would be coming back to your
9 Honor and indicating the status, and at that point I think
10 it would be incumbent on the parties to have a proposed
11 schedule to present to the Commission for its
12 consideration.

13 Having said that -- and Mr. Poston was kind
14 enough to provide us with copies of the hearing room
15 schedule for the months of December and January. In all
16 likelihood, we would be forced to have what I will call a
17 live hearing with no prefiled testimony perhaps sometime
18 the week of January 10th as a possibility. Having gone
19 through such a hearing, I'm certainly not a proponent of
20 that.

21 And the other option -- and I have not even
22 discussed this with my clients or with Mr. Bub -- would be
23 to simply pull the application and then refile it at a
24 later time, but I don't know if that's an option that we
25 would want to consider at this point.

1 But we are mindful of the time constraints
2 under which the Commission is operating in this matter.
3 We've been diligent in trying to resolve the issues that
4 Mr. Johnson has brought to the table. And again, I'll let
5 Mr. Johnson speak, but I think we're getting very close,
6 and hopefully we'll resolve this matter by the end of this
7 week.

8 JUDGE JONES: Okay. Thank you, Mr. Dority.
9 Mr. Johnson, does he reflect how you feel about the matter
10 also?

11 MR. JOHNSON: Yes, your Honor, he
12 accurately conveyed what's transpired so far. I have a
13 little bit of a reservation about extending the deadline
14 to file the procedural schedule in this case, but I'm not
15 saying I'm totally opposed to it. I'd like to keep the
16 good wishes of the people I'm negotiating with intact.

17 But I -- I have every reason to believe
18 that we can resolve this so that an actual hearing won't
19 be necessary. I would think we could do that in the next
20 several days. I'm just not sure it's wise to leave today
21 without a backup schedule in place.

22 JUDGE JONES: I see. Well, the next
23 several days will be the rest of this week. If you-all
24 aren't able to reach an agreement by Friday, then file a
25 proposed procedural schedule the first half of next week.

1 What I'll do is issue a notice, probably be an Order
2 reflecting that changed date. Mr. Johnson, is that fine
3 with you?

4 MR. JOHNSON: Yes, your Honor.

5 JUDGE JONES: It may force you-all to talk
6 about things over the weekend, which I don't particularly
7 want to do. But if you can't reach an agreement, then
8 it's obvious we're going to hearing and we have to hurry
9 up and do that. So Marc, is that fine with you?

10 MR. POSTON: That's fine.

11 JUDGE JONES: Mr. Bub?

12 MR. BUB: That's fine, your Honor. Thank
13 you.

14 JUDGE JONES: Do you-all need me here for
15 anything?

16 MR. DORITY: Other than, your Honor, to
17 perhaps give us some guidance as to what you may have been
18 thinking regarding a hearing should we have to proceed to
19 a hearing, if there's any particular --

20 JUDGE JONES: You mean as far as live
21 testimony is concerned and whether or not --

22 MR. DORITY: Yes.

23 JUDGE JONES: I think that may be the best
24 course. Quite frankly, I like live testimony. I don't
25 know why that doesn't happen all the time.

1 Well, I have mixed feelings, because this
2 is a -- seems to be a fairly technical issue, and of
3 course prefiled testimony would be helpful in that regard
4 rather than live testimony, but the time constraint I
5 think outweighs the complexity of the issue so that live
6 testimony is almost necessary. So you might file
7 prehearing briefs. That might help, just to frame the
8 issues correctly, and then move right into a hearing. I
9 don't know how long a hearing would take. I don't suspect
10 any more than two days.

11 MR. DORITY: I wouldn't think so.

12 JUDGE JONES: One day? You-all might
13 contemplate the number of witnesses that will need to be
14 called. Something along that line might need to be filed
15 prior to -- well, of course if it's filed, it will have to
16 be filed prior to the hearing. And then because prefiled
17 briefs would be filed, post-hearing briefs wouldn't need
18 to be filed. We'll just have closing arguments.

19 Is that pretty much what you-all need to
20 know about how the procedure might go for a hearing?

21 MR. DORITY: I believe so, Judge. And
22 again, looking at the calendar, if you would have your
23 normal ten-day effective date from the time of issuance of
24 the Commission's Order, I would guess then that we're
25 probably looking sometime the week of the 10th of January

1 or at the latest Wednesday, the 19th, possibly.

2 We will endeavor to notify you, Judge,
3 hopefully this week, that we're able to resolve this
4 matter and we won't have to worry about it.

5 JUDGE JONES: What I'll do, then, is I'll
6 issue an Order setting out what would be the procedural
7 schedule if we have to go to hearing, and I'll also issue
8 an Order, in the event that you-all aren't able to reach
9 an agreement, to have filed a procedural schedule by
10 Wednesday of next week. Is that timely enough,
11 Mr. Johnson?

12 MR. JOHNSON: Yes, your Honor, that's
13 plenty of time. Thank you.

14 JUDGE JONES: Mr. Bub, do you have any
15 feelings or are you fine with what's been discussed?

16 MR. BUB: We're fine with that. Thank you,
17 your Honor.

18 JUDGE JONES: Okay. Well, with that, then
19 I will -- we can go off the record and I'll leave you-all
20 here to talk about the case.

21 WHEREUPON, the recorded portion of the
22 prehearing conference was concluded.

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