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1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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7 TRANSCRIPT OF PROCEEDINGS
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9 PREHEARING CONFERENCE
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11 August 17, 2005
12 Jefferson City, Missouri
13 Volume 3
14
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16 In the Matter of AT&T)
Communications of the)
17 Southwest, Inc.'s Proposed)
Tariff to Establish a Monthly) Case No. TT-2002-129, et al.
18 Instate Connection Fee and)
Surcharge)
19

20 MORRIS L. WOODRUFF, Presiding,
SENIOR REGULATORY LAW JUDGE.
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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good morning, everyone. We're
3 here today for a prehearing conference in Case
4 No. TT-2002-129, which is the consolidation of several cases.
5 We'll begin today by taking entries of appearance beginning
6 with Staff.

7 MR. MEYER: Good morning. My name is David Meyer
8 with the Staff -- representing the Staff of the Missouri
9 Public Service Commission. Our address is P.O. Box 360,
10 Jefferson City, Missouri 65102.

11 JUDGE WOODRUFF: Thank you.
12 And for OPC?

13 MR. DANDINO: Good morning, Your Honor. Michael
14 Dandino, Office of the Public Counsel, Post Office Box 2230,
15 Jefferson City, Missouri 65102, representing the Office of
16 Public Counsel and the Public.

17 JUDGE WOODRUFF: And for AT&T?

18 MR. ZARLING: Good morning, Your Honor. Kevin K.
19 Zarling representing AT&T Communications Southwest, Inc. Just
20 for the record, also have on the -- on the phone Juanita
21 Brown, who is our Missouri state regulatory manager.

22 And my address, for purposes of this proceeding, is
23 919 Congress Avenue, Suite 900, Austin, Texas 78701.

24 JUDGE WOODRUFF: Thank you.
25 And for Sprint?

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1 MR. LEOPOLD: Your Honor, this is Brett Leopold for
2 Sprint Communications Company, L.P. My address is 6450 Sprint
3 Parkway, Overland park, Kansas 66251.

4 JUDGE WOODRUFF: Thank you.

5 And for MCI.

6 MR. LUMLEY: Good morning. For MCI and
7 Teleconnect, Carl Lumley of the Curtis Heinz Law Firm at
8 130 South Bemiston, Suite 200, Clayton, Missouri 63105.

9 JUDGE WOODRUFF: All right. And I understand Bill
10 Voight from Staff is also on the line; is that right, Bill?

11 MR. VOIGHT: Yes, Judge, that's correct.

12 JUDGE WOODRUFF: All right. Just wanted to make
13 sure everybody knew who's all was here.

14 All right. I believe that's all the parties. This
15 prehearing was set as part of the procedural schedule
16 requested by the parties several months ago.

17 Testimony has been filed and so forth, and -- but I
18 believe the purpose of this prehearing conference was so that
19 the parties could discuss amongst themselves whether or not a
20 hearing and any further procedural schedule would be needed.
21 So I'm gonna leave the parties to do that.

22 Is there any matter anyone wants to bring up while
23 we're on the record?

24 MR. LUMLEY: Judge, Carl Lumley. And I think it
25 might be helpful if we chatted briefly on the record about it.

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1 I believe the -- the companies are all in agreement that a
2 hearing is not necessary, and we have a common proposal of
3 proceeding with the following schedule: Initial briefs on
4 September 30th, reply briefs on October 20th, and then
5 proposed decisions, findings of fact, conclusions of law on
6 October 31st.

7 MR. MEYER: I think that's something that I can say
8 that Staff would have no objection to as well.

9 JUDGE WOODRUFF: Okay. Mr. Dandino?

10 MR. DANDINO: Well, if -- if I -- I don't -- I
11 won't necessarily insist upon a hearing. I do want to know
12 whether -- is the Commission gonna consider all the filed
13 testimony that was filed since the remand?

14 In the last couple cases they've had cases on
15 remand -- at least one. I'm sorry. They -- after we have
16 filed all the testimony, they -- they just looked at the -- at
17 the record as -- as -- as it was.

18 Do you know?

19 JUDGE WOODRUFF: My assumption is that we would
20 look at the -- at all -- all the filed testimony. I assume
21 that's what the companies are suggesting as well.

22 MR. LUMLEY: Correct, Your Honor. We're -- we
23 would be briefing based on the testimony of all the parties.
24 We're just -- we don't believe that cross-examination is
25 necessary.

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1 MR. ZARLING: Yeah, Your Honor, this is Kevin
2 Zarling for AT&T. Just wanted to say, for the record, that is
3 AT&T's position also. We would brief based on the prefiled
4 testimony that has been filed. And, you know, our proposal is
5 that we -- we don't need to have a hearing.

6 I guess I just wanted to clarify, for the record,
7 that's AT&T's position as well. And we agreed -- we've
8 reached agreement, as Mr. Lumley said, with the schedule that
9 he outlined.

10 MR. LEOPOLD: Yes, Sprint concurs in the schedule.
11 And we would expect that the legal arguments we make in our
12 briefs would be intertwined with the prefiled testimony that's
13 been filed as the factual and evidentiary record for purposes
14 of our briefing.

15 Plus, of course, there would necessarily probably
16 be reference to the earlier procedural history of the case.

17 JUDGE WOODRUFF: All right.

18 MR. MEYER: I think Staff would plan on -- or Staff
19 plans on relying on its previous, as well as current rounds of
20 testimony.

21 And just, for the record, I note I think the
22 history that the Commission has with these sorts of
23 proceedings most recently was with case -- the remand on
24 Case TR-2002-251. But we would certainly recommend proceeding
25 in this case on the current record, as well as the previous

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1 record.

2 JUDGE WOODRUFF: Okay. Mr. Dandino?

3 MR. DANDINO: I -- I wouldn't have any problem
4 about, you know, proceeding without a hearing, you know,
5 unless the -- I'm not gonna waive cross-examination in -- in
6 the event that the Commissioners want a hearing. If they want
7 a hearing, then I --

8 JUDGE WOODRUFF: Yes.

9 MR. DANDINO: -- I -- I would like
10 cross-examination.

11 Otherwise I can live with this schedule and -- and
12 the record as is.

13 JUDGE WOODRUFF: All right. Well, I will need to
14 run this past the Commissioners to see if they have any
15 questions. And so that's gonna take -- there's no agenda any
16 more this week. So we will be looking at next week before I
17 can get an answer from that.

18 MR. ZARLING: And, Judge, this is AT&T -- Kevin
19 Zarling for AT&T again. And similar to Mr. Dandino -- I mean
20 the same as Mr. Dandino. I mean, if the Commission were to
21 decide to have a hearing, we would not be waiving cross in
22 that event.

23 JUDGE WOODRUFF: All right. Certainly. And -- and
24 I don't -- I don't know why the Commission would want to have
25 a hearing. From -- from -- from my review of the testimony,

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1 it's -- it's pretty explanatory. But the Commissioners are
2 the Commissioners, and they can do what they want, so -- but I
3 will try and run that past them next week.

4 MR. LUMLEY: And I think just so the record's
5 clear, Your Honor, the -- you know, the proposal is that --
6 that all of the testimony would be considered admitted into
7 evidence so that the parties can rely on it.

8 And I don't -- I don't think anybody's indicating
9 an intent to waive any rights should a hearing be ordered.
10 We're all just indicating that we're not asking for hearings.

11 MR. DANDINO: Well, it -- it'd be admitted, subject
12 to any legal objections that any party would make as to it. I
13 mean, we can -- we can make that as a -- as a legal objection
14 to it to preserve the -- our point.

15 JUDGE WOODRUFF: Well, it sounds like --

16 MR. LUMLEY: I mean, that's not -- I mean,
17 certainly anybody would be free to argue as to the weight of
18 evidence or should it be disregarded.

19 But, I mean, what -- what we're proposing is that
20 all the testimony be available to the Commission. And I don't
21 know how we would sort out objections to admissibility if
22 we're not holding a hearing.

23 MR. DANDINO: Well, I guess we could -- that we
24 could really go to the weight, as long as we're not waiving
25 a -- waiving any hearsay objections.

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1 JUDGE WOODRUFF: Okay. Well, it sounds like
2 there's really no need for any further discussion amongst the
3 parties. We've -- we've pretty much had that on the -- on the
4 record here.

5 What I would like you to do is, if you can agree
6 upon one of you to file a -- a motion explaining all this,
7 that way I have something to hand to the Commissioners -- if
8 you can do that just as soon as possible.

9 As I indicated, the Commission is not gonna have an
10 agenda any more tomorrow. So we'll be looking at Tuesday or
11 Thursday of next week before I can get it on for discussion
12 before the Commissioners.

13 So as -- as soon as you can get that pleading
14 filed, the sooner I can take it in. And -- and I don't need
15 anything detailed. Just something quick on a page jotting out
16 what we've discussed today.

17 MR. LUMLEY: I'm happy to take the first shot at
18 that if that's acceptable to everybody else.

19 MR. DANDINO: That's fine.

20 JUDGE WOODRUFF: Thank you, Mr. Lumley.

21 MR. LUMLEY: I think a couple of other pieces of
22 information, just in case there's any surprises from the
23 Commission, that might help the -- the Judge and the
24 Commission to know, I think it's the view of the three
25 companies that if there has to be a hearing, it would -- and

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1 it was, you know, basically a typical full-blown hearing as
2 opposed to some perhaps limited inquiry or something, we would
3 anticipate
4 needing two days to be conservative about it to make sure
5 there was enough time.

6 And also there -- we weren't -- we didn't fully
7 explore our witness's conflicts and things like that. So I
8 think rather than having a hearing date declared, we would
9 rather have the opportunity perhaps for a conference call --

10 JUDGE WOODRUFF: Certainly.

11 MR. LUMLEY: -- to -- to clear those kinds of
12 things.

13 I know -- I know for sure that Sprint has some
14 problems with their witness availability, and I haven't even
15 checked with mine. So I think we'd like that opportunity, as
16 opposed to having a date kind of thrown out.

17 JUDGE WOODRUFF: Understood.

18 MR. LEOPOLD: Yeah, that's true, Your Honor. If --
19 if -- if there's a determination that there needs to a hearing
20 in the opinion of the Commissioners, we'd like to at least
21 have an option to consult on the placement of that, cuz our --
22 our one witness in the proceeding has a block of time where
23 he'll be generally unavailable at the end of September and
24 beginning of October.

25 JUDGE WOODRUFF: All right.

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1 MR. DANDINO: Two days, that sounds about right.

2 JUDGE WOODRUFF: All right. Is there anything else
3 anyone wants to discuss?

4 (NO RESPONSE.)

5 JUDGE WOODRUFF: I see heads nodding here in the
6 room, and I don't hear anybody coming over the phone. So with
7 that, then, this prehearing conference is adjourned.

8 MR. LUMLEY: Thank you.

9 MR. ZARLING: Thank you, Your Honor.

10 MR. MEYER: Thank you.

11 WHEREUPON, the on-the-record portion of the
12 prehearing conference was concluded.

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