

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of :
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Dade County Circuit Court :
referral of certain issues in :
Case No. 92-11684 (Transcall :
America, Inc. d/b/a ATC Long :
Distance vs. Telecommunications :
Services, Inc., and :
Telecommunications Services, :
Inc. vs. Transcall America, :
Inc. d/b/a ATC Long Distance) :
that are within the :
Commission's jurisdiction. :

DOCKET NO. 951232-TI



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER JOE GARCIA
Prehearing Officer

DATE: Thursday, August 6, 1998

TIME: Commenced at 9:30 a.m.
Concluded at 10:03 a.m.

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

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting

DOCUMENT NUMBER - DATE

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F-PSC-RECORDS/REPORTING

1 **APPEARANCES:**

2 **FLOYD SELF and ALBERT T. GIMBEL, Messer,**
3 **Caparello and Self 215 South Monroe Street, Post**
4 **Office Box 1876, Tallahassee, Florida 32302-1876,**
5 **appearing on behalf of Transcall America, d/b/a ATC**
6 **Long Distance.**

7 **WESLEY R. PARSONS, Ador & Zeder, 2601 South**
8 **Bayshore Drive, Suite 1600, Miami, Florida 33133**
9 **appearing on behalf of Telecommunication Services,**
10 **Inc., teleconferencing from Miami.**

11 **BETH KEATING, Florida Public Service**
12 **Commission, Division of Legal Services, 2540 Shumard**
13 **Oak Boulevard, Tallahassee, Florida 32399-0870,**
14 **appearing on behalf of the Commission Staff.**

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P R O C E E D I N G S

(Hearing convened at 9:30 a.m.)

COMMISSIONER GARCIA: Good morning. If we're all set, let me just hold the record for a second.

(Discussion off the record.)

Call the hearing to order. Staff counsel, would you please read the notice?

MS. KEATING: By notice issued July 17th, 1998, this time and place has been set for a prehearing conference in Docket No. 951232-TI, for purposes as set forth in the notice. The purposes as set forth in the notice.

COMMISSIONER GARCIA: Okay. We'll take appearances.

MR. PARSONS: May it please the Commission, Wesley R. Parsons, representing Telecommunications Services, Inc. the respondent.

COMMISSIONER GARCIA: Okay.

MR. SELF: Floyd Self, Teco Gimbel and Elliott Messer, appearing on behalf of Transcall America, Inc.

MS. KEATING: Beth Keating, appearing for the Commission staff.

COMMISSIONER GARCIA: Are there any

1 preliminary matters?

2 MS. KRATING: There is one, I believe,
3 regarding the discovery deadline.

4 COMMISSIONER GARCIA: Okay.

5 MR. GIMBEL: Yes. Commissioner, we had some
6 depositions scheduled for Friday, and one of the
7 deponents had some surgery and was unable to sit for
8 that deposition on Friday. Discovery cutoff is
9 Wednesday. We've rescheduled them for Wednesday so we
10 should be okay, but we thought in a abundance of
11 caution, if it was acceptable, that we would agree to
12 extend the discovery deadline through next Friday just
13 in case.

14 COMMISSIONER GARCIA: That's for the 14th?

15 MR. GIMBEL: That would be the 14th.

16 COMMISSIONER GARCIA: Okay. Very good.

17 We'll make it so.

18 Let's go through the Prehearing Order, which
19 I know I have it here somewhere. And what we'll do is
20 when we have a problem, yell out, and that way we
21 don't have to go through parts of this unnecessarily.
22 We'll go through -- there's no corrections or anything
23 on the case background?

24 (No response.)

25 Order of witnesses?

1 **MR. SELF:** Commissioner Garcia, the only
2 question I would raise is with respect to the order of
3 witnesses is they are laid out with direct and
4 rebuttal separate, and I just don't know what your
5 pleasure is about whether you want them to appear
6 twice or once or how you want that to go.

7 **COMMISSIONER GARCIA:** Okay.

8 **MR. SELF:** I'm happy with the way it's laid
9 out.

10 **COMMISSIONER GARCIA:** Mr. Parsons?

11 **MR. PARSONS:** I have no objection to the way
12 it's laid out currently.

13 **MS. KEATING:** I think that it's most
14 conducive to the presentation of the evidence the way
15 that it's set up now, but if there's a strenuous
16 objection --

17 **MR. SELF:** I have no objection.

18 **MR. PARSONS:** Mr. Commissioner, if I could
19 address two of the witnesses. David Resposo and
20 Joseph Signorelli. These two gentlemen are former
21 employees of the plaintiff. They have other jobs and
22 other lives now. One of them, I believe it was
23 Mr. Signorelli, has been ill this year, and has had
24 some difficulty with his job and scheduling matters in
25 his life. We've deposed both witnesses. Both

1 witnesses have had subpoenas issued for their
2 attendance at the hearing. Mr. Resposo I have been
3 unable to serve so far, and I'm not sure I will be
4 able to serve him. Mr. Signorelli has not yet been
5 served, but I'm more optimistic about being able to
6 serve him.

7 My suggestion would be that in lieu of
8 continuing to chase these witnesses to require their
9 appearance, we use their deposition testimony. It's
10 allowable under the Florida Rules of Civil Procedure
11 on deposition testimony because they both reside more
12 than hundred miles from Tallahassee. They are
13 Broward, Palm Beach County residents, and I would make
14 that suggestion as a way of expediting matters.

15 COMMISSIONER GARCIA: Okay. Mr. Self?

16 MR. SELF: Commissioner Garcia, I posed to
17 Mr. Parsons that with respect to Mr. Resposo that I'd
18 certainly be willing to entertain stipulating to
19 excerpts from the deposition transcript.

20 As a general proposition, with respect to
21 all of the depositions that have been taken, we
22 believe there's a lot of material in there that's
23 simply not relevant or otherwise objectionable under
24 the rules. And so we would certainly be willing --
25 certainly with respect to Mr. Resposo, if he could

1 give us like pages and lines that he would be
2 interested in stipulating to so we could review that.
3 So instead of having the whole transcript, we could
4 have just what Mr. Parsons believes is relevant and I
5 think we could work through that.

6 With respect to Mr. Signorelli, we have some
7 serious concerns about the veracity of
8 Mr. Signorelli's testimony, and believe that it's very
9 important for the Commission in this proceeding that
10 if Mr. Parsons wants to have Mr. Signorelli, that he
11 be compelled to appear in Tallahassee.

12 I would certainly be willing to consider if
13 Mr. Parsons has pages and lines of the transcript, you
14 know, that may -- we may be able to come to some
15 agreement about that, and we'd certainly want to try
16 and work through that potential.

17 **COMMISSIONER GARCIA:** All right.
18 Ms. Keating, do you want to jump in?

19 **MS. KEATING:** Perhaps this is something that
20 Staff can discuss with the parties and a final
21 determination can be made on it at a later date.

22 **COMMISSIONER GARCIA:** All right.
23 Mr. Parsons, hopefully, you can work with Mr. Self and
24 see if we can get it resolved before we get there.
25 And then maybe if we narrow it down a little bit, they

1 will be a little bit more forthcoming about letting it
2 come in. And I think you're probably well within your
3 rights of wanting it in.

4 MR. PARSONS: Thank you.

5 COMMISSIONER GARCIA: And it will probably
6 expedite the hearing a little bit quicker.

7 Is there anything else on the witnesses?

8 MR. SELF: Yes. Commissioner Garcia,
9 there's a couple of other things. Mr. Parsons has
10 identified several other people. Two of the persons
11 that he has identified, Mary Jo Daurio and Dennis
12 Sickle, we have prefiled testimony for both of those.
13 So I think on the box on Page 5, Ms. Daurio appears a
14 second time as a TSI witness, and again on Page 6, in
15 the third line, Mr. Sickle appears. I think that
16 since we are indeed going to produce both of those
17 people for the hearing, we don't need to have them
18 appear three times and certainly will have the
19 opportunity to cross them. So I'd like to remove
20 those two names when they appear those two times.

21 MR. PARSONS: In the rebuttal section?

22 MR. SELF: No. On Page 5 in the box, the
23 last line, Mary Jo's name appears. So I'd remove that
24 one. And then on Page 6, the first time that Dennis
25 Sickle appears, I'd remove him at that point.

1 MR. PARSONS: I have no objection to that.

2 COMMISSIONER GARCIA: Okay.

3 MR. SELF: And then Bryan Sulmonetti is a
4 current company employee. Mr. Sulmonetti will be in
5 Tallahassee for the hearings. He's the company
6 representative in charge of this case. Again, I'd be
7 willing to potentially stipulate deposition pages if
8 we need him so we could probably remove him. We can
9 probably leave him there for the moment.

10 COMMISSIONER GARCIA: We can take up that
11 situation before we begin the actual hearing or later
12 on.

13 MR. SELF: Yes.

14 COMMISSIONER GARCIA: Okay.

15 MR. SELF: And then, lastly, I'd like to get
16 my own name removed as a potential witness because I
17 have been gone. I understand there have been some
18 conversations, and maybe they are just within my
19 office, about us providing an affidavit or perhaps two
20 affidavits, maybe one for myself and one for Mr.
21 Anderson regarding the scope of the, quote,
22 "investigations" or what happened with respect to some
23 of these facts. And we're trying to get that put
24 together so we can have it done in the next couple of
25 days.

1 **COMMISSIONER GARCIA:** You're going to be
2 giving that to Ms. Keating and Mr. Parsons.

3 **MR. SELF:** Yes.

4 **COMMISSIONER GARCIA:** Okay.

5 **MR. PARSONS:** Do you expect that to have
6 evidentiary value at the hearing? If you do, I should
7 be able to examine the witness on the affidavit.

8 **MR. GIMBEL:** We don't believe it's going to
9 have any relevance to the proceeding.

10 **MR. PARSONS:** Why is it being filed then?

11 **MR. GIMBEL:** Because we made the offer in
12 the argument on Floyd's deposition to provide the
13 affidavit. And as I understand the -- my
14 understanding is it's just a follow-up by Staff on
15 that point. We are not planning on introducing it in
16 the hearing for any evidentiary purpose.

17 **MR. PARSONS:** I see.

18 **MR. GIMBEL:** Unless there is some issue on
19 -- somehow that becomes an issue, whether some
20 investigation was conducted and Floyd -- you know,
21 barring that.

22 **MR. PARSONS:** If it were to become an issue,
23 I think I should be able to examine the witness about
24 the affidavit. If it's not going to be an issue, then
25 I would not have that right.

1 **MR. GIMBEL:** I think that's right.

2 **MR. PARSONS:** Okay.

3 **MR. GIMBEL:** I mean, we don't intend to
4 offer it as evidence is all I can say. We don't
5 intend to use it. It's provided for clarification.

6 **COMMISSIONER GARCIA:** We're going to strike
7 Mr. Floyd's name. We're going to make the other
8 corrections on the witness, if that's all right with
9 you, Mr. Parsons.

10 **MR. PARSONS:** Yes, it is.

11 **COMMISSIONER GARCIA:** Okay. So we'll move
12 on then. Is there anything else on the witnesses?

13 **Issues and positions?** I don't think we need
14 to go through them one by one. If you've got a
15 problem -- let me go through them one by one, because
16 then I always get myself caught.

17 **We'll go Issue 1? Issue 2? Issue 3? Wait**
18 **a minute. I don't have them listed -- oh, here it is.**
19 **Issue 3?**

20 **MR. PARSONS:** Can I make one comment about
21 **Issue 2?**

22 **COMMISSIONER GARCIA:** Absolutely.

23 **MR. PARSONS:** My client -- it's about a --

24 **MR. SELF:** Which page?

25 **MR. PARSONS:** One moment. I lost it. Okay.

1 Page 9.

2 COMMISSIONER GARCIA: Okay.

3 MR. PARSONS: TSI, as stated in the second
4 paragraph, was unable to develop evidence regarding
5 billing for 800 calls, which is a correct statement.
6 Ms. Welch, the Staff auditor was able to develop some
7 evidence on that matter. TSI may simply adopt Ms.
8 Welch's position on that audit disclosure at the time
9 of hearing. And then I would want to make that clear
10 so it's no surprise.

11 COMMISSIONER GARCIA: Okay.

12 MR. SELF: Thank you.

13 MS. KEATING: Can I just clarify that you're
14 not adopting it at this time, though?

15 MR. PARSONS: No, ma'am.

16 MS. KEATING: Okay.

17 COMMISSIONER GARCIA: All right.

18 MS. KEATING: Could I point something out?

19 COMMISSIONER GARCIA: Sure.

20 MS. KEATING: I noticed in TSI's prehearing
21 statement there was an issue added on Page 11. And I
22 believe it was stated whether a negative inference
23 should be drawn against WorldCom Transcall due to its
24 failure or refusal to provide the raw call detail
25 records of TSI's traffic over its switch.

1 **MR. PARSONS:** I think that's an issue that
2 has developed recently, yes. Its not on the original
3 statement of the tentative issues.

4 **MS. KEATING:** It's my understanding that you
5 filed a second Motion to Compel.

6 **MR. PARSONS:** Yes.

7 **MS. KEATING:** Which relates to that issue?

8 **MR. PARSONS:** Yes, ma'am.

9 **MS. KEATING:** Commissioner, Staff has
10 prepared a draft order for separate ruling on that
11 matter, so I suggest that that not be added to the
12 list of issues in this proceeding.

13 **COMMISSIONER GARCIA:** Okay. Explain exactly
14 where it goes, Ms. Keating, because -- what exactly
15 you want, Mr. Parsons, so I have a good understanding.

16 **MR. PARSONS:** If, in fact, Transcall
17 WorldCom has failed to produce the most relevant
18 evidence of the billing and traffic over the switch
19 that my client used, that the case law in Florida is
20 that the failure to produce evidence within a party's
21 control can generate an inference that that evidence
22 is highly negative. And if, in fact, the Commission
23 views this matter the way I view it, that such an
24 inference would be appropriate.

25 **COMMISSIONER GARCIA:** Ms. Keating.

1 **MS. KEATING:** May I suggest that we refrain
2 from adding that issue until ruling has been made on
3 the second Motion to Compel.

4 **COMMISSIONER GARCIA:** Okay. That's what
5 we'll do. We'll move on then. That was Page 11,
6 correct, so we're still on Issue 2. Issue 3?

7 **MR. GIMBEL:** Just for the record,
8 Commissioner Garcia, obviously, we don't believe such
9 an inference should be raised.

10 **COMMISSIONER GARCIA:** I imagined so much.
11 All right. So we'll go now to the exhibit list. Is
12 there anything there?

13 **MS. KEATING:** Staff just wants to point out
14 that we have amended our prehearing statement to add
15 one exhibit, and it's identified in the draft
16 Prehearing Order as MJD-46. And I believe that the
17 draft Prehearing Order also reflects some amendments
18 to TSI's prehearing statement.

19 **COMMISSIONER GARCIA:** And I believe that
20 some of TSI's exhibit numbers are not sequential.
21 Unless someone has a big problem with that, we'll
22 leave it exactly like that. All right. All right.
23 Let me get -- pending motions?

24 **MR. PARSONS:** On proposed stipulations,
25 immediately beforehand, I would propose a possible

1 stipulation or on order.

2 As you know, Commissioner, most civil cases
3 in Florida, either in federal court or in state court,
4 are subject to nonbinding mediation. It's become very
5 common in the last five to ten years, and the courts
6 have found it a very useful way of easing crowded
7 dockets and allowing parties to find a better way of
8 resolving their disputes and going to an open hearing.

9 We have not had a mediation in this case.
10 We have the opportunity next week, when all of the
11 parties -- when parties and counsel will be in Miami
12 for depositions. I propose that we select a mediator
13 certified by the Florida Supreme Court -- there's a
14 wide variety available -- and schedule a mediation for
15 next week in this case.

16 **COMMISSIONER GARCIA:** Okay. Mr. Self?

17 **MR. SELF:** I'm not opposed to that
18 conceptually. You know, we just need to talk to our
19 client and find availability and that kind of stuff,
20 but we will commit to you to work with Mr. Parsons,
21 that if we can have a mediation that we will, in fact,
22 conduct that.

23 **COMMISSIONER GARCIA:** All right. In fact,
24 I'd like to suggest that you use our general counsel,
25 Mr. Vandiver, and we make him available to you for

1 this purpose. I think we should try to solve this if
2 we can avoid it. You've all expended a tremendous
3 amount of time and energy and perhaps we need to get
4 to the finish line a little bit quicker, and maybe if
5 we all participate. And I'm probably volunteering
6 Mr. Vandiver without his knowledge, but that's what
7 happens when he lets me know that he's certified. So
8 I will speak to him, and I hope that you two will
9 speak with each other and maybe we can move that
10 along.

11 Pending motions.

12 MS. KEATING: There are some outstanding
13 motions. TSI's motion for a large amount of time to
14 comply with the order of July 15th, 1998, and
15 Transcall's reasserted motion for sanctions and
16 request for attorney fees. Staff suggests that you
17 postpone, really, on that. For the time being Staff
18 is still reviewing documents and is not prepared to
19 make a recommendation at this time.

20 COMMISSIONER GARCIA: All right.

21 MS. KEATING: And there's also TSI's second
22 motion to compel production of raw call detail
23 records. Staff has drafted a proposed order for you
24 and that can be ruled on separately.

25 COMMISSIONER GARCIA: I believe the order is

1 denying?

2 MS. KEATING: That's correct.

3 COMMISSIONER GARCIA: All right.

4 Mr. Parsons, do you want to tell me anything about
5 this or --

6 MR. PARSONS: Well, if I could speak in
7 favor of my motion. The best evidence of the
8 overbilling in this case is the records of the
9 telecommunications switch. We sometimes call it the
10 Telus switch because it originated with that
11 particular acquisition of WorldCom.

12 The Telus switch was backed up, apparently,
13 on a daily basis on tape. And the detail, the raw
14 detail, the best evidence of what was happening is on
15 those tapes. I understand several hundred of the
16 tapes have been preserved. They contain raw call
17 detail for my client and for other clients of Telus at
18 the time. My position is that if we really want to
19 know about overbilling, we should go to the
20 information on the tapes.

21 I have been -- either me or predecessor
22 counsel has been seeking this information for years.
23 It goes back to a document request, I think, made in
24 19 -- in the early 1990s, and reasserted since then.

25 I understand that it's quite possible to

1 filter out the data on the tapes that is relevant to
2 other customers and to supply me with just the data
3 that corresponds to TSI's traffic. That alleviates
4 any -- the concern expressed by WorldCom that they are
5 supplying confidential information. I don't want
6 confidential information on other customers, just on
7 my customer.

8 The data is relevant. It is the most
9 relevant evidence to the overbilling charges, and it
10 is available and it should, in my view, be produced.

11 My client has facilities in-house for
12 analyzing this sort of data and wishes very much to do
13 its own analysis on the raw call detail.

14 MR. SELF: I could respond to the factual
15 issues, and then Mr. Gimbel can address whatever legal
16 response we have.

17 We have contended, at least since
18 Mr. Parsons has been requesting these, that we would
19 make available to TSI, to any independent party that
20 TSI has, the complete tape. The tape that would
21 include both the TSI information as well as the
22 customer data on there that are not TSI customers but
23 are Transcall customers. And our willingness to
24 provide it to a third party was in order to preserve
25 the confidentiality and the integrity of the data with

1 respect to the non-TSI customer pays.

2 Mr. Parsons has rejected that request. In
3 terms of the request for us to generate what he now
4 wants, which is a tape with just his customer data on
5 it, we don't have -- we don't have the data to do
6 that. In essence, what he's asking us to do is to
7 take this tape, create a program that we don't
8 currently have that will split off his customers from
9 our customers and generate a new tape for him. We
10 don't have the capability to do that. The staff wrote
11 a program or something -- I'm not exactly sure how
12 they did it, but they wrote a program, in essence,
13 with respect to the tapes that we gave them, and they
14 generated that split. And we have, in fact, provided
15 to Mr. Parsons a copy of everything that the staff
16 created, or at least everything that the staff has
17 given us, which, I believe, is everything that the
18 staff created.

19 So TSI, like ourselves, has at least reports
20 from four days of tape for the entire period. So
21 that's the facts and terms of what we can and can't
22 do.

23 If Mr. Gimbel could respond to the legal
24 issue.

25 MR. GIMBEL: If I may. I think it's

1 important to remember that he's requesting records
2 that do not currently exist. It's not like we have a
3 record and we're not giving it to him. He's
4 requesting things that do not exist right now, are not
5 maintained in the normal course of our business, were
6 not maintained in the normal course of our business
7 and simply do not exist.

8 Secondly, we did offer to make them -- the
9 tapes available to independent parties for TSI, but
10 also we offered to make them available to counsel
11 himself and their experts.

12 Counsel insists that Mr. Esquenazi is
13 entitled to extract that information himself. That's
14 the problem. We don't believe that's true. We don't
15 believe that's right. We don't believe its accurate.
16 We don't believe it's proper.

17 Staff has picked four days, as Floyd said,
18 and ran those tapes. We didn't pick them and he
19 didn't pick them. And that's pretty random. And we
20 believe that's a sampling, that's sufficient,
21 untainted by anyone, picked by Staff. And we all have
22 access to what those tapes revealed for those four
23 days. And, in essence, because that information maybe
24 wasn't what they thought it would be now they want to
25 look at more days. And we just don't believe that

1 that's appropriate.

2 **MR. PARSONS:** The issue of turning the tapes
3 over to --

4 **COMMISSIONER GARCIA:** Hang on one second,
5 Mr. Parsons.

6 Ms. Keating, give me your position on this.
7 then I'll have Mr. Parsons close.

8 **MS. KEATING:** Well, first I'd just point out
9 that you've previously ruled on producing the tapes
10 themselves, because while they contain information
11 that may be relevant they also contain irrelevant
12 information that's unrelated to TSI's customers. As
13 far as the previous production, that was information
14 that had already been compiled by Staff in creating
15 its auditing report. Those were work papers and Staff
16 did extract certain TSI customer information from
17 those tapes. However, what TSI is now seeking is
18 information that has not been extracted from those
19 tapes; therefore, they are documents that do not exist
20 and would have to be prepared by Transcall, so they
21 are outside the scope of discovery.

22 I would also point out as far as Staff's
23 ability to extract that information from the tapes,
24 the only way that we were able to do it is that we had
25 information from both parties which was telephone

1 numbers. And that was the only way that Staff was
2 actually able to derive that information from the
3 tapes we had. And I don't know that Transcall has
4 that information.

5 **COMMISSIONER GARCIA:** Mr. Parsons.

6 **MR. PARSONS:** It can be easily supplied.

7 The point is there are tapes with this information on
8 them. The problem is those tapes also contain
9 information called detailed record for other customers
10 than mine. So the tapes need to be filtered.
11 Transcall needs to filter out all of their other
12 customer information. That satisfies their
13 confidentiality concern.

14 **COMMISSIONER GARCIA:** But Transcall is
15 saying they will make it available to you or to any
16 independent party.

17 **MR. PARSONS:** My client can do the analysis.
18 At this point, Mr. Commissioner, we don't have the
19 ability or the time to go and hire a their party to do
20 this. My client is able to do it. Remember, the
21 reason they are offering this to a third party is
22 because there's information of other customers on the
23 tapes, that's the only justification for going to an
24 outside party or going to me. Okay. That can be
25 resolved by filtering out the non-TSI customers just

1 as Staff did. It was apparently not that big a deal.

2 What Staff did was take a list of the
3 telephone numbers for TSI customers, and they matched
4 that against every record on the tape. So you have a
5 record of a phone call, you look at the telephone
6 number. Is that a TSI number? If it is, that goes
7 into the file that's being produced to me. If it's
8 not a TSI number, then that is withheld by Transcall
9 and I never see it.

10 It's a matter of redaction. To give you an
11 analogy, if I were asking them for corporate minutes
12 of Transcall regarding my client and they, in fact,
13 had a corporate minute covering, say, ten different
14 matters, they would redact, it would black out or
15 white out every matter except for the one matter
16 involving my client. It would filter it. That is
17 essentially what I'm saying should be done with the
18 raw call detail. It's purely a programming matter. A
19 programmer needs to be told to do a filter and filter
20 out all of the records that apply to my client and
21 keep to himself all of the records that apply to all
22 of Transcall's other customers. This was not a
23 difficult thing. I don't believe it was a difficult
24 thing for Staff to do. Certainly, WorldCom has the
25 computer resources to undertake this sort of

1 procedure.

2 My client produced every single record it
3 had to Transcall, a small warehouse full of them. We
4 withheld nothing in that regard. It is not fair.
5 It's not equitable for Transcall to be withholding
6 from us the same type of information.

7 MR. SELF: If I could respond, Commissioner
8 Garcia, we made -- I think it's a little disingenuous
9 for Mr. Parsons to suggest that now there's no time
10 for them to obtain an independent third party. We
11 made the offer at least as far back as February for
12 them to have access to the full and complete tape
13 itself so it could extract the data that it wanted. I
14 think for it now on the eve of the hearing to come
15 forth and argue it doesn't have time to go to a third
16 party is inappropriate. They have had the opportunity
17 for at least six months to go out and seek a third
18 party to get this done, and they've simply refused to
19 do that.

20 COMMISSIONER GARCIA: I'm going to take it
21 under advisement. I'm going to speak to our Staff,
22 and I'll make a ruling before the end of the week.

23 MR. SELF: Thank you.

24 COMMISSIONER GARCIA: Is there anything else
25 on the motion, any other motion? No.

1 All right.

2 MR. PARSONS: Mr. Commissioner, would you
3 like me to address the issue of sanctions. That is
4 certainly something that weighs heavily on my client's
5 mind. My client was out of compliance with your
6 ruling for two business days and answering
7 interrogatory questions. And they came back into
8 compliance as soon as they possibly could. They
9 answered the interrogatories, they made a
10 supplementary production of documents, and I think at
11 this time it would be inappropriate to issue
12 sanctions.

13 COMMISSIONER GARCIA: I'm going to rule on
14 this on a later date. I'm not going to rule on that
15 today.

16 MR. PARSONS: Yes, sir.

17 COMMISSIONER GARCIA: Opening statements at
18 the hearing. Do the parties wish to make them?

19 MR. PARSONS: Yes. I would suggest a short
20 opening statement, perhaps five or ten minutes for
21 each side.

22 COMMISSIONER GARCIA: Mr. Self?

23 MR. SELF: I have no objection to that.

24 COMMISSIONER GARCIA: All right. We're
25 going to give a five-minute opening statement to each

1 side.

2 Anything else?

3 MS. KEATING: None that Staff's aware of.

4 COMMISSIONER GARCIA: Mr. Parsons?

5 Mr. Self?

6 MR. PARSONS: No, sir.

7 MR. SELF: No, sir.

8 COMMISSIONER GARCIA: Very well. I hope
9 that we can look at mediation. I think -- and I think
10 we'll provide Mr. Vandiver in the hope of resolving
11 this free of charge, so it's even better than we
12 thought. And who knows, he may even want to go down
13 to Miami next week. So if you can, I'd appreciate if
14 you do, we really want to move this and sometimes one
15 -- as I look through the -- everything that's been
16 filed in this case, I worry that somebody is
17 forgetting the big picture and how much money we're
18 really talking about. And while I want attorneys to
19 prosper, I'd rather Transcall and TSI to prosper more.
20 Thank you.

21 MR. SELF: Thank you.

22 MS. KEATING: Thank you.

23 MR. PARSONS: Thank you.

24 COMMISSIONER GARCIA: We're adjourned.

25 (Thereupon, the prehearing conference

2 COUNTY OF LEON)

3 I, JOY KELLY, CSR, RPR, Chief, Bureau of
4 Reporting Official Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 951232-TI was heard by the
7 Florida Public Service Commission at the time and
8 place herein stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 27 pages, constitutes a true
13 transcription of my notes of said proceedings

14 DATED this 12th day of August, 1998.

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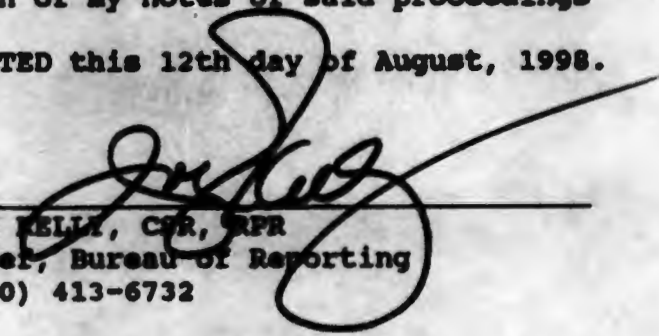
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