

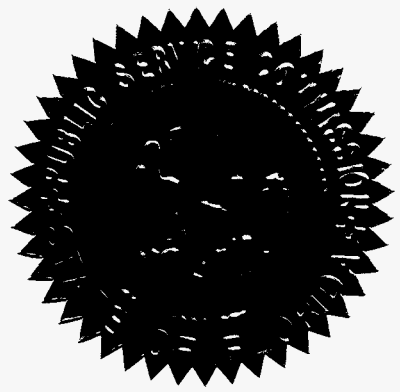
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the Matter of:

DOCKET NO. 090501-TP

PETITION FOR ARBITRATION OF
CERTAIN TERMS AND CONDITIONS OF
AN INTERCONNECTION AGREEMENT
WITH VERIZON FLORIDA, LLC BY
BRIGHT HOUSE NETWORKS INFORMATION
SERVICES (FLORIDA), LLC.



_____ /

PROCEEDINGS:	PREHEARING CONFERENCE
COMMISSIONER PARTICIPATING:	COMMISSIONER NATHAN A. SKOP PREHEARING OFFICER
DATE:	Thursday, May 13, 2010
TIME:	Commenced at 9:30 a.m. Concluded at 9:56 a.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR Official FPSC Reporter (850) 413-6732

1 APPEARANCES:

2 BETH KEATING, ESQUIRE, Akerman Law Firm, 106
3 East College Avenue, Suite 1200, Tallahassee, Florida
4 32301, appearing on behalf of Bright House Networks
5 Information Services (Florida), LLC.

6 CHRISTOPHER W. SAVAGE, ESQUIRE and DANIELLE
7 FRAPPIER, ESQUIRE, Davis Wright Tremaine, LLP, 1919
8 Pennsylvania Avenue, NW, Suite 200, Washington, DC
9 20006, appearing on behalf of Bright House Networks
10 Information Services (Florida), LLC.

11 DULANEY L. O'ROARK III, Verizon Florida LLC,
12 Six Concourse Parkway, NE, Suite 800, Atlanta, Georgia
13 30328, appearing on behalf of Verizon Florida LLC.

14 TIMISHA BROOKS, ESQUIRE and CHARLES MURPHY,
15 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak
16 Boulevard, Tallahassee, Florida 32399-0850, appearing on
17 behalf of the Florida Public Service Commission Staff.

18 MARY ANNE HELTON, DEPUTY GENERAL COUNSEL, FPSC
19 General Counsel's Office, 2540 Shumard Oak Boulevard,
20 Tallahassee, Florida 32399-0850, Advisor to the Florida
21 Public Service Commission.

P R O C E E D I N G S

1
2 **COMMISSIONER SKOP:** Good morning. I'd like to
3 call this prehearing conference to order; Commissioner
4 Skop presiding. If staff could please read the notice.

5 **MS. BROOKS:** Pursuant to notice filed on
6 April 14th, 2010, this time and place has been set for a
7 Prehearing Conference in Docket Number 090501-TP, which
8 concerns Bright House Networks Information Services
9 (Florida), LLC's petition to arbitrate certain terms and
10 conditions of the interconnection agreement with Verizon
11 Florida, LLC.

12 **COMMISSIONER SKOP:** Thank you. If we could
13 take appearances.

14 **MS. KEATING:** Good morning, Commissioner.

15 Beth Keating, Akerman Senterfitt, here today
16 on behalf of Bright House Networks Information Services,
17 LLC.

18 **COMMISSIONER SKOP:** And I believe we have Mr.
19 Savage and Ms. Frappier on the phone.

20 **MR. SAVAGE:** Yes. This is Chris Savage and
21 Danielle Frappier with Davis Wright Tremaine, LLP, in
22 Washington, D.C. for Bright House Networks.

23 **COMMISSIONER SKOP:** Okay. Thank you.

24 **MR. O'ROARK:** Good morning, Commissioner Skop.
25 I'm De O'Roark appearing on behalf of Verizon Florida,

1 LLC, and on the phone should be David Haga also
2 appearing for Verizon.

3 **COMMISSIONER SKOP:** Mr. Haga, are you with us
4 this morning?

5 **MR. HAGA:** I am.

6 **COMMISSIONER SKOP:** Great. Thank you. And
7 staff?

8 **MS. BROOKS:** Timisha Brooks and Charlie Murphy
9 on behalf of Commission staff.

10 **MS. HELTON:** And Mary Anne Helton, advisor to
11 the Commission.

12 **COMMISSIONER SKOP:** Thank you.

13 Staff, were there any preliminary matters we
14 need to address before we go through the draft
15 prehearing order?

16 **MS. BROOKS:** There are none.

17 **COMMISSIONER SKOP:** Okay. Thank you.

18 We're going to proceed through the draft
19 prehearing order, and I'll identify the various
20 sections, and I want the parties to let me know if there
21 are any corrections or changes that need to be made.
22 I'll probably go through this quickly, so if there is a
23 change or a concern, please speak up and we'll address
24 it at that time.

25 So with that, we'll start with the draft

1 prehearing order. Section I, Case Background.

2 **MR. O'ROARK:** One proposed change there,
3 Commissioner Skop.

4 **COMMISSIONER SKOP:** Yes, Mr. O'Roark; you're
5 recognized.

6 **MR. O'ROARK:** Bright House and Verizon have
7 conferred, and the parties believe that they can
8 complete the hearing in one day. We would propose that
9 that hearing day be Tuesday, May 25th. Part of the idea
10 there is that we would sort of exchange a day of hearing
11 for some additional briefing. The idea being that
12 initial briefs would be 50 pages and that we would add
13 reply briefs of 20 pages.

14 **COMMISSIONER SKOP:** Very well.

15 Ms. Keating, do you have any objection to
16 that?

17 **MS. KEATING:** We do not.

18 **COMMISSIONER SKOP:** Staff?

19 **MS. BROOKS:** We do not.

20 **COMMISSIONER SKOP:** Okay. Based on Mr.
21 O'Roark's concern to modify the hearing date, the
22 hearing date will be modified to Tuesday, May 25th. It
23 will be a one-day hearing, and we'll address the issues
24 associated with the number of pages of briefs later in
25 this proceeding.

1 That will take us to Section II, Conduct of
2 Proceedings. Any concerns?

3 **MR. O'ROARK:** No.

4 **COMMISSIONER SKOP:** Hearing none, Section III,
5 Jurisdiction.

6 **MR. O'ROARK:** No concerns.

7 **COMMISSIONER SKOP:** Okay.

8 Section IV, Procedure for Handling
9 Confidential Information.

10 **MR. O'ROARK:** No concerns, Commissioner Skop.

11 **COMMISSIONER SKOP:** Okay. Section V, Prefiled
12 Testimony, Exhibits, Witnesses. Any concerns?

13 **MS. KEATING:** No concerns.

14 **MR. O'ROARK:** No concerns.

15 **CHAIRMAN ARGENZIANO:** Okay. We're going to
16 afford five minutes for witness summaries, and is that
17 going to be appropriate for the parties?

18 **MR. O'ROARK:** That will be fine with Verizon.

19 **COMMISSIONER SKOP:** Ms. Keating?

20 **MS. KEATING:** We can work with that,
21 Commissioner.

22 **COMMISSIONER SKOP:** Thank you. All right. So
23 show that done, five minutes for witness summaries of
24 testimony. Okay.

25 That takes us to Section VI, Order of

1 Witnesses. Any concerns there?

2 **MR. O'ROARK:** No concerns for Verizon.

3 **COMMISSIONER SKOP:** Have the parties been able
4 to stipulate to any additional witnesses at this point?

5 **MR. O'ROARK:** No, Commissioner Skop, not yet.

6 **COMMISSIONER SKOP:** Okay. And I believe there
7 was a concern that may have come up, staff, with respect
8 to taking the direct and rebuttal testimony together or
9 bifurcating it. Would staff speak to that?

10 **MR. SAVAGE:** Your Honor, this is Chris Savage.
11 Bright House raised that concern at one point, but we're
12 satisfied with the proposal as it now stands.

13 **COMMISSIONER STEVENS:** Okay. So it will
14 remain as currently stated in the Prehearing Order, or
15 Draft Prehearing Order.

16 **MR. SAVAGE:** As stated in the Prehearing
17 Order, that's correct.

18 **COMMISSIONER SKOP:** Thank you.

19 Okay. Any other concerns on Section VI, Order
20 of Witnesses?

21 **MS. KEATING:** No, sir.

22 **COMMISSIONER SKOP:** All right. Hearing none,
23 that takes us to Section VII, Basic Positions.

24 **MR. O'ROARK:** No concerns.

25 **MS. KEATING:** No changes.

1 **COMMISSIONER SKOP:** All right. Hearing no
2 concerns, that takes us to Section VIII, Issues and
3 Positions.

4 **MR. O'ROARK:** No concerns.

5 **COMMISSIONER SKOP:** Okay. And it's my
6 understanding that the scope of issues has now been
7 narrowed to ten outstanding issues, is that correct?

8 **MR. O'ROARK:** I think we're down to nine,
9 Commissioner Skop.

10 **COMMISSIONER SKOP:** All right. Great.

11 **MR. SAVAGE:** Yes. And, Your Honor, this is
12 Chris Savage, again, with Bright House. I wanted to
13 simply for the record reflect that we are continuing to
14 discuss the possible resolution of some of the remaining
15 open issues with Verizon. And, of course, if we reach
16 any resolutions, we'll advise all the parties.

17 **COMMISSIONER SKOP:** Very well. Thank you.
18 Again, the Commission encourages the parties to work
19 together in good faith to resolve the differences, if
20 any, prior to hearing, and we'd welcome that.

21 Okay. I think that you takes us now to
22 Section IX, Exhibits List. And, Staff, any concerns
23 with respect to the exhibits list?

24 **MS. BROOKS:** Staff will provide the parties
25 with an Exhibit List as soon as it's completed.

1 **COMMISSIONER SKOP:** Okay. Any other concerns
2 from the parties? Hearing none, that takes us to
3 Section X, Proposed Stipulations. Staff and the
4 parties? Okay. No stipulations at this time?

5 **MR. O'ROARK:** None at this time, Commissioner.

6 **COMMISSIONER SKOP:** All right. Great.
7 All right. Section XI, pending motions.
8 Staff.

9 **MS. BROOKS:** No.

10 **COMMISSIONER SKOP:** Okay. Section XII,
11 Pending Confidentiality Motions. Staff.

12 **MS. BROOKS:** There is one confidentiality
13 motion by Verizon filed on May 3rd. It should be issued
14 soon, within the next few days.

15 **COMMISSIONER SKOP:** Okay. All right. So that
16 pending motion will be addressed via forthcoming order.
17 And so if there are any other matters that we need to
18 address subsequent to that, we can either address them
19 or at a preliminary matter at hearing.

20 Okay. That takes us to Section XIII,
21 post-hearing procedures. Staff, it's my understanding
22 that the parties have made two requests with respect to
23 post-hearing procedures. If staff could briefly speak
24 to those.

25 **MS. BROOKS:** The parties would like to file

1 reply briefs in addition to their initial post-hearing
2 briefs. The parties would also like to increase the
3 page limit for those initial briefs from 50 pages for
4 the initial brief and 20 pages for the reply briefs.
5 And also have the dates revised to the initial
6 post-hearing brief filed on July 9th and the reply brief
7 to be filed on July 30th.

8 **COMMISSIONER SKOP:** Okay. We're going to
9 address those in order. First, with respect to the
10 reply brief, I'm going to grant that request, so we will
11 allow the parties to file reply briefs. With respect to
12 the page limitation, I would like to speak to the
13 parties with respect to the initial brief, why 50 pages
14 would be needed, and whether a smaller number would
15 suffice.

16 **MR. SAVAGE:** Your Honor, I'm sorry to
17 interrupt. Is it appropriate for me to speak now?

18 **COMMISSIONER SKOP:** Yes. Who is this?

19 **MR. SAVAGE:** This is Chris Savage for Bright
20 House.

21 **COMMISSIONER SKOP:** Thank you, Mr. Savage.
22 You're recognized.

23 **MR. SAVAGE:** Very briefly, what has been
24 happening from at least our perspective as the
25 discussions have gone on and the discovery has gone on

1 is that the -- as we are narrowing the issues, they are
2 coming down to issues where essentially we disagree on
3 how the law should be interpreted and what it requires.
4 And I don't know that we would actually need to use all
5 50 pages of a brief, but, unfortunately, some of the
6 legal issues are a little bit involved. And my concern
7 is simply that we not find ourselves unable to fully
8 address, you know, some of the ins and outs of the
9 various FCC rulings and so on that bear on this by
10 virtue of a page constraint.

11 I mean, we will live with, obviously, whatever
12 you order. But given some of the complicated legal
13 stuff, we think it would be better off if we had a
14 little more flexibility on the page length.

15 **COMMISSIONER SKOP:** All right. Thank you, Mr.
16 Savage. Any other concerns?

17 Mr. O'Roark.

18 **MR. O'ROARK:** Commissioner Skop, in looking at
19 the nine issues that we have left, I don't think there
20 are any of them that we will be able to address in just
21 a paragraph or a page. I think they will all require at
22 least three pages. And then for some of the issues that
23 are more involved, if you look at the testimony, I think
24 both sides have probably filed more than 50 pages on the
25 issues collectively, so I think it's reasonable to

1 expect that we're going to need some latitude to deal
2 with these issues in the briefs. And the issues are, to
3 a large extent, legal and will require, therefore, a bit
4 more briefing than you would see in the ordinary case.

5 **COMMISSIONER SKOP:** Thank you. Staff, with
6 respect to the parties' requests?

7 **MS. BROOKS:** Staff believes that there was
8 initially 30 pages for both in initial post-hearing
9 brief with no reply brief, but we do understand that the
10 parties have legal issues that they need to make sure
11 that they are able to present in those briefs, so we are
12 okay with increasing that page limit.

13 **COMMISSIONER SKOP:** Okay. Does staff have a
14 suggested page limit?

15 **MS. BROOKS:** Fifty pages for the initial brief
16 and 20 pages for the reply brief would be okay,
17 Commissioner.

18 **COMMISSIONER SKOP:** All right. Thank you.
19 That's what my thoughts were also. So with respect to
20 the page limitation, the initial brief will be limited
21 to 50 pages pursuant to the parties' request; the reply
22 brief will be limited to 20 pages, pursuant to the
23 parties' request. And with respect to the due dates,
24 revised due dates for the briefs, the initial brief will
25 be due on July 9th, pursuant to the parties' request,

1 and the reply brief will be due on July 30th, pursuant
2 to the parties' request. So in summation, going back
3 over everything so staff has it, the request for reply
4 brief is granted; the limitations on the initial brief,
5 50 pages.

6 **MR. SAVAGE:** I apologize for interrupting,
7 but, Commissioner, you're breaking up and I'm not
8 hearing what you're saying right now.

9 **COMMISSIONER SKOP:** Okay. Let me start over,
10 and I'll go slow. And, Chris, if you could check the
11 audio. Okay. Thank you.

12 **MR. SAVAGE:** Yes.

13 **COMMISSIONER SKOP:** So, in summation, with
14 respect to my rulings as it pertains to the parties'
15 requests, the request for reply briefs has been granted;
16 the page limitations for the initial brief will be
17 limited to 50 pages; the page limitation for the reply
18 brief will be limited to 20 pages, pursuant to the
19 parties' request; and the revised due dates for the
20 respective briefs will be July 9th for the initial brief
21 and July 30th for the reply brief.

22 And I think that should address the concerns
23 of the parties. Any other concerns on that matter?

24 **MS. KEATING:** Thank you, Commissioner.

25 **MR. O'ROARK:** Thank you.

1 **COMMISSIONER SKOP:** Okay. Any other concerns
2 before we move to the next section?

3 **MS. BROOKS:** Just the significant dates.

4 **COMMISSIONER SKOP:** Okay. Yes, we'll get to
5 that in one second. We're still in the Prehearing
6 Order.

7 Okay. That takes us to Section XIV, Rulings.
8 And it's my understanding the parties will not present
9 opening statements?

10 **MR. SAVAGE:** Your Honor, this is Chris Savage.
11 I had hoped to at least have the opportunity to take a
12 few moments at the beginning of the case to put the
13 issues which can be a little bit arcane into context.

14 **COMMISSIONER SKOP:** Okay. Any other concerns
15 from the parties?

16 Mr. O'Roark.

17 **MR. O'ROARK:** We don't object to there being
18 opening statements, Commissioner Skop.

19 **COMMISSIONER SKOP:** Staff, with respect to
20 opening statements from the parties, ten minutes from
21 each side total?

22 **MS. BROOKS:** Yes.

23 **COMMISSIONER SKOP:** Okay. All right. So show
24 that done, ten minutes per side for opening statements
25 will be granted. Okay.

1 Staff, are there any other matters that need
2 to be discussed before we move to the significant dates?

3 **MS. BROOKS:** No.

4 **COMMISSIONER SKOP:** Okay. All right.

5 For the significant dates, as amended, the
6 hearing date will be May 25th, that's a Tuesday. The
7 transcript will be due June 11th; and the briefs, for
8 the initial brief the revised date will be July 9th and
9 the reply brief will be July 30th.

10 **MS. BROOKS:** Yes.

11 **COMMISSIONER SKOP:** Staff, are those dates
12 acceptable?

13 **MS. BROOKS:** Yes.

14 **COMMISSIONER SKOP:** Okay. All right. And,
15 are there any other matters to address before we
16 adjourn?

17 **MR. O'ROARK:** No, sir.

18 **COMMISSIONER SKOP:** Ms. Keating?

19 **MS. KEATING:** No, sir. Thank you.

20 **COMMISSIONER SKOP:** Any parties appearing
21 telephonically, any additional concerns?

22 **MR. SAVAGE:** No, Your Honor.

23 **MR. HAGA:** No. Thank you.

24 **COMMISSIONER SKOP:** All right. Thank you.
25 Well, I appreciate everyone attending, and with that we

1 stand adjourned.

2 **MS. KEATING:** Thank you, Commissioner.

3 **MR. SAVAGE:** Thank you, sir.

4 (The Prehearing concluded at 9:56 a.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25


STATE OF FLORIDA)
 :
)
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 19th day of May, 2010.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732